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3 HOUSE STATE GOVERNMENT COMMITTEE SUBSTITUTE FOR HB503  
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8 SYNOPSIS: Under existing law, state employee  
9 retirement benefits are not subject to garnishment  
10 except under certain circumstances for restitution,  
11 fines, court costs, fees, or other financial  
12 obligations in a criminal case ordered by a circuit  
13 or district judge.

14 This bill would subject state employee  
15 retirement benefits to garnishment in domestic  
16 relations cases when ordered by a circuit or  
17 district court judge and for alimony.  
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19 A BILL  
20 TO BE ENTITLED  
21 AN ACT  
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23 Relating to state employee retirement benefits; to  
24 amend Section 36-27-28, Code of Alabama 1975, to subject state  
25 employee retirement benefits to garnishment in domestic  
26 relations cases when ordered by a circuit or district court  
27 judge and for alimony.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 36-27-28, Code of Alabama 1975,  
3 is amended to read as follows:

4 "§36-27-28.

5 "(a) Except as provided in ~~subsection~~ subsections  
6 (b) and (c), the right of a person to a pension, an annuity, a  
7 retirement allowance or to the return of contributions, the  
8 pension, annuity or retirement allowance itself and any  
9 optional benefit or any other right accrued or accruing to any  
10 person under the provisions of this article and the monies in  
11 the various funds created by this chapter are hereby exempt  
12 from any state or municipal tax and exempt from levy and sale,  
13 garnishment, attachment or any other process whatsoever and  
14 shall be unassignable except as in this article specifically  
15 otherwise provided.

16 "(b) (1) Restitution, fines, court costs, fees, or  
17 any other financial obligations in a criminal case or a  
18 domestic relations case ordered by a circuit or district court  
19 judge in this state are not subject to the exemption set out  
20 in subsection (a), provided all of the following are  
21 satisfied:

22 "a. The amount of the restitution ordered is in the  
23 amount of one thousand dollars (\$1,000) or greater.

24 "b. The person subject to the order is a retiree or  
25 beneficiary who is currently receiving benefits from the  
26 Employees' Retirement System.

1           "c. ~~The~~ If a criminal case, the case has been  
2 assigned to the district attorney's restitution recovery  
3 division.

4           "(2) If the requirements of subdivision (1) are met,  
5 and upon motion filed by the district attorney, the circuit or  
6 district court judge may order that the Employees' Retirement  
7 System pay to the circuit clerk of the court no more than 25  
8 percent of the retiree's or beneficiary's gross monthly  
9 benefit less any deductions for child support or health  
10 insurance for any dependents, to be applied to the balance of  
11 the restitution, fines, court costs, fees, or other financial  
12 obligations ordered in the criminal case or domestic relations  
13 case.

14           "(3) An order under subdivision (2) shall set out  
15 all of the following:

16           "a. The individual's name, date of birth, and Social  
17 Security number.

18           "b. The amount of restitution ordered is in the  
19 amount of one thousand dollars (\$1,000) or greater.

20           "c. The amounts of restitution, fines, court costs,  
21 fees, or any other financial obligations owed, detailed  
22 individually.

23           "d. The relevant case numbers.

24           "e. The county in which the case was brought.

25           "f. The circuit clerk's name and mailing address.

1 "g. That the restitution, fines, court costs, fees,  
2 or other financial obligations are payable as a result of a  
3 criminal case or a domestic relations case disposition.

4 "h. The amount or the percentage of funds to be  
5 paid.

6 "(4) The district attorney must notify the court  
7 whenever the restitution, fines, court costs, fees, or other  
8 financial obligations are paid in full. Thereafter, the court  
9 shall issue an order to stop the diversion of the individual's  
10 funds. Any payment received by the circuit clerk in an amount  
11 over what was owed shall be paid back to the Employees'  
12 Retirement System within 60 days with the specific identifying  
13 information as to the retiree or the beneficiary to whom it is  
14 owed.

15 "(c) Any decree, judgment, or order issued by a  
16 court of this state for the payment of alimony is not subject  
17 to the exemption in subsection (a) provided that the person  
18 subject to the order is a retiree or beneficiary who is  
19 currently receiving benefits from the Employees' Retirement  
20 System.

21 "(1) The amount withheld under this subsection shall  
22 be subject to the lesser of the amounts allowed by the Federal  
23 Consumer Credit Protection Act (CCPA), 15 United States Code  
24 Section 1673(b), the law of the state of the obligor's  
25 principal residence, or the tribal law of the obligor's  
26 principal residence.

1           "(2) An order under this subsection shall set out  
2 all of the following:

3           "a. The individual's name, date of birth, and Social  
4 Security number.

5           "b. The amounts of the obligation detailed  
6 individually.

7           "c. The relevant case numbers.

8           "d. The county in which the case was brought.

9           "e. The name and mailing address of the payee.

10          "(3) The payee or obligor must notify the court when  
11 the alimony obligation is terminated. Thereafter, the court  
12 shall issue an order to stop the diversion of the individual's  
13 funds. Any payment received by the payee in an amount over  
14 what was owed shall be paid back to the Employees' Retirement  
15 System within 60 days with the specific identifying  
16 information as to the retiree or the beneficiary to whom it is  
17 owed."

18           Section 2. This act shall become effective on the  
19 first day of the third month following its passage and  
20 approval by the Governor, or its otherwise becoming law.