

By: Senator(s) Albritton

To: Judiciary, Division B

SENATE BILL NO. 2233

1 AN ACT TO AMEND SECTION 41-29-181, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE EQUITABLE DISTRIBUTION OF THE PROCEEDS FROM DRUG
3 FORFEITURES BETWEEN PARTICIPATING LAW ENFORCEMENT AGENCIES; AND
4 FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 41-29-181, Mississippi Code of 1972, is
7 amended as follows:

8 41-29-181. (1) Regarding all controlled substances, raw
9 materials and paraphernalia which have been forfeited, the circuit
10 court shall by its order direct the Department of Public Safety
11 to:

12 (a) Retain the property for its official purposes;

13 (b) Deliver the property to a government agency or
14 department for official purposes;

15 (c) Deliver the property to a person authorized by the
16 court to receive it; or

17 (d) Destroy the property that is not otherwise
18 disposed, pursuant to the provisions of Section 41-29-154.

19 (2) All other property, real or personal, which is forfeited
20 under this article, except as otherwise provided in Section
21 41-29-185, and except as provided in subsections (3), (7) and (8)
22 of this section, shall be liquidated and, after deduction of court
23 costs and the expenses of liquidation, the proceeds shall be
24 divided and deposited as follows:

25 (a) In the event only one (1) law enforcement agency
26 participates in the underlying criminal case out of which the
27 forfeiture arises, twenty percent (20%) of the proceeds shall be
28 forwarded to the State Treasurer and deposited in the General Fund

29 of the state and eighty percent (80%) of the proceeds shall be
30 deposited and credited to the budget of the participating law
31 enforcement agency.

32 (b) In the event more than one (1) law enforcement
33 agency participates in the underlying criminal case out of which
34 the forfeiture arises, eighty percent (80%) of the proceeds shall
35 be deposited and credited to the budget of the law enforcement
36 agency whose officers initiated the criminal case, * * * and
37 twenty percent (20%) shall be divided equitably between or among
38 the other participating law enforcement agencies, and shall be
39 deposited and credited to the budgets of the participating law
40 enforcement agencies. In the event that the other participating
41 law enforcement agencies cannot agree on the division of their
42 twenty percent (20%), a petition shall be filed by any one of them
43 in the court in which the civil forfeiture case is brought and the
44 court shall make an equitable division.

45 If the criminal case is initiated by an officer of the * * *
46 Bureau of Narcotics and more than one (1) law enforcement agency
47 participates in the underlying criminal case out of which the
48 forfeiture arises, the proceeds shall be divided equitably between
49 or among the Bureau of Narcotics and other participating law
50 enforcement agencies and shall be deposited and credited to the
51 budgets of the participating law enforcement agencies. The
52 Director of the Bureau of Narcotics shall review each case and
53 make an equitable division.

54 (3) All money which is forfeited under this article, except
55 as otherwise provided by Section 41-29-185, shall be divided,
56 deposited and credited in the same manner as set forth in
57 subsection (2) of this section.

58 (4) All property forfeited, deposited and credited to
59 the * * * Bureau of Narcotics under this article shall be
60 forwarded to the State Treasurer and deposited in a special fund

61 for use by the * * * Bureau of Narcotics upon appropriation by the
62 Legislature.

63 (5) All real estate which is forfeited under the provisions
64 of this article shall be sold to the highest and best bidder at a
65 public auction for cash, such auction to be conducted by the chief
66 law enforcement officer of the initiating law enforcement agency,
67 or his designee, at such place, on such notice and in accordance
68 with the same procedure, as far as practicable, as is required in
69 the case of sales of land under execution at law. The proceeds of
70 such sale shall first be applied to the cost and expense in
71 administering and conducting such sale, then to the satisfaction
72 of all mortgages, deeds of trust, liens and encumbrances of record
73 on such property. The remaining proceeds shall be divided,
74 forwarded and deposited in the same manner set out in subsection
75 (2) of this section.

76 (6) All other property that has been forfeited shall, except
77 as otherwise provided, be sold at a public auction for cash by the
78 chief law enforcement officer of the initiating law enforcement
79 agency, or his designee, to the highest and best bidder after
80 advertising the sale for at least once each week for three (3)
81 consecutive weeks, the last notice to appear not more than ten
82 (10) days nor less than five (5) days prior to such sale, in a
83 newspaper having a general circulation in the jurisdiction in
84 which said law enforcement agency is located. Such notices shall
85 contain a description of the property to be sold and a statement
86 of the time and place of sale. It shall not be necessary to the
87 validity of such sale either to have the property present at the
88 place of sale or to have the name of the owner thereof stated in
89 such notice. The proceeds of the sale shall be disposed of as
90 follows:

91 (a) To any bona fide lienholder, secured party, or
92 other party holding an interest in the property in the nature of a
93 security interest, to the extent of his interest; and

94 (b) The balance, if any, remaining after deduction of
95 all storage, court costs and expenses of liquidation shall be
96 divided, forwarded and deposited in the same manner set out in
97 subsection (2) of this section.

98 (7) (a) Any county or municipal law enforcement agency may
99 maintain, repair, use and operate for official purposes all
100 property, other than real property, money or such property that is
101 described in subsection (1) of this section, that has been
102 forfeited to the agency if it is free from any interest of a bona
103 fide lienholder, secured party or other party who holds an
104 interest in the property in the nature of a security interest.
105 Such county or municipal law enforcement agency may purchase the
106 interest of a bona fide lienholder, secured party or other party
107 who holds an interest so that the property can be released for its
108 use. If the property is a motor vehicle susceptible of titling
109 under the Mississippi Motor Vehicle Title Law, the law enforcement
110 agency shall be deemed to be the purchaser, and the certificate of
111 title shall be issued to it as required by subsection (9) of this
112 section.

113 (b) (i) If a vehicle is forfeited to or transferred to
114 a sheriff's department, then the sheriff may transfer the vehicle
115 to the county for official or governmental use as the board of
116 supervisors may direct.

117 (ii) If a vehicle is forfeited to or transferred
118 to a police department, then the police chief may transfer the
119 vehicle to the municipality for official or governmental use as
120 the governing authority of the municipality may direct.

121 (c) If a motor vehicle forfeited to a county or
122 municipal law enforcement agency becomes obsolete or is no longer
123 needed for official or governmental purposes, it may be disposed
124 of in accordance with Section 19-7-5 or in the manner provided by
125 law for disposing of municipal property.

126 (8) The * * * Bureau of Narcotics may maintain, repair, use
127 and operate for official purposes all property, other than real
128 property, money or such property as is described in subsection (1)
129 of this section, that has been forfeited to the bureau if it is
130 free from any interest of a bona fide lienholder, secured party,
131 or other party who holds an interest in the property in the nature
132 of a security interest. In such case, the bureau may purchase the
133 interest of a bona fide lienholder, secured party, or other party
134 who holds an interest so that such property can be released for
135 use by the bureau.

136 The bureau may maintain, repair, use and operate such
137 property with money appropriated to the bureau for current
138 operations. If the property is a motor vehicle susceptible of
139 titling under the Mississippi Motor Vehicle Title Law, the bureau
140 is deemed to be the purchaser and the certificate of title shall
141 be issued to it as required by subsection (9) of this section.

142 (9) The State Tax Commission shall issue a certificate of
143 title to any person who purchases property under the provisions of
144 this section when a certificate of title is required under the
145 laws of this state.

146 **SECTION 2.** This act shall take effect and be in force from
147 and after its passage.