



March 22, 2019

ENGROSSED HOUSE BILL No. 1192

DIGEST OF HB 1192 (Updated March 20, 2019 11:30 am - DI 128)

Citations Affected: IC 10-12; IC 33-38; IC 33-39; IC 35-43; IC 36-8.

Synopsis: Theft by public servants. Specifies that in the case of a public servant who criminally exerts unauthorized control over public funds of the public servant's employer, the employer may be reimbursed from the public servant's public pension fund contributions and benefits. Provides that assets of the judges' retirement system and the prosecuting attorneys retirement fund are exempt from levy, sale, garnishment, attachment, or other legal process. (Current law provides similar exemptions for certain funds administered by the Indiana public retirement system.)

Effective: July 1, 2019.

Lauer, Ellington, Deal, Stutzman, Dvorak

(SENATE SPONSORS — KOCH, BROWN L, WALKER, YOUNG M,
ROGERS, RANDOLPH LONNIE M)

January 8, 2019, read first time and referred to Committee on Courts and Criminal Code.
February 7, 2019, amended, reported — Do Pass.
February 11, 2019, read second time, ordered engrossed.
February 12, 2019, engrossed. Read third time, passed. Yeas 93, nays 0.

SENATE ACTION

February 27, 2019, read first time and referred to Committee on Judiciary.
March 21, 2019, amended, reported favorably — Do Pass.

EH 1192—LS 6786/DI 106



March 22, 2019

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1192

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 10-12-2-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. (a) A person
3 entitled to, having an interest in, or sharing a pension or benefit from
4 the trust funds does not, before the actual payment of the pension or
5 benefit, have the right to anticipate, sell, assign, pledge, mortgage, or
6 otherwise dispose of or encumber the pension or benefit.
7 (b) A person's interest, share, pension, or benefit, before the actual
8 payment of the interest, share, pension, or benefit, may not be:
9 (1) used to satisfy the debts or liabilities of the person entitled to
10 the interest, share, pension, or benefit;
11 (2) subject to attachment, garnishment, execution, or levy or sale
12 on judicial proceedings; or
13 (3) transferred by any means, voluntarily or involuntarily.
14 (c) The trustee may pay from the trust fund the amounts that the
15 trustee determines are proper and necessary expenses of the trust fund.
16 (d) **However, the person's contributions or benefits, or both,**
17 **may be transferred to reimburse the person's employer for loss**

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1 resulting from the person's criminal taking of the employer's
 2 property by the trustee if the trustee receives adequate proof of the
 3 loss. The loss resulting from the person's criminal taking of the
 4 employer's property must be proven by an order for restitution in
 5 favor of the employer issued by the sentencing court following a
 6 felony or misdemeanor conviction.

7 (e) The trustee may withhold payment of the person's
 8 contributions and interest if the employer of the person notifies the
 9 trustee that felony or misdemeanor charges accusing the person of
 10 the criminal taking of the employer's property have been filed.

11 (f) The trustee may withhold payment of a person's
 12 contributions and interest under subsection (e) until the final
 13 resolution of the criminal charges.

14 SECTION 2. IC 33-38-6-19.5 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2019]: **Sec. 19.5. (a) All assets in the fund are**
 17 **exempt from levy, sale, garnishment, attachment, or other legal**
 18 **process. However, the participant's contributions or benefits, or**
 19 **both, may be transferred to reimburse the participant's employer**
 20 **for loss resulting from the participant's criminal taking of the**
 21 **employer's property by the board if the board receives adequate**
 22 **proof of the loss. The loss resulting from the participant's criminal**
 23 **taking of the participant's employer's property must be proven by**
 24 **an order for restitution in favor of the employer issued by the**
 25 **sentencing court following a felony or misdemeanor conviction.**

26 (b) The board may withhold payment of a participant's
 27 contributions and interest if the employer of the participant
 28 notifies the board that felony or misdemeanor charges accusing the
 29 participant of the criminal taking of the employer's property have
 30 been filed.

31 (c) The board may withhold payment of a participant's
 32 contributions and interest under subsection (b) until the final
 33 resolution of the criminal charges.

34 SECTION 3. IC 33-39-7-10.5 IS ADDED TO THE INDIANA
 35 CODE AS A NEW SECTION TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2019]: **Sec. 10.5. (a) All assets in the fund are**
 37 **exempt from levy, sale, garnishment, attachment, or other legal**
 38 **process. However, a participant's contributions or benefits, or**
 39 **both, may be transferred to reimburse the participant's employer**
 40 **for loss resulting from the participant's criminal taking of the**
 41 **employer's property by the board if the board receives adequate**
 42 **proof of the loss. The loss resulting from the participant's criminal**



1 taking of the participant's employer's property must be proven by
 2 an order for restitution in favor of the employer issued by the
 3 sentencing court following a felony or misdemeanor conviction.

4 (b) The board may withhold payment of a participant's
 5 contributions and interest if the employer of the participant
 6 notifies the board that felony or misdemeanor charges accusing the
 7 participant of the criminal taking of the employer's property have
 8 been filed.

9 (c) The board may withhold payment of a participant's
 10 contributions and interest under subsection (b) until the final
 11 resolution of the criminal charges.

12 SECTION 4. IC 35-43-4-2, AS AMENDED BY P.L.176-2018,
 13 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2019]: Sec. 2. (a) A person who knowingly or intentionally
 15 exerts unauthorized control over property of another person, with intent
 16 to deprive the other person of any part of its value or use, commits
 17 theft, a Class A misdemeanor. However, the offense is:

18 (1) a Level 6 felony if:

19 (A) the value of the property is at least seven hundred fifty
 20 dollars (\$750) and less than fifty thousand dollars (\$50,000);

21 (B) the property is a:

22 (i) firearm;

23 (ii) motor vehicle (as defined in IC 9-13-2-105(a)); or

24 (iii) component part (as defined in IC 9-13-2-34) of a motor
 25 vehicle; or

26 (C) the person has a prior unrelated conviction for

27 (i) theft under this section; or

28 (ii) criminal conversion under section 3 of this chapter; and

29 (2) a Level 5 felony if:

30 (A) the value of the property is at least fifty thousand dollars
 31 (\$50,000);

32 (B) the property that is the subject of the theft is a valuable
 33 metal (as defined in IC 25-37.5-1-1) and:

34 (i) relates to transportation safety;

35 (ii) relates to public safety; or

36 (iii) is taken from a hospital or other health care facility,
 37 telecommunications provider, public utility (as defined in
 38 IC 32-24-1-5.9(a)), or key facility;

39 and the absence of the property creates a substantial risk of
 40 bodily injury to a person; or

41 (C) the property is a:

42 (i) motor vehicle (as defined in IC 9-13-2-105(a)); or



1 (ii) component part (as defined in IC 9-13-2-34) of a motor
 2 vehicle; and
 3 the person has a prior unrelated conviction for theft of a motor
 4 vehicle (as defined in IC 9-13-2-105(a)) or theft of a
 5 component part (as defined in IC 9-13-2-34).

6 (b) For purposes of this section, "the value of property" means:
 7 (1) the fair market value of the property at the time and place the
 8 offense was committed; or
 9 (2) if the fair market value of the property cannot be satisfactorily
 10 determined, the cost to replace the property within a reasonable
 11 time after the offense was committed.

12 A price tag or price marking on property displayed or offered for sale
 13 constitutes prima facie evidence of the value of the property.

14 **(c) If the offense described in subsection (a) is committed by a**
 15 **public servant who exerted unauthorized control over public funds**
 16 **(as defined by IC 5-22-2-23) from the public servant's employer,**
 17 **the employer may be reimbursed in accordance with IC 2-3.5-4-11,**
 18 **IC 2-3.5-5-9, IC 5-10-5.5-19, IC 5-10.3-8-9, IC 5-10.4-5-14,**
 19 **IC 10-12-2-10, IC 33-38-6-19.5, IC 33-39-7-10.5, IC 36-8-6-14,**
 20 **IC 36-8-7-22, IC 36-8-7.5-19, or IC 36-8-8-17.**

21 SECTION 5. IC 36-8-6-14, AS AMENDED BY P.L.127-2017,
 22 SECTION 245, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2019]: Sec. 14. (a) If there is not sufficient
 24 money to the credit of the 1925 fund to pay all claims against it in full,
 25 claims arising from the death of members of the department shall be
 26 paid in full first with as little delay as possible, after which an equal
 27 percentage shall be paid upon all other claims to the full extent of the
 28 money on hand, until the fund is replenished.

29 (b) All pensions shall be paid by the treasurer of the local board at
 30 the treasurer's office at the same time and in the same installments as
 31 the members of the police department are paid.

32 (c) All pensions payable out of the 1925 fund are exempt from
 33 seizure or levy upon attachment, execution, supplemental process, and
 34 all other process, whether mesne or final. Except as provided in section
 35 21 of this chapter, pensions are not subject to sale, assignment, or
 36 transfer by a beneficiary.

37 **(d) However, the member's contributions or benefits, or both,**
 38 **may be transferred to reimburse the member's employer for loss**
 39 **resulting from the member's criminal taking of the employer's**
 40 **property by the treasurer of the local board if the treasurer**
 41 **receives adequate proof of the loss. The loss resulting from the**
 42 **member's criminal taking of the employer's property must be**



1 proven by an order for restitution in favor of the employer issued
2 by the sentencing court following a felony or misdemeanor
3 conviction.

4 (e) The treasurer of the local board may withhold payment of
5 the member's contributions and interest if the employer of the
6 member notifies the treasurer that felony or misdemeanor charges
7 accusing the member of the criminal taking of the employer's
8 property have been filed.

9 (f) The treasurer of the local board may withhold payment of a
10 person's contributions and interest under subsection (e) until the
11 final resolution of the criminal charges.

12 SECTION 6. IC 36-8-7-22, AS AMENDED BY P.L.146-2008,
13 SECTION 778, IS AMENDED TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2019]: Sec. 22. (a) The 1937 fund may not be,
15 either before or after an order for distribution to members of the fire
16 department or to the surviving spouses or guardians of a child or
17 children of a deceased, disabled, or retired member, held, seized, taken,
18 subjected to, detained, or levied on by virtue of an attachment,
19 execution, judgment, writ, interlocutory or other order, decree, or
20 process, or proceedings of any nature issued out of or by a court in any
21 state for the payment or satisfaction, in whole or in part, of a debt,
22 damages, demand, claim, judgment, fine, or amercement of the
23 member or the member's surviving spouse or children. The 1937 fund
24 shall be kept and distributed only for the purpose of pensioning the
25 persons named in this chapter. The local board may, however, annually
26 expend an amount from the 1937 fund that it considers proper for the
27 necessary expenses connected with the fund. Notwithstanding any
28 other law, neither the fiscal body, the county board of tax adjustment,
29 nor the department of local government finance may reduce these
30 expenditures.

31 (b) However, the member's contributions or benefits, or both,
32 may be transferred to reimburse the member's employer for loss
33 resulting from the member's criminal taking of the employer's
34 property by the local board if the local board receives adequate
35 proof of the loss. The loss resulting from the member's criminal
36 taking of the employer's property must be proven by an order for
37 restitution in favor of the employer issued by the sentencing court
38 following a felony or misdemeanor conviction.

39 (c) The local board may withhold payment of the member's
40 contributions and interest if the employer of the member notifies
41 the local board that felony or misdemeanor charges accusing the
42 member of the criminal taking of the employer's property have



1 **been filed.**

2 **(d) The local board may withhold payment of a person's**
 3 **contributions and interest under subsection (c) until the final**
 4 **resolution of the criminal charges.**

5 SECTION 7. IC 36-8-7.5-19 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 19. **(a)** All pensions,
 7 annuities, and benefits payable out of the 1953 fund are exempt from
 8 seizure or levy upon attachment, garnishment, execution, and all other
 9 process. Except as provided in section 23 of this chapter, pensions,
 10 annuities, and benefits are not subject to sale, assignment, or transfer
 11 by a beneficiary.

12 **(b) However, the member's contributions or benefits, or both,**
 13 **may be transferred to reimburse the member's employer for loss**
 14 **resulting from the member's criminal taking of the employer's**
 15 **property by the local board if the local board receives adequate**
 16 **proof of the loss. The loss resulting from the member's criminal**
 17 **taking of the employer's property must be proven by an order for**
 18 **restitution in favor of the employer issued by the sentencing court**
 19 **following a felony or misdemeanor conviction.**

20 **(c) The local board may withhold payment of the member's**
 21 **contributions and interest if the employer of the member notifies**
 22 **the local board that felony or misdemeanor charges accusing the**
 23 **member of the criminal taking of the employer's property have**
 24 **been filed.**

25 **(d) The local board may withhold payment of a person's**
 26 **contributions and interest under subsection (c) until the final**
 27 **resolution of the criminal charges.**

28 SECTION 8. IC 36-8-8-17 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 17. **(a)** The benefits of
 30 this chapter are exempt from attachment and garnishment and may not
 31 be seized, taken, or levied upon by any execution or process. **However,**
 32 **a fund member's contributions or benefits, or both, may be**
 33 **transferred to reimburse the fund member's employer for loss**
 34 **resulting from the fund member's criminal taking of the**
 35 **employer's property by the system board if the system board**
 36 **receives adequate proof of the loss. The loss resulting from the**
 37 **fund member's criminal taking of the employer's property must be**
 38 **proven by an order for restitution in favor of the employer issued**
 39 **by the sentencing court following a felony or misdemeanor**
 40 **conviction.**

41 **(b) The system board may withhold payment of a fund**
 42 **member's contributions and interest if the employer of the fund**



1 member notifies the board that felony or misdemeanor charges
2 accusing the participant of the criminal taking of the employer's
3 property have been filed.

4 (c) The system board may withhold payment of a fund
5 member's contributions and interest under subsection (b) until the
6 final resolution of the criminal charges.

7 ~~(b)~~ (d) Except as provided in subsection ~~(c)~~ (e) and section 17.2 of
8 this chapter, a person receiving a benefit under this chapter may not
9 transfer, assign, or sell the benefit.

10 ~~(c)~~ (e) Notwithstanding any other provision of this chapter, to the
11 extent required by Internal Revenue Code Section 401(a)(31), as added
12 by the Unemployment Compensation Amendments of 1992
13 (P.L.102-318), and any amendments and regulations related to Section
14 401(a)(31), the 1977 fund shall allow participants and qualified
15 beneficiaries to elect a direct rollover of eligible distributions to
16 another eligible retirement plan.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1192, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 10-12-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. (a) A person entitled to, having an interest in, or sharing a pension or benefit from the trust funds does not, before the actual payment of the pension or benefit, have the right to anticipate, sell, assign, pledge, mortgage, or otherwise dispose of or encumber the pension or benefit.

(b) A person's interest, share, pension, or benefit, before the actual payment of the interest, share, pension, or benefit, may not be:

- (1) used to satisfy the debts or liabilities of the person entitled to the interest, share, pension, or benefit;
- (2) subject to attachment, garnishment, execution, or levy or sale on judicial proceedings; or
- (3) transferred by any means, voluntarily or involuntarily.

(c) The trustee may pay from the trust fund the amounts that the trustee determines are proper and necessary expenses of the trust fund.

(d) However, the person's contributions or benefits, or both, may be transferred to reimburse the person's employer for loss resulting from the person's criminal taking of the employer's property by the trustee if the trustee receives adequate proof of the loss. The loss resulting from the person's criminal taking of the employer's property must be proven by an order for restitution in favor of the employer issued by the sentencing court following a felony or misdemeanor conviction.

(e) The trustee may withhold payment of the person's contributions and interest if the employer of the person notifies the trustee that felony or misdemeanor charges accusing the person of the criminal taking of the employer's property have been filed.

(f) The trustee may withhold payment of a person's contributions and interest under subsection (e) until the final resolution of the criminal charges.

SECTION 2. IC 33-38-6-19.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 19.5. (a) All assets in the fund are exempt from levy, sale, garnishment, attachment, or other legal process. However, the participant's contributions or benefits, or**

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both, may be transferred to reimburse the participant's employer for loss resulting from the participant's criminal taking of the employer's property by the board if the board receives adequate proof of the loss. The loss resulting from the participant's criminal taking of the participant's employer's property must be proven by an order for restitution in favor of the employer issued by the sentencing court following a felony or misdemeanor conviction.

(b) The board may withhold payment of a participant's contributions and interest if the employer of the participant notifies the board that felony or misdemeanor charges accusing the participant of the criminal taking of the employer's property have been filed.

(c) The board may withhold payment of a participant's contributions and interest under subsection (b) until the final resolution of the criminal charges.

SECTION 3. IC 33-39-7-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 10.5. (a) All assets in the fund are exempt from levy, sale, garnishment, attachment, or other legal process. However, a participant's contributions or benefits, or both, may be transferred to reimburse the participant's employer for loss resulting from the participant's criminal taking of the employer's property by the board if the board receives adequate proof of the loss. The loss resulting from the participant's criminal taking of the participant's employer's property must be proven by an order for restitution in favor of the employer issued by the sentencing court following a felony or misdemeanor conviction.**

(b) The board may withhold payment of a participant's contributions and interest if the employer of the participant notifies the board that felony or misdemeanor charges accusing the participant of the criminal taking of the employer's property have been filed.

(c) The board may withhold payment of a participant's contributions and interest under subsection (b) until the final resolution of the criminal charges."

Page 2, delete lines 28 through 38, begin a new paragraph and insert:

"(c) If the offense described in subsection (a) is committed by a public servant who exerted unauthorized control over public funds (as defined by IC 5-22-2-23) from the public servant's employer, the employer may be reimbursed in accordance with IC 2-3.5-4-11, IC 2-3.5-5-9, IC 5-10-5.5-19, IC 5-10.3-8-9, IC 5-10.4-5-14,



IC 10-12-2-10, IC 33-38-6-19.5, IC 33-39-7-10.5, IC 36-8-6-14, IC 36-8-7-22, IC 36-8-7.5-19, or IC 36-8-8-17.

SECTION 5. IC 36-8-6-14, AS AMENDED BY P.L.127-2017, SECTION 245, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 14. (a) If there is not sufficient money to the credit of the 1925 fund to pay all claims against it in full, claims arising from the death of members of the department shall be paid in full first with as little delay as possible, after which an equal percentage shall be paid upon all other claims to the full extent of the money on hand, until the fund is replenished.

(b) All pensions shall be paid by the treasurer of the local board at the treasurer's office at the same time and in the same installments as the members of the police department are paid.

(c) All pensions payable out of the 1925 fund are exempt from seizure or levy upon attachment, execution, supplemental process, and all other process, whether mesne or final. Except as provided in section 21 of this chapter, pensions are not subject to sale, assignment, or transfer by a beneficiary.

(d) However, the member's contributions or benefits, or both, may be transferred to reimburse the member's employer for loss resulting from the member's criminal taking of the employer's property by the treasurer of the local board if the treasurer receives adequate proof of the loss. The loss resulting from the members's criminal taking of the employer's property must be proven by an order for restitution in favor of the employer issued by the sentencing court following a felony or misdemeanor conviction.

(e) The treasurer of the local board may withhold payment of the member's contributions and interest if the employer of the member notifies the treasurer that felony or misdemeanor charges accusing the member of the criminal taking of the employer's property have been filed.

(f) The treasurer of the local board may withhold payment of a person's contributions and interest under subsection (e) until the final resolution of the criminal charges.

SECTION 6. IC 36-8-7-22, AS AMENDED BY P.L.146-2008, SECTION 778, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 22. **(a)** The 1937 fund may not be, either before or after an order for distribution to members of the fire department or to the surviving spouses or guardians of a child or children of a deceased, disabled, or retired member, held, seized, taken, subjected to, detained, or levied on by virtue of an attachment,



execution, judgment, writ, interlocutory or other order, decree, or process, or proceedings of any nature issued out of or by a court in any state for the payment or satisfaction, in whole or in part, of a debt, damages, demand, claim, judgment, fine, or amercement of the member or the member's surviving spouse or children. The 1937 fund shall be kept and distributed only for the purpose of pensioning the persons named in this chapter. The local board may, however, annually expend an amount from the 1937 fund that it considers proper for the necessary expenses connected with the fund. Notwithstanding any other law, neither the fiscal body, the county board of tax adjustment, nor the department of local government finance may reduce these expenditures.

(b) However, the member's contributions or benefits, or both, may be transferred to reimburse the member's employer for loss resulting from the member's criminal taking of the employer's property by the local board if the local board receives adequate proof of the loss. The loss resulting from the members's criminal taking of the employer's property must be proven by an order for restitution in favor of the employer issued by the sentencing court following a felony or misdemeanor conviction.

(c) The local board may withhold payment of the member's contributions and interest if the employer of the member notifies the local board that felony or misdemeanor charges accusing the member of the criminal taking of the employer's property have been filed.

(d) The local board may withhold payment of a person's contributions and interest under subsection (c) until the final resolution of the criminal charges.

SECTION 7. IC 36-8-7.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 19. **(a)** All pensions, annuities, and benefits payable out of the 1953 fund are exempt from seizure or levy upon attachment, garnishment, execution, and all other process. Except as provided in section 23 of this chapter, pensions, annuities, and benefits are not subject to sale, assignment, or transfer by a beneficiary.

(b) However, the member's contributions or benefits, or both, may be transferred to reimburse the member's employer for loss resulting from the member's criminal taking of the employer's property by the local board if the local board receives adequate proof of the loss. The loss resulting from the members's criminal taking of the employer's property must be proven by an order for restitution in favor of the employer issued by the sentencing court



following a felony or misdemeanor conviction.

(c) The local board may withhold payment of the member's contributions and interest if the employer of the member notifies the local board that felony or misdemeanor charges accusing the member of the criminal taking of the employer's property have been filed.

(d) The local board may withhold payment of a person's contributions and interest under subsection (c) until the final resolution of the criminal charges.

SECTION 8. IC 36-8-8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 17. (a) The benefits of this chapter are exempt from attachment and garnishment and may not be seized, taken, or levied upon by any execution or process. **However, a fund member's contributions or benefits, or both, may be transferred to reimburse the fund member's employer for loss resulting from the fund member's criminal taking of the employer's property by the system board if the system board receives adequate proof of the loss. The loss resulting from the fund member's criminal taking of the employer's property must be proven by an order for restitution in favor of the employer issued by the sentencing court following a felony or misdemeanor conviction.**

(b) The system board may withhold payment of a fund member's contributions and interest if the employer of the fund member notifies the board that felony or misdemeanor charges accusing the participant of the criminal taking of the employer's property have been filed.

(c) The system board may withhold payment of a fund member's contributions and interest under subsection (b) until the final resolution of the criminal charges.

~~(b)~~ (d) Except as provided in subsection ~~(c)~~ (e) and section 17.2 of this chapter, a person receiving a benefit under this chapter may not transfer, assign, or sell the benefit.

~~(c)~~ (e) Notwithstanding any other provision of this chapter, to the extent required by Internal Revenue Code Section 401(a)(31), as added by the Unemployment Compensation Amendments of 1992 (P.L.102-318), and any amendments and regulations related to Section



401(a)(31), the 1977 fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan."

Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to HB 1192 as introduced.)

MCNAMARA

Committee Vote: yeas 12, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1192, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, line 42, delete "members's" and insert "**member's**".

Page 5, line 35, delete "members's" and insert "**member's**".

Page 6, line 16, delete "members's" and insert "**member's**".

and when so amended that said bill do pass.

(Reference is to HB 1192 as printed February 8, 2019.)

KOCH

Committee Vote: Yeas 10, Nays 0.

