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To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 917

1 AN ACT TO AMEND SECTION 11-35-23, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT All PAYMENTS MADE PURSUANT TO A GARNISHMENT ISSUED
3 OUT OF THE JUSTICE COURT SHALL BE MADE DIRECTLY TO THE PLAINTIFF
4 OR TO THE PLAINTIFF'S ATTORNEY AS INDICATED BY THE PLAINTIFF IN
5 HIS OR HER SUGGESTION FOR WRIT OF GARNISHMENT; TO REQUIRE NOTICE
6 TO THE COURT AND THE PLAINTIFF OR THE PLAINTIFF'S ATTORNEY WHEN A
7 JUDGMENT IS SATISFIED OR WHEN AN EMPLOYEE IS NO LONGER EMPLOYED;
8 AND FOR RELATED PURPOSES.

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

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

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

29 (2) The court issuing any writ of garnishment shall show
30 thereon the amount of the claim of the plaintiff and the court

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

35 (3) (a) Except for judgments, liens, attachments, fees or
36 charges owed to the state or its political subdivisions; wages,
37 salary or other compensation in the hands of the garnishee
38 belonging to the defendant at the time of the service of the writ
39 of garnishment shall not be bound by nor subject to the lien of
40 the judgment, decree or attachment on which the writ shall have
41 been issued when the writ of garnishment is issued on a judgment
42 based upon a claim or debt that is less than One Hundred Dollars
43 (\$100.00), excluding court costs.

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

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

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

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

85 (6) All payments made pursuant to a garnishment issued out
86 of the justice court shall be made directly to the plaintiff or to
87 the plaintiff's attorney as indicated by the plaintiff in his or
88 her suggestion for writ of garnishment. The employer shall notify
89 the court and the plaintiff or the plaintiff's attorney when a
90 judgment is satisfied or when the employee is no longer employed
91 by the employer.

92 **SECTION 2.** This act shall take effect and be in force from
93 and after July 1, 2004.