

State of Arizona
House of Representatives
Fifty-seventh Legislature
Second Regular Session
2026

HB 2090

Introduced by
Representative Livingston

AN ACT

AMENDING SECTION 38-797.07, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 38-797.07, Arizona Revised Statutes, is amended
3 to read:

4 **38-797.07. LTD program benefits; limitations; definitions**

5 A. The LTD program is subject to the following limitations:

6 1. Except as provided in paragraph 9 of this subsection, monthly
7 LTD program benefits shall not exceed two-thirds of a member's monthly
8 compensation, reduced by:

9 (a) For a member whose disability commences before July 1, 2008,
10 sixty-four percent of social security disability benefits that the member
11 and the member's dependents are eligible to receive.

12 (b) For a member whose disability commences on or after July 1,
13 2008, eighty-five percent of social security disability benefits that the
14 member and the member's dependents are eligible to receive, but not
15 including:

16 (i) The amount of attorney fees approved pursuant to social
17 security administration rules and reasonable documented costs paid to an
18 attorney to secure that disability benefit.

19 (ii) Any cost-of-living adjustments that are granted after the
20 member commences benefits under this section.

21 (c) For a member whose disability commences before July 1, 2008,
22 eighty-three percent of social security retirement benefits that the
23 member is eligible to receive.

24 (d) For a member whose disability commences on or after July 1,
25 2008, eighty-five percent of social security retirement benefits that the
26 member is eligible to receive, but not including any cost-of-living
27 adjustments that are granted after the member commences benefits under
28 this section.

29 (e) All of any workers' compensation benefits.

30 (f) All of any payments for a veteran's disability if both of the
31 following apply:

32 (i) The veteran's disability payment is for the same condition or a
33 condition related to the condition currently causing the member's
34 disability.

35 (ii) The veteran's disability is due to, or a result of, service in
36 the armed forces of the United States.

37 (g) All of any other benefits by reason of employment that are
38 financed partly or wholly by an employer, including payments for sick
39 leave. This subdivision does not include any retirement benefit that is
40 received by the member pursuant to a state retirement system or plan other
41 than ASRS.

42 (h) Fifty percent of any salary, wages, commissions or other
43 employment-related pay that the member receives or is entitled to receive
44 from any gainful employment in which the member actually engages.

1 2. For a member whose disability commences on or after August 2,
2 2012, a member's monthly income from the monthly LTD program benefits and
3 sources listed in paragraph 1 of this subsection shall not exceed one
4 hundred percent of the member's monthly compensation at the time
5 disability commences. ASRS shall offset the member's monthly LTD program
6 benefits by the amount necessary to reduce the member's total monthly
7 income to meet the limit prescribed in this paragraph.

8 3. Monthly LTD program benefits are not payable until a member has
9 had a disability for a period of six consecutive months.

10 4. Monthly LTD program benefits are not payable to a member who
11 files an initial claim for disability more than twelve months after the
12 date of the member's date of disability unless the member demonstrates to
13 ASRS good cause for not filing the initial claim within twelve months
14 after the date of disability.

15 5. Monthly LTD program benefits are not payable to a member who is
16 receiving retirement benefits from ASRS, unless the retirement benefits
17 are required pursuant to section 38-775.

18 6. Monthly LTD program benefits are not payable to a member whose
19 disability is due to, or a result of, any of the following:

20 (a) An intentionally self-inflicted injury.

21 (b) War, whether declared or not.

22 (c) An injury incurred while engaged in a felonious criminal act or
23 enterprise.

24 (d) For a member whose most recent membership in the LTD program
25 commences before July 1, 2008, an injury or sickness for which the member
26 received medical treatment within three months before the date of the
27 member's coverage under the LTD program. This subdivision does not apply
28 to a member who either:

29 (i) Has been an active member of an employer for twelve continuous
30 months.

31 (ii) Is employed by an employer before July 1, 1988.

32 (e) For a member whose most recent membership in the LTD program
33 commences on or after July 1, 2008, an injury or sickness for which the
34 member received medical treatment within six months before the date of the
35 member's coverage under the LTD program. This subdivision does not apply
36 to a member who has been an active member of an employer for twelve
37 continuous months.

38 7. Monthly LTD program benefits cease to be payable to a member at
39 the earliest of the following:

40 (a) The date the member ceases to have a disability.

41 (b) The date the member:

42 (i) Ceases to be under the direct care of a doctor.

43 (ii) Refuses to undergo any medical examination or refuses to
44 participate in any work rehabilitation program for which the member is
45 reasonably qualified by education, training or experience and that is

1 requested by the insurance company or claims administrator that is
2 selected by the board to administer the LTD program.

3 (c) The date the member withdraws employee contributions with
4 interest and ceases to be a member.

5 (d) The later of the following:

6 (i) The member's normal retirement date.

7 (ii) The month following sixty months of payments if disability
8 occurs before sixty-five years of age.

9 (iii) The month following attainment of seventy years of age if
10 disability occurs at sixty-five years of age or after but before
11 sixty-nine years of age.

12 (iv) The month following twelve months of payments if disability
13 occurs at or after sixty-nine years of age.

14 (e) If the member is convicted of a criminal offense and sentenced
15 to more than six months in a jail, prison or other penal institution, the
16 first day of the month following the first thirty continuous days of the
17 member's confinement for the remainder of the confinement.

18 8. Monthly LTD program benefits are payable only for disabilities
19 that commence on or after July 1, 1988.

20 9. Except as provided in paragraph 2 of this subsection, the
21 minimum benefit for a member who is entitled to receive monthly LTD
22 program benefits is \$50 per month.

23 10. Members are eligible to receive the LTD program benefits and
24 payments described in paragraph 1 of this subsection, and the reductions
25 provided by paragraph 1 of this subsection apply even though the social
26 security benefits are not actually paid as follows:

27 (a) For primary and dependent social security benefits, the members
28 are eligible for the social security benefits until the social security
29 benefits are actually awarded, or if the social security benefits are
30 denied, until the member pursues the social security appeal process
31 through a hearing before a social security administrative law judge or
32 until the insurance company or claims administrator determines that the
33 member is not eligible for social security benefits.

34 (b) For benefits and payments from any other source provided in
35 paragraph 1 of this subsection, the members are eligible for the benefits
36 if it is reasonable to believe that those benefits will be paid on proper
37 completion of the claim or would have been paid except for the failure of
38 the member to pursue the claim in time.

39 11. A member shall be considered to have a disability if based on
40 objective medical evidence:

41 (a) During the first thirty months of a period of disability, the
42 member is unable to perform one or more duties of the occupation held by
43 the member with an employer when the member developed a disability.

44 (b) For a member who has received monthly LTD program benefits for
45 A TOTAL OF twenty-four months ~~within a five-year period~~, the member is

1 unable to perform any work for compensation or gain for which the member
2 is reasonably qualified by education, training or experience in an amount
3 at least equal to the scheduled LTD program benefits prescribed in
4 paragraph 1 of this subsection.

5 B. A member who is eligible pursuant to article 2 of this chapter
6 and who receives monthly LTD program benefits is entitled to receive
7 service credit pursuant to article 2 of this chapter from the time
8 disability commences until LTD program benefits cease to be payable,
9 except that for a member who receives monthly LTD program benefits on or
10 after June 30, 1999, the number of years of service credited to the
11 member's retirement account during the period ASRS disburses LTD program
12 benefit payments shall not cause the member's total credited service for
13 retirement benefits to exceed the greater of thirty years or the total
14 years of service credited to the member's retirement account on the
15 commencement of disability.

16 C. This section does not prohibit a member whose disability has
17 been established to the satisfaction of the board from relying on
18 treatment by prayer through spiritual means in accordance with the tenets
19 and practice of a recognized church, religious denomination or Native
20 American traditional medicine by a duly accredited practitioner of the
21 church, denomination or Native American traditional medicine without
22 suffering reduction or suspension of the member's monthly LTD program
23 benefits.

24 D. ASRS may suspend or terminate benefits under this article if a
25 member fails to provide information, data, paperwork or other materials
26 that are requested by ASRS or the insurance company or claims
27 administrator that is selected by the board to administer the LTD program.
28 ASRS or its contracted administrator may investigate information that
29 indicates a member may have falsified information or records related to
30 LTD program eligibility or benefits or may not otherwise meet the
31 requirements of LTD program eligibility. In connection with an
32 investigation involving the LTD program, ASRS or its contracted
33 administrator may collect and examine any statement or evidence, or may
34 authorize a third party to collect and examine any statement or evidence,
35 that relates to a member falsifying information or records related to LTD
36 program eligibility or benefits. If the member provides the information
37 requested, ASRS shall retroactively reinstate the benefits or claim for
38 which the member qualifies under this article.

39 E. For the purposes of this section:

40 1. "Objective medical evidence" means evidence that established
41 facts and conditions, as perceived without distortion by personal
42 feelings, prejudices or interpretations, and includes x-rays, quantitative
43 tests, laboratory findings, data, records, reports from the attending
44 physician and reports from a consulting physician, as applicable.

1 2. "Received medical treatment" means that the member consulted
2 with or received the advice of a licensed medical or dental practitioner,
3 including advice given during a routine examination, and it includes
4 situations in which the member received medical or dental care, treatment
5 or services, including the taking of drugs, medication, insulin or similar
6 substances.

7 3. "Social security" and "social security disability" includes the
8 railroad retirement act of 1974 (P.L. 93-445; 88 Stat. 1305; 45 United
9 States Code sections 231 through 231v).