

By: Representative Smith (39th)

To: Select Committee on  
Civil Justice Reform

HOUSE BILL NO. 7

1 AN ACT TO AMEND SECTION 11-11-3, MISSISSIPPI CODE OF 1972, TO  
2 REVISE VENUE FOR MEDICAL MALPRACTICE ACTIONS; TO AMEND SECTION  
3 85-3-1, MISSISSIPPI CODE OF 1972, TO PROVIDE A PROSPECTIVE  
4 EXEMPTION FROM JUDGMENT FOR EACH YEAR A PHYSICIAN PRACTICES  
5 MEDICINE IN THE STATE; TO CREATE SECTION 11-1-67, MISSISSIPPI CODE  
6 OF 1972, TO PLACE A LIMITATION ON THE AWARD OF PUNITIVE DAMAGES;  
7 TO CREATE SECTION 11-1-69, MISSISSIPPI CODE OF 1972, TO PLACE A  
8 LIMITATION ON THE AWARD OF NONECONOMIC DAMAGES; AND FOR RELATED  
9 PURPOSES.

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

11 **SECTION 1.** Section 11-11-3, Mississippi Code of 1972, is  
12 amended as follows:

13 11-11-3. (1) Civil actions of which the circuit court has  
14 original jurisdiction shall be commenced in the county in which  
15 the defendant or any of them may be found or in the county where  
16 the cause of action may occur or accrue and, if the defendant is a  
17 domestic corporation, in the county in which said corporation is  
18 domiciled or in the county where the cause of action may occur or  
19 accrue, except where otherwise provided, and except actions of  
20 trespass on land, ejectment and actions for the statutory penalty  
21 for cutting and boxing trees and firing woods and actions for the  
22 actual value of trees cut which shall be brought in the county  
23 where the land or some part thereof is situated. If a civil  
24 action is brought in an improper county, such action may be  
25 transferred to the proper county pursuant to Section 11-11-17.

26 (2) Civil actions for claims of medical malpractice shall be  
27 commenced in the county in which the defendant resides or in the  
28 county where the cause of action occurred.

29 **SECTION 2.** Section 85-3-1, Mississippi Code of 1972, is  
30 amended as follows:



31           85-3-1. There shall be exempt from seizure under execution  
32 or attachment:

33           (a) Tangible personal property of the following kinds  
34 selected by the debtor, not exceeding Ten Thousand Dollars  
35 (\$10,000.00) in cumulative value:

36                   (i) Household goods, wearing apparel, books,  
37 animals or crops;

38                   (ii) Motor vehicles;

39                   (iii) Implements, professional books or tools of  
40 the trade;

41                   (iv) Cash on hand;

42                   (v) Professionally prescribed health aids;

43                   (vi) Any item of tangible personal property worth  
44 less than Two Hundred Dollars (\$200.00).

45           Household goods, as used in this paragraph (a) means  
46 clothing, furniture, appliances, one (1) radio and one (1)  
47 television, one (1) firearm, one (1) lawnmower, linens, china,  
48 crockery, kitchenware, and personal effects (including wedding  
49 rings) of the debtor and his dependents; however, works of art,  
50 electronic entertainment equipment (except one (1) television and  
51 one (1) radio), jewelry (other than wedding rings), and items  
52 acquired as antiques are not included within the scope of the term  
53 "household goods." This paragraph (a) shall not apply to distress  
54 warrants issued for collection of taxes due the state or to wages  
55 described in Section 85-3-4.

56           (b) (i) The proceeds of insurance on property, real  
57 and personal, exempt from execution or attachment, and the  
58 proceeds of the sale of such property.

59                   (ii) Income from disability insurance.

60           (c) All property, real, personal and mixed, for the  
61 collection or enforcement of any order or judgment, in whole or in  
62 part, issued by any court for civil or criminal contempt of said  
63 court; expressly excepted herefrom are such orders or judgments



64 for the payment of alimony, separate maintenance and child support  
65 actions.

66 (d) All property in this state, real, personal and  
67 mixed, for the satisfaction of a judgment or claim in favor of  
68 another state or political subdivision of another state for  
69 failure to pay that state's or that political subdivision's income  
70 tax on benefits received from a pension or other retirement plan  
71 so used in this paragraph (d), "pension or other retirement plan"  
72 includes:

73 (i) An annuity, pension, or profit-sharing or  
74 stock bonus or similar plan established to provide retirement  
75 benefits for an officer or employee of a public or private  
76 employer or for a self-employed individual;

77 (ii) An annuity, pension, or military retirement  
78 pay plan or other retirement plan administered by the United  
79 States; and

80 (iii) An individual retirement account.

81 (e) One (1) mobile home, trailer, manufactured housing,  
82 or similar type dwelling owned and occupied as the primary  
83 residence by the debtor, not exceeding a value of Twenty Thousand  
84 Dollars (\$20,000.00); in determining this value, existing  
85 encumbrances on said dwelling, including taxes and all other  
86 liens, shall first be deducted from the actual value of said  
87 dwelling. A debtor is not entitled to the exemption of a mobile  
88 home as personal property who claims a homestead exemption under  
89 Section 85-3-21, and the exemption shall not apply to collection  
90 of delinquent taxes under Sections 27-41-101 through 27-41-109.

91 (f) Assets held in, or monies payable to the  
92 participant or beneficiary from, whether vested or not, (i) a  
93 pension, profit-sharing, stock bonus or similar plan or contract  
94 established to provide retirement benefits for the participant or  
95 beneficiary and qualified under Section 401(a), 403(a), or 403(b)  
96 of the Internal Revenue Code (or corresponding provisions of any



97 successor law), including a retirement plan for self-employed  
98 individuals qualified under one of such enumerated sections, (ii)  
99 an eligible deferred compensation plan described in Section 457(b)  
100 of the Internal Revenue Code (or corresponding provisions of any  
101 successor law) or (iii) an individual retirement account or an  
102 individual retirement annuity within the meaning of Section 408 of  
103 the Internal Revenue Code (or corresponding provisions of any  
104 successor law), including a simplified employee pension plan.

105 (g) From and after January 1, 2003, Twenty Thousand  
106 Dollars (\$20,000.00) for each year a licensed physician has  
107 practiced medicine in the state after January 1, 2003.

108 (h) Nothing in this section shall in any way affect the  
109 rights or remedies of the holder or owner of a statutory lien or  
110 voluntary security interest.

111 **SECTION 3.** The following shall be codified as Section  
112 11-1-67, Mississippi Code of 1972:

113 11-1-67. (1) In all civil actions where an entitlement to  
114 punitive damages shall have been established under applicable law,  
115 no award of punitive damages shall exceed Five Hundred Thousand  
116 Dollars (\$500,000.00) or five (5) times the amount of total  
117 compensatory damages, whichever is greater.

118 (2) Nothing herein shall be construed as creating a right to  
119 an award of punitive damages or to limit the duty of the court, or  
120 the appellate courts, to scrutinize all punitive damage awards,  
121 ensure that all punitive damage awards comply with applicable  
122 procedural, evidentiary and constitutional requirements, and to  
123 order remittitur where appropriate.

124 (3) This section shall stand repealed on January 1, 2005.

125 **SECTION 4.** The following shall be codified as Section  
126 11-1-69, Mississippi Code of 1972:

127 11-1-69. (1) For the purposes of this section, the  
128 following words and phrases shall have the meanings ascribed  
129 herein unless the context clearly requires otherwise:



130 (a) "Noneconomic damages" means subjective,  
131 nonpecuniary damages arising from death, pain, suffering,  
132 inconvenience, physical impairment, disfigurement, mental anguish,  
133 worry, emotional distress, loss of society and companionship, loss  
134 of consortium, bystander injury, injury to reputation,  
135 humiliation, loss of the enjoyment of life, hedonic damages, other  
136 nonpecuniary damages, and any other theory of damages such as fear  
137 of loss, illness or injury. The term "noneconomic damages" shall  
138 not include punitive damages.

139 (b) "Actual economic damages" means objectively  
140 verifiable pecuniary damages arising from medical expenses and  
141 medical care, rehabilitation services, custodial care,  
142 disabilities, loss of earnings and earning capacity, loss of  
143 income, burial costs, loss of use of property, costs of repair of  
144 replacement of property, costs of obtaining substitute domestic  
145 services, loss of employment, loss of business or employment  
146 opportunities, and other objectively verifiable monetary losses.

147 (2) In any civil action, compensation for the noneconomic  
148 damages suffered by the injured plaintiff shall not exceed the  
149 amount of Five Hundred Thousand Dollars (\$500,000.00).

150 (3) If liability is found, then the trier of fact, in  
151 addition to other appropriate findings, shall make separate  
152 findings specifying the total amount of noneconomic damages and  
153 the total amount of actual economic damages for each separate  
154 claimant in a manner that the court may apply the restrictions of  
155 this section.

156 (4) The trier of fact shall not be advised of the  
157 limitations imposed by this section.

158 **SECTION 5.** This act shall take effect and be in force from  
159 and after its passage.

