
SENATE BILL 6434

State of Washington

64th Legislature

2016 Regular Session

By Senators Bailey, Angel, Becker, Miloscia, Braun, Warnick, and Roach

Read first time 01/20/16. Referred to Committee on Ways & Means.

1 AN ACT Relating to garnishing public pensions to pay for the
2 costs of incarceration of a public employee convicted of a felony for
3 misconduct associated with such person's service as a public
4 employee; amending RCW 41.26.053, 41.32.052, 41.34.080, 41.35.100,
5 41.37.090, 41.40.052, and 43.43.310; prescribing penalties; and
6 providing an effective date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 41.26.053 and 2012 c 159 s 21 are each amended to
9 read as follows:

10 (1) Subject to subsections (2) and (3) of this section, the right
11 of a person to a retirement allowance, disability allowance, or death
12 benefit, to the return of accumulated contributions, the retirement,
13 disability or death allowance itself, any optional benefit, any other
14 right accrued or accruing to any person under the provisions of this
15 chapter, and the moneys in the fund created under this chapter, are
16 hereby exempt from any state, county, municipal, or other local tax
17 and shall not be subject to execution, garnishment, attachment, the
18 operation of bankruptcy or insolvency laws, or any other process of
19 law whatsoever, whether the same be in actual possession of the
20 person or be deposited or loaned and shall be unassignable.

1 (2) On the written request of any person eligible to receive
2 benefits under this section, the department may deduct from such
3 payments the premiums for life, health, or other insurance. The
4 request on behalf of any child or children shall be made by the legal
5 guardian of such child or children. The department may provide for
6 such persons one or more plans of group insurance, through contracts
7 with regularly constituted insurance carriers or health care service
8 contractors.

9 (3) Subsection (1) of this section shall not prohibit the
10 department from complying with (a) a wage assignment order for child
11 support issued pursuant to chapter 26.18 RCW, (b) an order to
12 withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a
13 notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a
14 mandatory benefits assignment order issued by the department, (e) a
15 court order directing the department of retirement systems to pay
16 benefits directly to an obligee under a dissolution order as defined
17 in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and
18 41.50.700, ~~((e))~~ (f) any administrative or court order expressly
19 authorized by federal law, or (g) an order to garnish up to fifty
20 percent of the gross monthly benefit for costs of incarceration,
21 probation, parole, or restitution imposed on such member, former
22 member, or retiree as a result of a conviction of or a plea of guilty
23 or nolo contendere to the commission of a felony for misconduct
24 associated with such person's service as a public employee for which
25 credit in the plan was earned or accrued, for felonies committed on
26 or after July 1, 2016.

27 **Sec. 2.** RCW 41.32.052 and 2012 c 159 s 20 are each amended to
28 read as follows:

29 (1) Subject to subsections (2) and (3) of this section, the right
30 of a person to a pension, an annuity, a retirement allowance, or
31 disability allowance, to the return of contributions, any optional
32 benefit or death benefit, any other right accrued or accruing to any
33 person under the provisions of this chapter and the moneys in the
34 various funds created by this chapter shall be unassignable, and are
35 hereby exempt from any state, county, municipal or other local tax,
36 and shall not be subject to execution, garnishment, attachment, the
37 operation of bankruptcy or insolvency laws, or other process of law
38 whatsoever whether the same be in actual possession of the person or
39 be deposited or loaned.

1 (2) This section shall not be deemed to prohibit a beneficiary of
2 a retirement allowance who is eligible:

3 (a) Under RCW 41.05.080 from authorizing monthly deductions
4 therefrom for payment of premiums due on any group insurance policy
5 or plan issued for the benefit of a group comprised of public
6 employees of the state of Washington or its political subdivisions;

7 (b) Under a group health care benefit plan approved pursuant to
8 RCW 28A.400.350 or 41.05.065 from authorizing monthly deductions
9 therefrom, of the amount or amounts of subscription payments,
10 premiums, or contributions to any person, firm, or corporation
11 furnishing or providing medical, surgical, and hospital care or other
12 health care insurance; or

13 (c) Under this system from authorizing monthly deductions
14 therefrom for payment of dues and other membership fees to any
15 retirement association composed of retired teachers and/or public
16 employees pursuant to a written agreement between the director and
17 the retirement association.

18 Deductions under (a) and (b) of this subsection shall be made in
19 accordance with rules that may be adopted by the director.

20 (3) Subsection (1) of this section shall not prohibit the
21 department from complying with (a) a wage assignment order for child
22 support issued pursuant to chapter 26.18 RCW, (b) an order to
23 withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a
24 notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a
25 mandatory benefits assignment order issued by the department, (e) a
26 court order directing the department of retirement systems to pay
27 benefits directly to an obligee under a dissolution order as defined
28 in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and
29 41.50.700, ~~((e))~~ (f) any administrative or court order expressly
30 authorized by federal law, or (g) an order to garnish up to fifty
31 percent of the gross monthly benefit for costs of incarceration,
32 probation, parole, or restitution imposed on such member, former
33 member, or retiree as a result of a conviction of or a plea of guilty
34 or nolo contendere to the commission of a felony for misconduct
35 associated with such person's service as a public employee for which
36 credit in the plan was earned or accrued, for felonies committed on
37 or after July 1, 2016.

38 **Sec. 3.** RCW 41.34.080 and 2012 c 159 s 23 are each amended to
39 read as follows:

1 (1) Subject to subsections (2) and (3) of this section, the right
2 of a person to a pension, an annuity, a retirement allowance, any
3 optional benefit, any other right accrued or accruing to any person
4 under the provisions of this chapter, and the various funds created
5 by chapter 239, Laws of 1995; chapter 341, Laws of 1998; and chapter
6 247, Laws of 2000 and all moneys and investments and income thereof,
7 is hereby exempt from any state, county, municipal, or other local
8 tax, and shall not be subject to execution, garnishment, attachment,
9 the operation of bankruptcy or insolvency laws, or other process of
10 law whatsoever, whether the same be in actual possession of the
11 person or be deposited or loaned and shall be unassignable.

12 (2) This section shall not be deemed to prohibit a beneficiary of
13 a retirement allowance from authorizing deductions therefrom for
14 payment of premiums due on any group insurance policy or plan issued
15 for the benefit of a group comprised of public employees of the state
16 of Washington or its political subdivisions and that has been
17 approved for deduction in accordance with rules that may be adopted
18 by the state health care authority and/or the department. This
19 section shall not be deemed to prohibit a beneficiary of a retirement
20 allowance from authorizing deductions therefrom for payment of dues
21 and other membership fees to any retirement association or
22 organization the membership of which is composed of retired public
23 employees, if a total of three hundred or more of such retired
24 employees have authorized such deduction for payment to the same
25 retirement association or organization.

26 (3) Subsection (1) of this section shall not prohibit the
27 department from complying with (a) a wage assignment order for child
28 support issued pursuant to chapter 26.18 RCW, (b) an order to
29 withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a
30 notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a
31 mandatory benefits assignment order issued by the department, (e) a
32 court order directing the department to pay benefits directly to an
33 obligee under a dissolution order as defined in RCW 41.50.500(3)
34 which fully complies with RCW 41.50.670 and 41.50.700, (~~(e)~~) (f) any
35 administrative or court order expressly authorized by federal law, or
36 (g) an order to garnish up to fifty percent of the gross payment for
37 costs of incarceration, probation, parole, or restitution imposed on
38 such member, former member, or retiree as a result of a conviction of
39 or a plea of guilty or nolo contendere to the commission of a felony
40 for misconduct associated with such person's service as a public

1 employee for which credit in the plan was earned or accrued, for
2 felonies committed on or after July 1, 2016.

3 **Sec. 4.** RCW 41.35.100 and 2012 c 159 s 24 are each amended to
4 read as follows:

5 (1) Subject to subsections (2) and (3) of this section, the right
6 of a person to a pension, an annuity, or retirement allowance, any
7 optional benefit, any other right accrued or accruing to any person
8 under the provisions of this chapter, the various funds created by
9 this chapter, and all moneys and investments and income thereof, are
10 hereby exempt from any state, county, municipal, or other local tax,
11 and shall not be subject to execution, garnishment, attachment, the
12 operation of bankruptcy or insolvency laws, or other process of law
13 whatsoever, whether the same be in actual possession of the person or
14 be deposited or loaned and shall be unassignable.

15 (2) This section does not prohibit a beneficiary of a retirement
16 allowance from authorizing deductions therefrom for payment of
17 premiums due on any group insurance policy or plan issued for the
18 benefit of a group comprised of public employees of the state of
19 Washington or its political subdivisions and which has been approved
20 for deduction in accordance with rules that may be adopted by the
21 state health care authority and/or the department. This section also
22 does not prohibit a beneficiary of a retirement allowance from
23 authorizing deductions therefrom for payment of dues and other
24 membership fees to any retirement association or organization the
25 membership of which is composed of retired public employees, if a
26 total of three hundred or more of such retired employees have
27 authorized such deduction for payment to the same retirement
28 association or organization.

29 (3) Subsection (1) of this section does not prohibit the
30 department from complying with (a) a wage assignment order for child
31 support issued pursuant to chapter 26.18 RCW, (b) an order to
32 withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a
33 notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a
34 mandatory benefits assignment order issued by the department, (e) a
35 court order directing the department of retirement systems to pay
36 benefits directly to an obligee under a dissolution order as defined
37 in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and
38 41.50.700, (~~(e)~~) (f) any administrative or court order expressly
39 authorized by federal law, or (g) an order to garnish up to fifty

1 percent of the gross monthly benefit for costs of incarceration,
2 probation, parole, or restitution imposed on such member, former
3 member, or retiree as a result of a conviction of or a plea of guilty
4 or nolo contendere to the commission of a felony for misconduct
5 associated with such person's service as a public employee for which
6 credit in the plan was earned or accrued, for felonies committed on
7 or after July 1, 2016.

8 **Sec. 5.** RCW 41.37.090 and 2012 c 159 s 25 are each amended to
9 read as follows:

10 (1) Subject to subsections (2) and (3) of this section, the right
11 of a person to a pension, an annuity, or retirement allowance, any
12 optional benefit, any other right accrued or accruing to any person
13 under this chapter, the various funds created by this chapter, and
14 all moneys and investments and income thereof, are hereby exempt from
15 any state, county, municipal, or other local tax, and shall not be
16 subject to execution, garnishment, attachment, the operation of
17 bankruptcy or insolvency laws, or other process of law whatsoever,
18 whether the same be in actual possession of the person or be
19 deposited or loaned and shall be unassignable.

20 (2) This section does not prohibit a beneficiary of a retirement
21 allowance from authorizing deductions therefrom for payment of
22 premiums due on any group insurance policy or plan issued for the
23 benefit of a group comprised of public employees of the state of
24 Washington or its political subdivisions and which has been approved
25 for deduction in accordance with rules that may be adopted by the
26 state health care authority and/or the department. This section also
27 does not prohibit a beneficiary of a retirement allowance from
28 authorizing deductions therefrom for payment of dues and other
29 membership fees to any retirement association or organization the
30 membership of which is composed of retired public employees, if a
31 total of three hundred or more retired employees have authorized the
32 deduction for payment to the same retirement association or
33 organization.

34 (3) Subsection (1) of this section does not prohibit the
35 department from complying with (a) a wage assignment order for child
36 support issued pursuant to chapter 26.18 RCW, (b) an order to
37 withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a
38 notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a
39 mandatory benefits assignment order issued by the department, (e) a

1 court order directing the department to pay benefits directly to an
2 obligee under a dissolution order as defined in RCW 41.50.500(3)
3 which fully complies with RCW 41.50.670 and 41.50.700, (~~or~~) (f) any
4 administrative or court order expressly authorized by federal law, or
5 (g) an order to garnish up to fifty percent of the gross monthly
6 benefit for costs of incarceration, probation, parole, or restitution
7 imposed on such member, former member, or retiree as a result of a
8 conviction of or a plea of guilty or nolo contendere to the
9 commission of a felony for misconduct associated with such person's
10 service as a public employee for which credit in the plan was earned
11 or accrued, for felonies committed on or after July 1, 2016.

12 **Sec. 6.** RCW 41.40.052 and 2012 c 159 s 26 are each amended to
13 read as follows:

14 (1) Subject to subsections (2) and (3) of this section, the right
15 of a person to a pension, an annuity, or retirement allowance, any
16 optional benefit, any other right accrued or accruing to any person
17 under the provisions of this chapter, the various funds created by
18 this chapter, and all moneys and investments and income thereof, are
19 hereby exempt from any state, county, municipal, or other local tax,
20 and shall not be subject to execution, garnishment, attachment, the
21 operation of bankruptcy or insolvency laws, or other process of law
22 whatsoever, whether the same be in actual possession of the person or
23 be deposited or loaned and shall be unassignable.

24 (2)(a) This section shall not be deemed to prohibit a beneficiary
25 of a retirement allowance from authorizing deductions therefrom for
26 payment of premiums due on any group insurance policy or plan issued
27 for the benefit of a group comprised of public employees of the state
28 of Washington or its political subdivisions and which has been
29 approved for deduction in accordance with rules that may be adopted
30 by the state health care authority and/or the department, and this
31 section shall not be deemed to prohibit a beneficiary of a retirement
32 allowance from authorizing deductions therefrom for payment of dues
33 and other membership fees to any retirement association or
34 organization the membership of which is composed of retired public
35 employees, if a total of three hundred or more of such retired
36 employees have authorized such deduction for payment to the same
37 retirement association or organization.

38 (b) This section does not prohibit a beneficiary of a retirement
39 allowance from authorizing deductions from that allowance for

1 charitable purposes on the same terms as employees and public
2 officers under RCW 41.04.035 and 41.04.036.

3 (3) Subsection (1) of this section shall not prohibit the
4 department from complying with (a) a wage assignment order for child
5 support issued pursuant to chapter 26.18 RCW, (b) an order to
6 withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a
7 notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a
8 mandatory benefits assignment order issued by the department, (e) a
9 court order directing the department of retirement systems to pay
10 benefits directly to an obligee under a dissolution order as defined
11 in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and
12 41.50.700, ~~((e))~~ (f) any administrative or court order expressly
13 authorized by federal law, or (g) an order to garnish up to fifty
14 percent of the gross monthly benefit for costs of incarceration,
15 probation, parole, or restitution imposed on such member, former
16 member, or retiree as a result of a conviction of or a plea of guilty
17 or nolo contendere to the commission of a felony for misconduct
18 associated with such person's service as a public employee for which
19 credit in the plan was earned or accrued, for felonies committed on
20 or after July 1, 2016.

21 **Sec. 7.** RCW 43.43.310 and 2012 c 159 s 28 are each amended to
22 read as follows:

23 (1) Except as provided in subsections (2) and (3) of this
24 section, the right of any person to a retirement allowance or
25 optional retirement allowance under the provisions hereof and all
26 moneys and investments and income thereof are exempt from any state,
27 county, municipal, or other local tax and shall not be subject to
28 execution, garnishment, attachment, the operation of bankruptcy or
29 the insolvency laws, or other processes of law whatsoever, whether
30 the same be in actual possession of the person or be deposited or
31 loaned and shall be unassignable except as herein specifically
32 provided.

33 (2) Subsection (1) of this section shall not prohibit the
34 department of retirement systems from complying with (a) a wage
35 assignment order for child support issued pursuant to chapter 26.18
36 RCW, (b) an order to withhold and deliver issued pursuant to chapter
37 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW
38 26.23.060, (d) a mandatory benefits assignment order issued pursuant
39 to chapter 41.50 RCW, (e) a court order directing the department of

1 retirement systems to pay benefits directly to an obligee under a
2 dissolution order as defined in RCW 41.50.500(3) which fully complies
3 with RCW 41.50.670 and 41.50.700, (~~(e)~~) (f) any administrative or
4 court order expressly authorized by federal law, or (g) an order to
5 garnish up to fifty percent of the gross monthly benefit for costs of
6 incarceration, probation, parole, or restitution imposed on such
7 member, former member, or retiree as a result of a conviction of or a
8 plea of guilty or nolo contendere to the commission of a felony for
9 misconduct associated with such person's service as a public employee
10 for which credit in the plan was earned or accrued, for felonies
11 committed on or after July 1, 2016.

12 (3) Subsection (1) of this section shall not be deemed to
13 prohibit a beneficiary of a retirement allowance from authorizing
14 deductions therefrom for payment of premiums due on any group
15 insurance policy or plan issued for the benefit of a group comprised
16 of members of the Washington state patrol or other public employees
17 of the state of Washington, or for contributions to the Washington
18 state patrol memorial foundation.

19 NEW SECTION. **Sec. 8.** This act takes effect July 1, 2016.

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