

By: Tollison

To: Judiciary

SENATE BILL NO. 2722
(As Sent to Governor)

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.