

By: Reeves, Simpson, Smith (39th)

To: Judiciary A

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 665

1 AN ACT TO AMEND SECTION 11-35-23, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE CIRCUIT CLERK TO SEND GARNISHMENT MONIES TO THE  
3 ATTORNEY OF RECORD; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 11-35-23, Mississippi Code of 1972, is  
6 amended as follows:

7 11-35-23. (1) Except for wages, salary or other  
8 compensation, all property in the hands of the garnishee belonging  
9 to the defendant at the time of the service of the writ of  
10 garnishment shall be bound by and subject to the lien of the  
11 judgment, decree or attachment on which the writ shall have been  
12 issued. If the garnishee shall surrender such property to the  
13 sheriff or other officer serving the writ, the officer shall  
14 receive the same and, in case the garnishment issued on a judgment  
15 or decree, shall make sale thereof as if levied on by virtue of an  
16 execution, and return the money arising therefrom to satisfy the  
17 judgment; and if the garnishment issued on an attachment, the  
18 officer shall dispose of the property as if it were levied upon by  
19 a writ of attachment. And any indebtedness of the garnishee to  
20 the defendant, except for wages, salary or other compensation,  
21 shall be bound from the time of the service of the writ of  
22 garnishment, and be appropriable to the satisfaction of the  
23 judgment or decree, or liable to be condemned in the attachment.

24 (2) The court issuing any writ of garnishment shall show  
25 thereon the amount of the claim of the plaintiff and the court  
26 costs in the proceedings and should at any time during the

27 pendency of said proceedings in the court a judgment be rendered  
28 for a different amount, then the court shall notify the garnishee  
29 of the correct amount due by the defendant under said writ.

30 (3) (a) Except for judgments, liens, attachments, fees or  
31 charges owed to the state or its political subdivisions; wages,  
32 salary or other compensation in the hands of the garnishee  
33 belonging to the defendant at the time of the service of the writ  
34 of garnishment shall not be bound by nor subject to the lien of  
35 the judgment, decree or attachment on which the writ shall have  
36 been issued when the writ of garnishment is issued on a judgment  
37 based upon a claim or debt that is less than One Hundred Dollars  
38 (\$100.00), excluding court costs.

39 (b) If the garnishee be indebted or shall become  
40 indebted to the defendant for wages, salary or other compensation  
41 during the first thirty (30) days after service of a proper writ  
42 of garnishment, the garnishee shall pay over to the employee all  
43 of such indebtedness, and thereafter, the garnishee shall retain  
44 and the writ shall bind the nonexempt percentage of disposable  
45 earnings, as provided by Section 85-3-4, for such period of time  
46 as is necessary to accumulate a sum equal to the amount shown on  
47 the writ as due the court, even if such period of time extends  
48 beyond the return day of the writ. Unless the court otherwise  
49 authorizes the garnishee to make earlier payments or releases, the  
50 garnishee shall retain all sums collected pursuant to the writ and  
51 make only one (1) payment into court at such time as the total  
52 amount shown due on the writ has been accumulated, provided that,  
53 at least one (1) payment per year shall be made to the court of  
54 the amount that has been withheld during the preceding year.  
55 Should the employment of the defendant for any reason be  
56 terminated with the garnishee, then the garnishee shall not later  
57 than fifteen (15) days after the termination of such employment,  
58 report such termination to the court and pay into the court all  
59 sums as have been withheld from the defendant's disposable  
60 earnings. If the plaintiff in garnishment contest the answer of  
61 the garnishee, as now provided by law in such cases, and proves to  
62 the court the deficiency or untruth of the garnishee's answer,  
63 then the court shall render judgment against the garnishee for

64 such amount as would have been subject to the writ had the said  
65 sum not been released to the defendant; provided, however, any  
66 garnishee who files a timely and complete answer shall not be  
67 liable for any error made in good faith in determining or  
68 withholding the amount of wages, salary or other compensation of a  
69 defendant which are subject to the writ.

70 (4) Wages, salaries or other compensation as used in this  
71 section shall mean wages, salaries, commissions, bonuses or other  
72 compensation paid for employment purposes only.

73 (5) The circuit clerk may, in his or her discretion, spread  
74 on the minutes of the county or circuit court, as the case may be,  
75 an instruction that all garnishment defendants shall send all  
76 garnishment monies to the attorney of record or in the case where  
77 there is more than one (1) attorney of record, then to the  
78 first-named attorney of record, and not to the clerk. The payment  
79 schedule shall be the same as subsection (3)(b) of this section.

80 SECTION 2. This act shall take effect and be in force from  
81 and after July 1, 2000.