

By: Senator(s) Williamson

To: Judiciary

SENATE BILL NO. 2847

1 AN ACT TO AMEND SECTION 11-35-23, MISSISSIPPI CODE OF 1972,  
2 TO REMOVE THE LIMITATION ON WHICH GARNISHMENT JUDGMENTS ARE BASED;  
3 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 \* \* \*

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

60 withholding the amount of wages, salary or other compensation of a  
61 defendant which are subject to the writ.

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

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

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