

1 HB293
2 210444-1
3 By Representative Kiel
4 RFD: Judiciary
5 First Read: 08-FEB-22

SYNOPSIS: Under existing law, certain pension, annuity, or retirement allowance benefits under the Teachers' Retirement System and the Employees' Retirement System are subject to state or municipal tax, levy, sale, garnishment, attachment, or any other related process under certain circumstances.

This bill would revise the circumstances in which an individual's pension, annuity, or retirement allowance benefits under the Teachers' Retirement System and the Employees' Retirement System are subject to certain recovery actions.

A BILL
TO BE ENTITLED
AN ACT

Relating to retirement benefits; to amend Sections 16-25-23 and 36-27-28, Code of Alabama 1975, to revise the circumstances in which an individual's pension, annuity, or retirement allowance benefits under the Teachers' Retirement

1 System and the Employees' Retirement System are subject to
2 certain recovery actions.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 16-25-23 and 36-27-28, Code of
5 Alabama 1975, are amended to read as follows:

6 "§16-25-23.

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

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

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

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

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

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

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

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

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

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

21 "d. The relevant case numbers.

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

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

24 "g. That the restitution, fines, court costs, fees,
25 or other financial obligations are payable as a result of a
26 criminal disposition.

1 "h. The amount or the percentage of funds to be
2 paid.

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

12 "§36-27-28.

13 "(a) Except as provided in subsection (b), the right
14 of a person to a pension, an annuity, a retirement allowance
15 or to the return of contributions, the pension, annuity, or
16 retirement allowance itself and any optional benefit or any
17 other right accrued or accruing to any person under the
18 provisions of this article and the monies in the various funds
19 created by this chapter are ~~hereby~~ exempt from any state or
20 municipal tax and exempt from levy and sale, garnishment,
21 attachment, or any other process whatsoever and shall be
22 unassignable except as in this article specifically otherwise
23 provided.

24 "(b) (1) Restitution, fines, court costs, fees, or
25 any other financial obligations in a criminal case ordered by
26 a circuit or district court judge in this state are not

1 subject to the exemption set out in subsection (a), provided
2 ~~all~~ both of the following are satisfied:

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

5 "b. The ~~person~~ individual subject to the order is a
6 retiree or beneficiary who is currently receiving benefits
7 from the Employees' Retirement System.

8 ~~"c. The case has been assigned to the district
9 attorney's restitution recovery division.~~

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

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

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

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

25 "c. The amounts of restitution, fines, court costs,
26 fees, or any other financial obligations owed, detailed
27 individually.

1 "d. The relevant case numbers.

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

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

4 "g. That the restitution, fines, court costs, fees,
5 or other financial obligations are payable as a result of a
6 criminal disposition.

7 "h. The amount or the percentage of funds to be
8 paid.

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