

1 HB558  
2 139218-1  
3 By Representative Merrill  
4 RFD: Ways and Means General Fund  
5 First Read: 15-MAR-12

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8 SYNOPSIS: This bill would provide that all settlements  
9 or orders entering judgment in a class action  
10 lawsuit filed in Alabama and governed by Alabama  
11 law that results in the creation of a common fund  
12 for the benefit of a class shall establish a plan  
13 for determining the distribution of the residual  
14 remaining funds to the Department of Child Abuse  
15 and Neglect Prevention and the timing of such  
16 distribution.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT

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22 Relating to the distribution of excess funds created  
23 pursuant to a class action lawsuit filed in Alabama; to  
24 provide that all settlements or orders entering judgment in a  
25 class action lawsuit filed in Alabama and governed by Alabama  
26 law that result in the creation of a common fund for the  
27 benefit of a class shall establish a plan for determining the

1 distribution of the residual remaining funds to the Department  
2 of Child Abuse and Neglect Prevention and the timing of such  
3 distribution.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. In any class action governed exclusively  
6 by Alabama law, any order of a circuit court entering a full  
7 and final judgment pursuant to Ala. R. Civ. p. 54 as to all  
8 claims and issues, whether by settlement or other  
9 adjudication, that results in the creation of a common fund  
10 for the benefit of the class, shall establish a specific plan  
11 for the distribution of any residual funds, under which any  
12 funds remaining after payment of all benefits to or for the  
13 benefit of class members shall be paid to the Department of  
14 Child Abuse and Neglect Prevention.

15 Section 2. For the purpose of this act, residual  
16 funds from a class action common fund are those funds that  
17 remain undistributed due to circumstances in which the members  
18 of the class cannot be located, funds for which the direct  
19 distribution to individual class members is not economically  
20 feasible, funds which remain after all class members are given  
21 a full opportunity to make a claim, or funds payable to or  
22 otherwise for the benefit of class members which for any  
23 reason remain undistributed after the time period established  
24 by the circuit court presiding over the action. All residual  
25 funds shall be distributed to the Department of Child Abuse  
26 and Neglect Prevention consistent with a specific plan as  
27 provided in Section 1.

1           Section 3. Nothing in this act is intended to be nor  
2 shall be construed so as to limit the rights of parties to a  
3 class action to contract in settlement for the reversion of  
4 residual funds to the paying party or to one or more persons  
5 or entities designated by the circuit court or a class member  
6 as a beneficiary or assignee of the rights of a class member.

7           Section 4. Notwithstanding the obligations imposed  
8 by Section 1, in the event the circuit court presiding over a  
9 class action finds that, except with regard to the obligations  
10 imposed by Section 1, parties to a class action have reached a  
11 settlement on behalf of or for the benefit of class member,  
12 the circuit court may intervene and attempt to assist the  
13 parties' efforts in reaching a resolution or settlement of the  
14 class action. In the event the circuit court undertakes to  
15 perform duties under this section, the circuit court, in its  
16 discretion, and upon determination by the circuit court that  
17 the obligations imposed by Section 1 are a substantial  
18 impediment to settlement, may suspend the requirements of  
19 Section 1.

20           Section 5. This act shall apply to all cases filed  
21 on or after January 1, 2013.

22           Section 6. This act shall become effective  
23 immediately following its passage and approval by the  
24 Governor, or its otherwise becoming law.