

By: Senator(s) Turner

To: Judiciary

SENATE BILL NO. 2839

1 AN ACT TO AMEND SECTION 11-51-79, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE NUMBER OF DAYS ALLOWED FOR APPEAL FROM COUNTY TO  
3 CIRCUIT OR CHANCERY COURT; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 11-51-79, Mississippi Code of 1972, is  
6 amended as follows:

7 11-51-79. No appeals or certiorari shall be taken from any  
8 interlocutory order of the county court, but if any matter or  
9 cause be unreasonably delayed of final judgment therein, it shall  
10 be good cause for an order of transfer to the circuit or chancery  
11 court upon application therefor to the circuit judge or  
12 chancellor. Appeals from the law side of the county court shall  
13 be made to the circuit court, and those from the equity side to  
14 the chancery court on application made therefor and bond given  
15 according to law, except as hereinafter provided. Such appeal  
16 shall operate as a supersedeas only when such would be applicable  
17 in the case of appeals to the supreme court. Appeals should be  
18 considered solely upon the record as made in the county court and  
19 may be heard by the appellate court in term time or in vacation.  
20 If no prejudicial error be found, the matter shall be affirmed and  
21 judgment or decree entered in the same manner and against the like  
22 parties and with like penalties as is provided in affirmances in  
23 the supreme court. If prejudicial error be found, the court shall  
24 reverse and shall enter judgment or decree in the manner and  
25 against like parties and with like penalties as is provided in  
26 reversals in the supreme court; provided, that if a new trial is  
27 granted the cause shall be remanded to the docket of such circuit

28 or chancery court and a new trial be had therein de novo. Appeals  
29 from the county court shall be taken and bond given within thirty  
30 (30) days from the date of the entry of the final judgment or  
31 decree on the minutes of the court; provided, however, that the  
32 county judge may within the thirty (30) days, for good cause shown  
33 by affidavit, extend the time, but in no case exceeding sixty (60)  
34 days from the date of the said final judgment or decree.  
35 Judgments or decrees of affirmance, except as otherwise  
36 hereinafter provided, may be appealed to the supreme court under  
37 the same rules and regulations and under the same penalties, in  
38 case of affirmance, as appertain to appeals from other final  
39 judgments or decrees of said courts, but when on appeal from the  
40 county court a case has been reversed by the circuit or chancery  
41 court there shall be no appeal to the supreme court until final  
42 judgment or decree in the court to which it has been appealed.  
43 When the result of an appeal in the supreme court shall be a  
44 reversal of the lower court and in all material particulars in  
45 effect an affirmance of the judgment or decree of the county  
46 court, the mandate may go directly to the county court, otherwise  
47 to the proper lower court. Provided, however, that when appeals  
48 are taken in felony cases which have been transferred from the  
49 circuit court to the county court for trial, and have been there  
50 tried, such appeals from the judgment of the county court shall be  
51 taken directly to the supreme court.

52 SECTION 2. This act shall take effect and be in force from  
53 and after July 1, 2001.