

§17054. Legal process and assignment

The right of a person to a retirement allowance, the retirement allowance itself, the refund of a person's accumulated contributions, any death benefit, any other right accrued or accruing to any person under this Part and the money in the various funds created by this Part may not be subject to execution, garnishment, attachment or any other process and shall be unassignable except that: [PL 1987, c. 739, §§4, 48 (AMD).]

1. Retirement allowance available for child support. A member's retirement allowance is available to satisfy any child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process; [PL 1991, c. 184, §1 (AMD).]

2. Accumulated contributions available for child support. A member's accumulated contributions that are refundable under sections 17705-A, 17706-A, 18306-A and 18307-A are available to satisfy any child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process; [PL 2011, c. 606, §8 (AMD).]

3. Recovery of overpayments by the retirement system. Any amounts due the retirement system as the result of overpayment or erroneous payment of benefits, an excess refund of contributions or overpayment or erroneous payment of life insurance benefits may be recovered from an individual's contributions, any benefits or life insurance benefits payable under this Part to the individual or the beneficiary of the individual or any combination of contributions and benefits. If the overpayment or excess refund of contributions resulted from a mistake of or incorrect information provided by an employee of the retirement system, or a mistake of the retiree or the recipient of the benefit or life insurance benefit, a penalty or interest may not be assessed by the retirement system. In all cases of recovery of overpayments through the reduction of a retirement benefit, whether with or without the assessment of interest by the retirement system, the recovery practices must be reasonable and consider the personal economic stability of the retiree in the establishment of the recovery schedule. The chief executive officer may also take action to recover those amounts due from any amounts payable to the individual by any other state agency or by an action in a court of competent jurisdiction. Whenever the chief executive officer makes a decision to recover any amounts under this subsection, that decision is subject to appeal under section 17451.

Employers are responsible for enrolling employees in the correct retirement plan. The retirement system shall provide training, education and information to assist employers in the correct enrollment of employees. If an employee is enrolled in the incorrect retirement plan by the employer through no fault of the employee, the employee may not lose any retirement benefits. The State is not responsible for the employer contribution when the employer is a school district, municipality or county and those contributions and assessed interest, if applicable, must be paid to the retirement system by the school district, municipality or county; [PL 2011, c. 606, §9 (AMD); PL 2021, c. 548, §45 (REV).]

4. Qualified domestic relations order. The rights of a member, retiree, beneficiary or other payee under this Part are subject to the rights of or assignment to an alternate payee under a qualified domestic relations order in accordance with section 17059; and [PL 2011, c. 606, §10 (AMD).]

5. Forfeiture and restitution. The rights and benefits of a member or retiree under this Part are subject to forfeiture or assignment to the member's spouse, dependent or former spouse in accordance with the provisions of Title 5, section 17062. [PL 2011, c. 606, §11 (NEW).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1987, c. 739, §§4,48 (AMD). PL 1991, c. 184, §§1,2 (AMD). PL 1991, c. 746, §§6-8 (AMD). PL 1991, c. 746, §10 (AFF). PL 1993, c. 386, §2 (AMD). PL 2005, c. 560, §1 (AMD). PL 2005, c. 560, §5 (AFF). PL 2007, c. 137, §9 (AMD). PL 2009, c. 322, §1 (AMD). PL 2011, c. 606, §§8-11 (AMD). PL 2021, c. 548, §45 (REV).

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