

# HB403 INTRODUCED



1 5EOD36-1

2 By Representatives Jackson, Plump, Sellers, Tillman, Hassell

3 RFD: Ways and Means General Fund

4 First Read: 27-Apr-23

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6 2023 Regular Session



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SYNOPSIS:

Under existing law, the Judicial Retirement Fund does not permit unmarried justices or judges to designate a beneficiary for the purpose of receiving spousal benefits upon his or her death.

This bill would allow an unmarried justice or judge, upon retirement, to designate a beneficiary for the receipt of spousal benefits upon his or her death.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to the Judicial Retirement Fund; to amend Section 12-18-10, Code of Alabama 1975; to allow an unmarried justice or judge, upon retirement, to designate a beneficiary for the receipt of spousal benefits upon his or her death; and to provide for the transfer of those benefits to his or her spouse upon subsequent marriage.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 12-18-10 of the Code of Alabama 1975, is amended to read as follows:

"§12-18-10

(a) The retirement benefit payable to a justice of the



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29 Supreme Court or judge of one of the courts of appeals  
30 retiring pursuant to subdivision (2), (3), (4), or (5) of  
31 subsection (a) of Section 12-18-6, shall be 75 percent of the  
32 salary prescribed by law for the position from which he or she  
33 retires, payable monthly for the rest of his or her life. ~~Such~~  
34 The benefit, which shall continue to be 75 percent of his or  
35 her salary prescribed by law for ~~such the~~ position and shall  
36 change in amount as ~~such the~~ salary is ~~hereafter~~ increased or  
37 decreased by law ~~and,~~ shall not be subject to writs of  
38 attachment or garnishment.

39 (b) The retirement benefit payable to a judge of a  
40 circuit court retiring pursuant to subdivision (2), (3), (4), or  
41 or (5) of subsection (b) of Section 12-18-6, shall be 75  
42 percent of the salary prescribed by law of the salary payable  
43 from the State Treasury to circuit judges. ~~Such The~~ retirement  
44 benefits, which shall be payable monthly for the life of the  
45 beneficiary ~~and,~~ shall continue to be 75 percent of the salary  
46 then prescribed by law for the respective position, ~~and~~ shall  
47 change in amount as ~~such the~~ salary is ~~hereafter~~ increased or  
48 decreased by law, and shall not be subject to writs of  
49 attachment or garnishment.

50 (c) (1) After the death of any married justice or judge  
51 who had held office for a minimum of five years, his or her  
52 spouse shall receive a yearly benefit equivalent to three  
53 percent of the salary payable from the State Treasury  
54 prescribed by law for his or her former position as either a  
55 justice or judge, ~~as the case may be,~~ for each year of  
56 service, not to exceed 30 percent of ~~such the~~ salary, payable



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57 monthly for the remainder of ~~such~~ the spouse's life or until  
58 his or her remarriage, and ~~such~~ the benefit shall change in  
59 amount as ~~such~~ the salary is ~~hereafter~~ increased or decreased  
60 by law.

61 (2) Upon retirement, an unmarried justice or judge may  
62 designate a beneficiary to receive the spousal benefit as  
63 provided in subdivision (1). If the unmarried retired justice  
64 or judge subsequently marries someone other than the  
65 designated beneficiary, the spousal benefits designated to the  
66 designated beneficiary shall transfer to the spouse.

67 (d) Any justice or judge retiring pursuant to  
68 subdivision (1) of subsection (a) or subdivision (1) of  
69 subsection (b) of Section 12-8-6, who has served for 10 years,  
70 shall be entitled to a disability benefit allowance payable  
71 monthly from the Judicial Retirement Fund equal to 75 percent  
72 of the salary payable from the State Treasury for the position  
73 he or she held at the time he or she retires. If ~~such~~ the  
74 disabled justice or judge has served less than 10 years, he  
75 ~~shall be entitled to~~ or she may receive a monthly disability  
76 benefit that is equal to 25 percent of the salary payable from  
77 the State Treasury for the position he or she held at the time  
78 he or she retires plus 10 percent of ~~such~~ that salary for each  
79 year of service in excess of five years; ~~provided, however,~~  
80 ~~that in.~~ In no event shall ~~such~~ the justice or judge receive  
81 less than 30 percent of the annual salary being paid to a  
82 full-time justice or judge, ~~as the case may be,~~ from the State  
83 Treasury.

84 (e) (1) Every justice or judge who has retired pursuant



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85 to this article ~~may~~, on the request of the Chief Justice, the  
86 presiding judge of a court of appeals, or the Governor, may be  
87 called to active duty status and, when serving with the  
88 Supreme Court or courts of appeals, shall perform ~~such~~ duties  
89 as may be prescribed by the Chief Justice or the presiding  
90 judge of the court of appeals with which he or she is serving  
91 and, when serving in a circuit court, shall perform ~~such~~  
92 duties as may be prescribed by the presiding judge in the  
93 circuit. ~~Such~~ The retired justice or judge of a court of  
94 appeals in ~~such~~ active service status shall receive an  
95 additional sum during the term of ~~such~~ the service which, when  
96 added to his or her retirement benefits, would amount to  
97 ~~\$250.00~~ two hundred fifty dollars (\$250) per month less than  
98 the monthly salary paid a justice or judge of the appellate  
99 court from which he or she has retired. The salary paid a  
100 retired circuit judge called to active service with the  
101 Supreme Court or a court of appeals shall be the salary paid a  
102 circuit judge in the circuit from which ~~said~~ the judge  
103 retired. The salary paid a retired circuit judge called to  
104 active service as a circuit judge shall be the salary paid a  
105 regular judge in the circuit to which he or she is assigned or  
106 in the circuit from which he or she retired, whichever is  
107 greater. In no event, however, shall the total compensation  
108 paid to a retired circuit judge on active status during any  
109 calendar year exceed a sum ~~which that~~ is ~~\$1,000.00~~ one  
110 thousand dollars (\$1,000) less than the compensation received  
111 by a regular judge in the circuit from which ~~such~~ the judge  
112 retired.



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113           (2) Whenever a retired justice or judge of a court of  
114 appeals is serving in a circuit court, he or she shall receive  
115 compensation equal to that due the regular judge of that  
116 circuit for the performance of ~~such~~ those duties, ~~such~~ the  
117 compensation to be paid in the same manner as the compensation  
118 of the regular circuit judge is paid; ~~and, whenever.~~ When a  
119 retired justice or a judge of a court of appeals is serving as  
120 an active member on the Supreme Court or on one of the courts  
121 of appeals, then he or she shall be entitled to receive,  
122 during the time of ~~such~~ that service, compensation equal to  
123 that due a regular justice or judge for the performance of  
124 ~~such~~ those duties, ~~such~~ that compensation to be paid in the  
125 same manner as the compensation of a regular justice or judge  
126 is paid.

127           (3) A retired justice or judge of one of the courts of  
128 appeals or circuit judge, while serving with the Supreme Court  
129 or one of the courts of appeals for reasons other than the  
130 absence or disqualification of a justice or judge, shall  
131 perform ~~such~~ duties as may be prescribed by the Chief Justice  
132 when serving with the Supreme Court, or as prescribed by the  
133 presiding judge of the court of appeals with which he or she  
134 may be serving.

135           (f) The Chief Justice, with the advice of the Supreme  
136 Court, or the presiding judge of a court of appeals, with the  
137 advice of the court over which he or she presides, shall  
138 determine whether ~~such~~ the retired justice or judge is  
139 satisfactorily performing his or her assigned duties. Upon  
140 determination that ~~such~~ the retired justice or judge is not



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141 satisfactorily performing ~~such~~ those duties, ~~such~~ the retired  
142 justice or judge shall immediately be removed from active  
143 status, and his or her additional active duty compensation  
144 shall be stopped.

145 (g) Except as provided in subsection (f) ~~of this~~  
146 ~~section~~, a retired justice or judge shall hold office as ~~such~~  
147 an additional or extra judge during good behavior and may be  
148 removed only for causes specified in the constitution. ~~Such~~  
149 The retired justices or judges ~~may~~, however, but subject to  
150 the approval of the Chief Justice, may be transferred to  
151 inactive status, upon request for ~~such~~ the transfer. Justices  
152 or judges who revert to inactive status shall be entitled to  
153 the same retirement benefits prescribed in subsections (a) and  
154 (b) ~~of this section~~ for justices and judges who have retired.

155 (h) Nothing contained in this section ~~or hereafter~~  
156 shall limit the power and authority of the Chief Justice to  
157 transfer a retired justice or judge from inactive status to  
158 active status or from active status to inactive status as the  
159 public interest in his or her judgment requires."

160 Section 2. This act shall become effective immediately  
161 following its passage and approval by the Governor, or its  
162 otherwise becoming law.