

By: Senator(s) Nunnelee

To: Judiciary

SENATE BILL NO. 2090

1 AN ACT TO AMEND SECTIONS 11-9-105, 11-9-107, 11-9-109 AND
2 11-9-113, MISSISSIPPI CODE OF 1972, TO AUTHORIZE PRIVATE PROCESS
3 SERVERS TO EXECUTE PROCESS FOR SUITS FILED IN JUSTICE COURT; AND
4 FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 SECTION 1. Section 11-9-105, Mississippi Code of 1972, is
7 amended as follows:

8 11-9-105. Anyone desiring to sue in the justice court shall
9 lodge with the clerk of the justice court the evidence of debt,
10 statement of account, or other written statement of the cause of
11 action. The clerk shall record all filings and shall, as far as
12 practicable, assign the cases to each justice court judge in the
13 county on a rotating basis to insure equal distribution of the
14 cases among the judges of the county; however, in all counties in
15 which the courtrooms provided by the county for use of the justice
16 court judges are located in more than one (1) place in the county,
17 the clerk, in addition to assigning cases to the judges on a
18 rotating basis, may also assign a courtroom for each case, such
19 assignment may be made based upon the proximity of the courtroom
20 to the defendant's residence or place of business. The clerk
21 shall issue a summons for the defendant which may be served by a
22 constable, sheriff or his deputy, or a private process server,
23 returnable to the next term of the court of the justice court
24 judge to which the case is assigned, which shall be executed five
25 (5) days before the return day; but if the process be executed
26 less than five (5) days before the return day, the service shall
27 be good to require the appearance of the defendant at the term
28 next succeeding the one to which it is returnable. Any summons

29 issued within five (5) days before a term of the court shall be
30 made returnable to the next succeeding term, unless a shorter day
31 be named, in pursuance of the provision for a trial without delay
32 in the case of nonresident or transient defendants. When the case
33 has been recorded and assigned and process issued, the clerk
34 shall, within two (2) working days, forward certified copies of
35 all documents pertaining to the case to the justice court judge to
36 which the case is assigned for further processing.

37 SECTION 2. Section 11-9-107, Mississippi Code of 1972, is
38 amended as follows:

39 11-9-107. When any process has not been returned by a
40 constable or process server within ten (10) working days after
41 issuance by the clerk of the justice court, the clerk shall direct
42 the sheriff of his county and his deputies to execute any such
43 process of the justice court; and the sheriff and his deputies
44 shall execute any process so directed to him by any clerk of the
45 justice court.

46 SECTION 3. Section 11-9-109, Mississippi Code of 1972, is
47 amended as follows:

48 11-9-109. (1) Except as provided in subsection (2), in
49 cases of emergency, and where a constable or sheriff or deputy
50 sheriff cannot be had in time, the clerk of the justice court may
51 appoint some reputable person to execute any process, the clerk to
52 be liable on his bond for all damage which may result to a party
53 to the cause or other person from his appointment of an insolvent
54 or incompetent person.

55 (2) A party filing suit in justice court may elect to have a
56 private process server or constable execute process and a private
57 process server shall be compensated by the party filing suit at
58 the same rate that a constable receives for executing process.

59 SECTION 4. Section 11-9-113, Mississippi Code of 1972, is
60 amended as follows:

61 11-9-113. The process so delivered to the sheriff, constable
62 or private process server shall be returned by him to the clerk of
63 the justice court, according to its command.

64 SECTION 5. This act shall take effect and be in force from
65 and after July 1, 1999.