

By: Senator(s) Posey

To: Judiciary, Division B

SENATE BILL NO. 2844

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 WHEN A JUDGMENT IS SATISFIED OR WHEN AN EMPLOYEE IS
7 NO LONGER EMPLOYED; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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