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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.