

SB32 ENROLLED



1 SB32
2 R6EWNYM-2
3 By Senator Barfoot
4 RFD: Finance and Taxation Education
5 First Read: 06-Feb-24



SB32 Enrolled

1 Enrolled, An Act,

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4 Relating to retirement benefits; to amend Sections
5 16-25-23 and 36-27-28, Code of Alabama 1975, to revise the
6 circumstances in which an individual's pension, annuity, or
7 retirement allowance benefits under the Teachers' Retirement
8 System and the Employees' Retirement System are subject to
9 certain recovery actions.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

13 "§16-25-23

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

25 (b) (1) Restitution, fines, court costs, fees, or any
26 other financial obligations in a criminal case ordered by a
27 circuit or district court judge in this state are not subject
28 to the exemption set out in subsection (a), provided ~~all~~ both



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29 of the following are satisfied:

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

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

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

37 (2) If the requirements of subdivision (1) are met, and
38 upon a motion filed by the district attorney, the circuit or
39 district court judge may order that the Teachers' Retirement
40 System pay to the circuit clerk of the court no more than 25
41 percent of the retiree's or beneficiary's gross monthly
42 benefit less any deductions for child support or health
43 insurance for any dependents, to be applied to the balance of
44 the restitution, fines, court costs, fees, or other financial
45 obligations ordered in the criminal case.

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

48 a. The individual's name, date of birth, and Social
49 Security number.

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

52 c. The amounts of restitution, fines, court costs,
53 fees, or any other financial obligations owed, detailed
54 individually.

55 d. The relevant case numbers.

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



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

58 g. That the restitution, fines, court costs, fees, or
59 other financial obligations are payable as a result of a
60 criminal disposition.

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

62 (4) The district attorney shall notify the court
63 whenever the restitution, fines, court costs, fees, or other
64 financial obligations are paid in full. Thereafter, the court
65 shall issue an order to stop the diversion of the individual's
66 funds. Any payment received by the circuit clerk in an amount
67 over what was owed shall be paid back to the Teachers'
68 Retirement System within 60 days with the specific identifying
69 information as to the retiree or the beneficiary to whom it is
70 owed."

71 "§36-27-28

72 (a) Except as provided in subsection (b), the right of
73 ~~a person~~ an individual to a pension, an annuity, a retirement
74 allowance or to the return of contributions, the pension,
75 annuity, or retirement allowance itself and any optional
76 benefit or any other right accrued or accruing to any
77 ~~person~~ individual under ~~the provisions of~~ this article and the
78 monies in the various funds created by this chapter are ~~hereby~~
79 exempt from any state or municipal tax and exempt from levy
80 and sale, garnishment, attachment, or any other process
81 whatsoever and shall be unassignable except as in this article
82 specifically otherwise provided.

83 (b) (1) Restitution, fines, court costs, fees, or any
84 other financial obligations in a criminal case ordered by a



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85 circuit or district court judge in this state are not subject
86 to the exemption set out in subsection (a), provided allboth
87 of the following are satisfied:

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

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

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

95 (2) If the requirements of subdivision (1) are met,
96 and upon a motion filed by the district attorney, the circuit
97 or district court judge may order that the Employees'
98 Retirement System pay to the circuit clerk of the court no
99 more than 25 percent of the retiree's or beneficiary's gross
100 monthly benefit less any deductions for child support or
101 health insurance for any dependents, to be applied to the
102 balance of the restitution, fines, court costs, fees, or other
103 financial obligations ordered in the criminal case.

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

106 a. The individual's name, date of birth, and Social
107 Security number.

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

110 c. The amounts of restitution, fines, court costs,
111 fees, or any other financial obligations owed, detailed
112 individually.



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113 d. The relevant case numbers.

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

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

116 g. That the restitution, fines, court costs, fees, or
117 other financial obligations are payable as a result of a
118 criminal disposition.

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

120 (4) The district attorney ~~must~~shall notify the court
121 whenever the restitution, fines, court costs, fees, or other
122 financial obligations are paid in full. Thereafter, the court
123 shall issue an order to stop the diversion of the individual's
124 funds. Any payment received by the circuit clerk in an amount
125 over what was owed shall be paid back to the Employees'
126 Retirement System within 60 days with the specific identifying
127 information as to the retiree or the beneficiary to whom it is
128 owed."

129 Section 2. This act shall become effective on October
130 1, 2024.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB32

Senate 05-Mar-24

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris,
Secretary.

House of Representatives

Passed: 08-May-24

By: Senator Barfoot