

# HB371 INTRODUCED



1 809B22-1

2 By Representatives Kiel, Mooney, Bolton, Easterbrook, Lamb,

3 Gidley, Shirey, Kitchens, Wood (D)

4 RFD: Judiciary

5 First Read: 20-Apr-23

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



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

64 (3) An order under subdivision (2) shall set out all  
65 of 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 to a pension, an annuity, a retirement allowance or  
92 to the return of contributions, the pension, annuity, or  
93 retirement allowance itself and any optional benefit or any  
94 other right accrued or accruing to any person under the  
95 provisions of this article and the monies in the various funds  
96 created by this chapter are ~~hereby~~ exempt from any state or  
97 municipal tax and exempt from levy and sale, garnishment,  
98 attachment, or any other process whatsoever and shall be  
99 unassignable except as in this article specifically otherwise  
100 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 the first  
148 day of the third month following its passage and approval by  
149 the Governor, or its otherwise becoming law.