

HB212 INTRODUCED



1 HB212
2 J1UJNNF-1
3 By Representative Kiel
4 RFD: Ways and Means General Fund
5 First Read: 21-Feb-24



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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



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

31 "§16-25-23

32 (a) Except as provided in subsection (b), the right of
33 ~~a person~~an individual to a pension; an annuity, or a
34 retirement allowance; to the return of contributions; the
35 pension, annuity, or retirement allowance itself; any optional
36 benefit or any other right accrued or accruing to any
37 ~~person~~individual under ~~the provisions of~~ this chapter; and the
38 monies in the various funds created by this chapter are ~~hereby~~
39 exempt from any state or municipal tax and exempt from levy
40 and sale, garnishment, attachment, or any other process
41 whatsoever, and shall be unassignable except as ~~in this~~
42 ~~chapter specifically~~ otherwise provided in this chapter.

43 (b) (1) Restitution, fines, court costs, fees, or any
44 other financial obligations in a criminal case ordered by a
45 circuit or district court judge in this state are not subject
46 to the exemption set out in subsection (a), provided ~~all~~both
47 of the following are satisfied:

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

50 b. The ~~person~~individual subject to the order is a
51 retiree or beneficiary who is currently receiving benefits
52 from the Teachers' Retirement System.

53 ~~c. The case has been assigned to the district~~
54 ~~attorney's restitution recovery division.~~

55 (2) If the requirements of subdivision (1) are met, and
56 upon a motion filed by the district attorney, the circuit or



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57 district court judge may order that the Teachers' Retirement
58 System pay to the circuit clerk of the court no more than 25
59 percent of the retiree's or beneficiary's gross monthly
60 benefit less any deductions for child support or health
61 insurance for any dependents, to be applied to the balance of
62 the restitution, fines, court costs, fees, or other financial
63 obligations ordered in the criminal case.

64 (3) An order under subdivision (2) shall set out all of
65 the following:

66 a. The individual's name, date of birth, and Social
67 Security number.

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

70 c. The amounts of restitution, fines, court costs,
71 fees, or any other financial obligations owed, detailed
72 individually.

73 d. The relevant case numbers.

74 e. The county in which the case was brought.

75 f. The circuit clerk's name and mailing address.

76 g. That the restitution, fines, court costs, fees, or
77 other financial obligations are payable as a result of a
78 criminal disposition.

79 h. The amount or the percentage of funds to be paid.

80 (4) The district attorney shall notify the court
81 whenever the restitution, fines, court costs, fees, or other
82 financial obligations are paid in full. Thereafter, the court
83 shall issue an order to stop the diversion of the individual's
84 funds. Any payment received by the circuit clerk in an amount



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85 over what was owed shall be paid back to the Teachers'
86 Retirement System within 60 days with the specific identifying
87 information as to the retiree or the beneficiary to whom it is
88 owed."

89 "§36-27-28

90 (a) Except as provided in subsection (b), the right of
91 ~~a person~~an individual to a pension, an annuity, a retirement
92 allowance or to the return of contributions, the pension,
93 annuity, or retirement allowance itself and any optional
94 benefit or any other right accrued or accruing to any
95 ~~person~~individual under ~~the provisions of~~ this article and the
96 monies in the various funds created by this chapter are ~~hereby~~
97 exempt from any state or municipal tax and exempt from levy
98 and sale, garnishment, attachment, or any other process
99 whatsoever and shall be unassignable except as in this article
100 specifically otherwise provided.

101 (b)(1) Restitution, fines, court costs, fees, or any
102 other financial obligations in a criminal case ordered by a
103 circuit or district court judge in this state are not subject
104 to the exemption set out in subsection (a), provided ~~all~~both
105 of the following are satisfied:

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

108 b. The ~~person~~individual subject to the order is a
109 retiree or beneficiary who is currently receiving benefits
110 from the Employees' Retirement System.

111 ~~c. The case has been assigned to the district~~
112 ~~attorney's restitution recovery division.~~



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113 (2) If the requirements of subdivision (1) are met,
114 and upon a motion filed by the district attorney, the circuit
115 or district court judge may order that the Employees'
116 Retirement System pay to the circuit clerk of the court no
117 more than 25 percent of the retiree's or beneficiary's gross
118 monthly benefit less any deductions for child support or
119 health insurance for any dependents, to be applied to the
120 balance of the restitution, fines, court costs, fees, or other
121 financial obligations ordered in the criminal case.

122 (3) An order under subdivision (2) shall set out all
123 of the following:

124 a. The individual's name, date of birth, and Social
125 Security number.

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

128 c. The amounts of restitution, fines, court costs,
129 fees, or any other financial obligations owed, detailed
130 individually.

131 d. The relevant case numbers.

132 e. The county in which the case was brought.

133 f. The circuit clerk's name and mailing address.

134 g. That the restitution, fines, court costs, fees, or
135 other financial obligations are payable as a result of a
136 criminal disposition.

137 h. The amount or the percentage of funds to be paid.

138 (4) The district attorney ~~must~~ shall notify the court
139 whenever the restitution, fines, court costs, fees, or other
140 financial obligations are paid in full. Thereafter, the court



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141 shall issue an order to stop the diversion of the individual's
142 funds. Any payment received by the circuit clerk in an amount
143 over what was owed shall be paid back to the Employees'
144 Retirement System within 60 days with the specific identifying
145 information as to the retiree or the beneficiary to whom it is
146 owed."

147 Section 2. This act shall become effective on October
148 1, 2024.