

House Engrossed

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HOUSE BILL 2190

AN ACT

AMENDING SECTION 38-881, ARIZONA REVISED STATUTES; RELATING TO THE
CORRECTIONS OFFICER RETIREMENT PLAN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-881, Arizona Revised Statutes, is amended to
3 read:

4 38-881. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accidental disability" means a physical or mental condition
7 that the local board finds totally and permanently prevents an employee
8 from performing a reasonable range of duties WITH EQUIVALENT PAY AND
9 BENEFITS within the employee's department, ~~AND was incurred in the~~
10 ~~performance of the employee's duties and was the result of any of the~~
11 ~~following:~~

12 ~~(a) Physical contact with inmates, prisoners, parolees or persons~~
13 ~~on probation.~~

14 ~~(b) Responding to a confrontational situation with inmates,~~
15 ~~prisoners, parolees or persons on probation.~~

16 ~~(c) A job-related motor vehicle accident while on official business~~
17 ~~for the employee's employer. A job-related motor vehicle accident does~~
18 ~~not include an accident that occurs on the way to or from work. Persons~~
19 ~~found guilty of violating a personnel rule, a rule established by the~~
20 ~~employee's employer or a state or federal law in connection with a~~
21 ~~job-related motor vehicle accident do not meet the conditions for~~
22 ~~accidental disability.~~

23 2. "Accumulated member contributions" means for each member the sum
24 of the amount of all the member's contributions deducted from the member's
25 salary and paid to the fund, plus member contributions transferred to the
26 fund by another retirement plan covering public employees of this state,
27 plus previously withdrawn accumulated member contributions that are repaid
28 to the fund in accordance with this article, minus any benefits paid to or
29 on behalf of a member.

30 3. "Actuarial equivalent" means equality in present value of the
31 aggregate amounts expected to be received under two different forms of
32 payment, based on mortality and interest assumptions adopted by the board.

33 4. "Alternate payee" means the spouse or former spouse of a
34 participant as designated in a domestic relations order.

35 5. "Alternate payee's portion" means benefits that are payable to
36 an alternate payee pursuant to a plan approved domestic relations order.

37 6. "Annuitant" means a person who is receiving a benefit pursuant
38 to section 38-911.

39 7. "Average monthly salary" means:

40 (a) For an employee who becomes a member of the plan:

41 (i) Before January 1, 2012, one-thirty-sixth of the aggregate
42 amount of salary that is paid a member by a participating employer during
43 a period of thirty-six consecutive months of service in which the member
44 received the highest salary within the last one hundred twenty months of
45 service.

1 (ii) On or after January 1, 2012 and before July 1, 2018,
2 one-sixtieth of the aggregate amount of salary that is paid a member by a
3 participating employer during a period of sixty consecutive months of
4 service in which the member received the highest salary within the last
5 one hundred twenty months of service.

6 (iii) On or after July 1, 2018, one-sixtieth of the aggregate
7 amount of salary that is paid a member by a participating employer during
8 a period of sixty consecutive months of service in which the member
9 received the highest salary within the last one hundred twenty months of
10 service.

11 (b) The aggregate amount of salary that is paid a member divided by
12 the member's months of service if the member has less than thirty-six or
13 sixty months of service. In the computation under this paragraph, a
14 period of nonpaid or partially paid industrial leave shall be considered
15 based on the salary the employee would have received in the employee's job
16 classification if the employee was not on industrial leave.

17 8. "Beneficiary" means an individual who is being paid or who has
18 entitlement to the future payment of a pension on account of a reason
19 other than the individual's membership in the retirement plan.

20 9. "Board" means the board of trustees of the public safety
21 personnel retirement system.

22 10. "Claimant" means a member, beneficiary or estate that files an
23 application for benefits with the retirement plan.

24 11. "Credited service" means credited service transferred to the
25 retirement plan from another retirement system or plan for public
26 employees of this state, plus those compensated periods of service as a
27 member of the retirement plan for which member contributions are on
28 deposit in the fund.

29 12. "Cure period" means the ninety-day period in which a
30 participant or alternate payee may submit an amended domestic relations
31 order and request a determination, calculated from the time the plan
32 issues a determination finding that a previously submitted domestic
33 relations order did not qualify as a plan approved domestic relations
34 order.

35 13. "Designated position" means:

36 (a) For a county:

37 (i) A county detention officer.

38 (ii) A nonuniformed employee of a sheriff's department whose
39 primary duties require direct contact with inmates.

40 (b) For the state department of corrections and the department of
41 juvenile corrections, only the following specifically designated
42 positions:

43 (i) Food service.

44 (ii) Nursing personnel.

45 (iii) Corrections physician assistant.

- 1 (iv) Therapist.
- 2 (v) Corrections dental assistant.
- 3 (vi) Hygienist.
- 4 (vii) Corrections medical assistant.
- 5 (viii) Correctional service officer, including assistant deputy
- 6 warden, deputy warden, warden and superintendent.
- 7 (ix) State correctional program officer.
- 8 (x) Parole or community supervision officers.
- 9 (xi) Investigators.
- 10 (xii) Teachers.
- 11 (xiii) Institutional maintenance workers.
- 12 (xiv) Youth corrections officer.
- 13 (xv) Youth program officer.
- 14 (xvi) Behavioral health treatment unit managers.
- 15 (xvii) The director and assistant directors of the department of
- 16 juvenile corrections and the superintendent of the state educational
- 17 system for committed youth.
- 18 (xviii) The director, deputy directors and assistant directors of
- 19 the state department of corrections.
- 20 (xix) Other positions designated by the local board of the state
- 21 department of corrections or the local board of the department of juvenile
- 22 corrections pursuant to section 38-891.
- 23 (c) For a city or town, a city or town detention officer.
- 24 (d) For an employer of an eligible group as defined in section
- 25 38-842, full-time dispatchers.
- 26 (e) For the judiciary, juvenile detention officers and those
- 27 positions designated by the local board of the judiciary pursuant to
- 28 section 38-891.
- 29 (f) For the department of public safety, state detention officers.
- 30 (g) For the judiciary, probation and surveillance officers.
- 31 14. "Determination" means a written document that indicates to a
- 32 participant and alternate payee whether a domestic relations order
- 33 qualifies as a plan approved domestic relations order.
- 34 15. "Determination period" means the ninety-day period in which the
- 35 plan must review a domestic relations order that is submitted by a
- 36 participant or alternate payee to determine whether the domestic relations
- 37 order qualifies as a plan approved domestic relations order, calculated
- 38 from the time the plan mails a notice of receipt to the participant and
- 39 alternate payee.
- 40 16. "Direct rollover" means a payment by the plan to an eligible
- 41 retirement plan that is specified by the distributee.
- 42 17. "Distributee" means a member, a member's surviving spouse or a
- 43 member's spouse or former spouse who is the alternate payee under a plan
- 44 approved domestic relations order.

1 18. "Domestic relations order" means an order of a court of this
2 state that is made pursuant to the domestic relations laws of this state
3 and that creates or recognizes the existence of an alternate payee's right
4 to, or assigns to an alternate payee the right to, receive a portion of
5 the benefits payable to a participant.

6 19. "Eligible child" means an unmarried child of a deceased active
7 or retired member who meets one of the following qualifications:

8 (a) Is under eighteen years of age.

9 (b) Is at least eighteen years of age and under twenty-three years
10 of age only during any period that the child is a full-time student.

11 (c) Is under a disability that began before the child attained
12 twenty-three years of age and remains a dependent of the surviving spouse
13 or guardian.

14 20. "Eligible retirement plan" means any of the following that
15 accepts a distributee's eligible rollover distribution:

16 (a) An individual retirement account described in section 408(a) of
17 the internal revenue code.

18 (b) An individual retirement annuity described in section 408(b) of
19 the internal revenue code.

20 (c) An annuity plan described in section 403(a) of the internal
21 revenue code.

22 (d) A qualified trust described in section 401(a) of the internal
23 revenue code.

24 (e) An annuity contract described in section 403(b) of the internal
25 revenue code.

26 (f) An eligible deferred compensation plan described in section
27 457(b) of the internal revenue code that is maintained by a state, a
28 political subdivision of a state or any agency or instrumentality of a
29 state or a political subdivision of a state and that agrees to separately
30 account for amounts transferred into the eligible deferred compensation
31 plan from this plan.

32 21. "Eligible rollover distribution" means a payment to a
33 distributee, but does not include any of the following:

34 (a) Any distribution that is one of a series of substantially equal
35 periodic payments made not less frequently than annually for the life or
36 life expectancy of the member or the joint lives or joint life
37 expectancies of the member and the member's beneficiary or for a specified
38 period of ten years or more.

39 (b) Any distribution to the extent the distribution is required
40 under section 401(a)(9) of the internal revenue code.

41 (c) The portion of any distribution that is not includable in gross
42 income.

43 (d) Any distribution made to satisfy the requirements of section
44 415 of the internal revenue code.

45 (e) Hardship distributions.

1 (f) Similar items designated by the commissioner of the United
2 States internal revenue service in revenue rulings, notices and other
3 guidance published in the internal revenue bulletin.

4 22. "Employee" means a person employed by a participating employer
5 in a designated position.

6 23. "Employer" means an agency or department of this state or a
7 political subdivision of this state that has one or more employees in a
8 designated position.

9 24. "Fund" means the corrections officer retirement plan fund.

10 25. "Juvenile detention officer" means a juvenile detention officer
11 responsible for the direct custodial supervision of juveniles who are
12 detained in a county juvenile detention center.

13 26. "Local board" means the retirement board of the employer that
14 consists of persons appointed or elected to administer the plan as it
15 applies to the employer's members in the plan.

16 27. "Member":

17 (a) Means any employee who meets all of the following
18 qualifications:

19 (i) Who is a full-time paid person employed by a participating
20 employer in a designated position.

21 (ii) Who is receiving salary for personal services rendered to a
22 participating employer or would be receiving salary except for an
23 authorized leave of absence.

24 (iii) Whose customary employment is at least forty hours each week.

25 (b) Includes an employee who meets the requirements of subdivision
26 (a) of this paragraph, who is hired on or after July 1, 2018, who is in a
27 designated position as defined in paragraph 13, subdivision (g) of this
28 section and who makes the irrevocable election to participate in the plan
29 pursuant to section 38-881.01.

30 (c) Except as provided in subdivision (b) of this paragraph, does
31 not include an employee who is hired on or after July 1, 2018, unless the
32 employee was an active, an inactive or a retired member of the plan or a
33 member of the plan with a disability on June 30, 2018.

34 28. "Normal retirement date" means:

35 (a) For an employee who becomes a member of the plan before January
36 1, 2012, the first day of the calendar month immediately following the
37 employee's completion of twenty years of service or, in the case of a
38 dispatcher, twenty-five years of service, the employee's sixty-second
39 birthday and completion of ten years of service or the month in which the
40 sum of the employee's age and years of credited service equals eighty.

41 (b) For an employee who becomes a member of the plan on or after
42 January 1, 2012 and before July 1, 2018, the first day of the calendar
43 month immediately following the employee's completion of twenty-five years
44 of service if the employee is at least fifty-two and one-half years of age

1 or the employee's sixty-second birthday and completion of ten years of
2 service.

3 (c) For an employee who becomes a member of the plan on or after
4 July 1, 2018, the first day of the calendar month immediately following
5 the employee's completion of ten years of credited service if the employee
6 is at least fifty-five years of age.

7 29. "Notice of receipt" means a written document that is issued by
8 the plan to a participant and alternate payee and that states that the
9 plan has received a domestic relations order and a request for a
10 determination that the domestic relations order is a plan approved
11 domestic relations order.

12 30. "Ordinary disability" means a physical condition that the local
13 board determines will totally and permanently prevent an employee from
14 performing a reasonable range of duties within the employee's department
15 or a mental condition that the local board determines will totally and
16 permanently prevent an employee from engaging in any substantial gainful
17 activity.

18 31. "Participant" means a member who is subject to a domestic
19 relations order.

20 32. "Participant's portion" means benefits that are payable to a
21 participant pursuant to a plan approved domestic relations order.

22 33. "Participating employer" means an employer that the board has
23 determined to have one or more employees in a designated position or a
24 county, city, town or department of this state that has entered into a
25 joinder agreement pursuant to section 38-902.

26 34. "Pension" means a series of monthly payments by the retirement
27 plan but does not include an annuity that is payable pursuant to section
28 38-911.

29 35. "Personal representative" means the personal representative of
30 a deceased alternate payee.

31 36. "Physician" means a physician who is licensed pursuant to title
32 32, chapter 13 or 17.

33 37. "Plan approved domestic relations order" means a domestic
34 relations order that the plan approves as meeting all the requirements for
35 a plan approved domestic relations order as otherwise prescribed in this
36 article.

37 38. "Plan year" or "fiscal year" means the period beginning on July
38 1 of any year and ending on June 30 of the next succeeding year.

39 39. "Probation or surveillance officer" means an officer appointed
40 pursuant to section 8-203, 12-251 or 12-259 but does not include other
41 personnel, office assistants or support staff.

42 40. "Retired member" means an individual who terminates employment
43 and who is receiving a pension pursuant to either section 38-885 or
44 38-886.

1 41. "Retirement" or "retired" means termination of employment after
2 a member has fulfilled all requirements for a pension or, for an employee
3 who becomes a member of the plan on or after January 1, 2012, attains the
4 age and service requirements for a normal retirement date.

5 42. "Retirement plan" or "plan" means the corrections officer
6 retirement plan established by this article.

7 43. "Salary" means the base salary, shift differential pay,
8 military differential wage pay and holiday pay paid a member for personal
9 services rendered in a designated position to a participating employer on
10 a regular monthly, semimonthly or biweekly payroll basis. Salary includes
11 amounts that are subject to deferred compensation or tax shelter
12 agreements. Salary does not include payment for any remuneration or
13 reimbursement other than as prescribed by this paragraph. For the
14 purposes of this paragraph, "base salary" means the amount of compensation
15 each member is regularly paid for personal services rendered to an
16 employer before the addition of any extra monies, including overtime pay,
17 shift differential pay, holiday pay, fringe benefit pay and similar extra
18 payments.

19 44. "Segregated funds" means the amount of benefits that would
20 currently be payable to an alternate payee pursuant to a domestic
21 relations order under review by the plan, or a domestic relations order
22 submitted to the plan that failed to qualify as a plan approved domestic
23 relations order, if the domestic relations order were determined to be a
24 plan approved domestic relations order.

25 45. "Service" means employment rendered to a participating employer
26 as an employee in a designated position. Any absence that is authorized
27 by an employer, including any periods during which the employee is on an
28 ~~employer sponsored~~ EMPLOYER-SPONSORED long-term disability program, is
29 considered as service if the employee returns or is deemed by the employer
30 to have returned to a designated position within the period of the
31 authorized absence.

32 46. "Total and permanent disability" means a physical or mental
33 condition that is not an accidental disability, that the local board finds
34 totally and permanently prevents a member from engaging in any gainful
35 employment and that is the direct and proximate result of the member's
36 performance of the member's duty as an employee of a participating
37 employer.