

By: Representative Osborne

To: Military Affairs;
Judiciary A

HOUSE BILL NO. 916

1 AN ACT TO ESTABLISH THE RIGHT OF A DISABLED VETERAN TO
2 PROCEED ON APPEAL IN FORMA PAUPERIS IN CASES WHERE A JUDGMENT
3 CREDITOR SEEKS TO COLLECT A DEBT FROM FUNDS DERIVED FROM THE
4 VETERAN'S DISABILITY BENEFITS AND IN CASES WHERE THE VETERAN, AS A
5 DEFENDANT OR PLAINTIFF, HAS BEEN PERMITTED TO PROCEED IN FORMA
6 PAUPERIS IN THE TRIAL COURT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** (1) A disabled veteran judgment debtor sued in a
9 civil case in any court in the state by a creditor seeking to
10 collect a debt from funds of the disabled veteran which are
11 derived from disability benefits from the Veterans Administration,
12 Social Security Administration or any other source who desires to
13 appeal the decision of the trial court may proceed on appeal in
14 forma pauperis. The veteran defendant shall file a motion for
15 leave to proceed in forma pauperis in the trial court, together
16 with an affidavit establishing that the defendant is a disabled
17 veteran. If the motion is granted, the defendant may so proceed
18 without further application to any appellate court, including the
19 Mississippi Supreme Court, and without the prepayment of fees or



costs in either court. If the motion is denied, the trial court must state in writing the reasons for the denial.

(2) Notwithstanding any provision of law to the contrary, a disabled veteran who is a party defendant or plaintiff in any action who has been permitted to proceed in forma pauperis in the trial court may proceed on appeal in forma pauperis without further authorization unless, either before or after notice of appeal is filed, the trial court certifies that the party is no longer disabled and is not entitled otherwise to proceed in forma pauperis. The court shall state in writing the reasons for this certification or finding. When an appeal is taken to the Mississippi Supreme Court in forma pauperis, the certification of compliance required by Rule 11(b)(1) of the Mississippi Rules of Appellate Procedure must indicate that the appeal is taken in forma pauperis.

(3) If a motion for leave to proceed on appeal in forma pauperis is denied by the trial court, the trial court clerk immediately must serve notice of the action. A motion for leave so to proceed may be filed in the Mississippi Supreme Court within thirty (30) days after service of notice of the action of the trial court. The motion must be accompanied by a copy of the affidavit filed in the trial court, or by the affidavit prescribed by Rule 6(a)(1) of the Mississippi Rules of Appellate Procedure if no affidavit has been filed in the trial court, and by a copy of



44 the statement of the reasons given by the trial court for its
45 action.

46 **SECTION 2.** This act shall take effect and be in force from
47 and after July 1, 2021.

