

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

Senate Bill NO. 2722

By Representative(s) Committee

5 **Amend by striking all after the enacting clause and inserting**
6 **in lieu thereof the following:**

7

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

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

28thereon the amount of the claim of the plaintiff and the court
29costs in the proceedings and should at any time during the
30pendency of said proceedings in the court a judgment be rendered
31for a different amount, then the court shall notify the garnishee
32of the correct amount due by the defendant under said writ.

33 (3) (a) Except for judgments, liens, attachments, fees or
34charges owed to the state or its political subdivisions; wages,
35salary or other compensation in the hands of the garnishee
36belonging to the defendant at the time of the service of the writ
37of garnishment shall not be bound by nor subject to the lien of
38the judgment, decree or attachment on which the writ shall have
39been issued when the writ of garnishment is issued on a judgment
40based upon a claim or debt that is less than One Hundred Dollars
41(\$100.00), excluding court costs.

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

63earnings. If the plaintiff in garnishment contest the answer of
64the garnishee, as now provided by law in such cases, and proves to
65the court the deficiency or untruth of the garnishee's answer,
66then the court shall render judgment against the garnishee for
67such amount as would have been subject to the writ had the said
68sum not been released to the defendant; provided, however, any
69garnishee who files a timely and complete answer shall not be
70liable for any error made in good faith in determining or
71withholding the amount of wages, salary or other compensation of a
72defendant which are subject to the writ.

73 (4) Wages, salaries or other compensation as used in this
74section shall mean wages, salaries, commissions, bonuses or other
75compensation paid for employment purposes only.

76 (5) The circuit clerk may, in his or her discretion, spread
77on the minutes of the county or circuit court, as the case may be,
78an instruction that all garnishment defendants shall send all
79garnishment monies to the attorney of record or in the case where
80there is more than one (1) attorney of record, then to the
81first-named attorney of record, and not to the clerk. The payment
82schedule shall be the same as subsection (3)(b) of this section.

83 SECTION 2. This act shall take effect and be in force from
84and after July 1, 2000.