

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.