

By: Senator(s) Posey

To: Judiciary, Division B

SENATE BILL NO. 2369

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; AND FOR RELATED  
6 PURPOSES.

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

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

10 11-35-23. (1) Except for wages, salary or other  
11 compensation, all property in the hands of the garnishee belonging  
12 to the defendant at the time of the service of the writ of  
13 garnishment shall be bound by and subject to the lien of the  
14 judgment, decree or attachment on which the writ shall have been  
15 issued. If the garnishee shall surrender such property to the  
16 sheriff or other officer serving the writ, the officer shall  
17 receive the same and, in case the garnishment issued on a judgment  
18 or decree, shall make sale thereof as if levied on by virtue of an  
19 execution, and return the money arising therefrom to satisfy the  
20 judgment; and if the garnishment issued on an attachment, the  
21 officer shall dispose of the property as if it were levied upon by  
22 a writ of attachment. And any indebtedness of the garnishee to  
23 the defendant, except for wages, salary or other compensation,  
24 shall be bound from the time of the service of the writ of  
25 garnishment, and be appropriable to the satisfaction of the  
26 judgment or decree, or liable to be condemned in the attachment.

27 (2) The court issuing any writ of garnishment shall show  
28 thereon the amount of the claim of the plaintiff and the court  
29 costs in the proceedings and should at any time during the

30 pendency of said proceedings in the court a judgment be rendered  
31 for a different amount, then the court shall notify the garnishee  
32 of the correct amount due by the defendant under said writ.

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

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

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

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

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

84 (b) The garnishee shall notify the clerk when the  
85 judgment is satisfied or if the garnishee is no longer indebted to  
86 the defendant.

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