

By: Representative White

To: Drug Policy

HOUSE BILL NO. 1034

1 AN ACT TO REENACT SECTION 41-29-176, MISSISSIPPI CODE OF
 2 1972, WHICH ESTABLISHES PROCEDURES FOR THE ADMINISTRATIVE
 3 FORFEITURE OF CERTAIN PROPERTY SEIZED UNDER THE UNIFORM CONTROLLED
 4 SUBSTANCES LAW; TO AMEND REENACTED SECTION 41-29-176, MISSISSIPPI
 5 CODE OF 1972, TO PLACE THE REPEALER ON THIS CODE SECTION IN THE
 6 STATUTE AND TO EXTEND THE DATE OF THE REPEALER; TO AMEND SECTION
 7 2, CHAPTER 484, LAWS OF 2013, AS LAST AMENDED BY SECTION 23,
 8 CHAPTER 452, LAWS OF 2015, TO DELETE THE REPEALER ON SECTION
 9 41-29-176, MISSISSIPPI CODE OF 1972, FROM THE EFFECTIVE DATE
 10 SECTION OF CHAPTER 484, LAWS OF 2013; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 41-29-176, Mississippi Code of 1972, is
 13 reenacted and amended as follows:

14 41-29-176. (1) Except as otherwise provided in Section
 15 41-29-107.1, when any property other than a controlled substance,
 16 raw material or paraphernalia, the value of which does not exceed
 17 Twenty Thousand Dollars (\$20,000.00), is seized under the Uniform
 18 Controlled Substances Law, the property may be forfeited by the
 19 administrative forfeiture procedures provided for in this section.

20 (2) The attorney for or any representative of the seizing
 21 law enforcement agency shall provide notice of intention to
 22 forfeit the seized property administratively, either by certified



23 mail, return receipt requested, or by personal delivery, to all
24 persons who are required to be notified pursuant to Section
25 41-29-177(2).

26 (3) If notice of intention to forfeit the seized property
27 administratively cannot be given as provided in subsection (2) of
28 this section because of refusal, failure to claim, insufficient
29 address or any other reason, the attorney for or representative of
30 the seizing law enforcement agency shall provide notice by
31 publication in a newspaper of general circulation in the county in
32 which the seizure occurred for once a week for three (3)
33 consecutive weeks. However, if the value of the property seized
34 does not exceed Ten Thousand Dollars (\$10,000.00), substitute
35 notice under this subsection (3) of intention to administratively
36 forfeit the property may be made by posting a notice on an
37 official state government forfeiture site for at least thirty (30)
38 consecutive days. The site shall be created and maintained by the
39 Mississippi Bureau of Narcotics. Should other seizing law
40 enforcement agencies choose to utilize the site for Internet
41 publication, the bureau may charge a reasonable fee for such
42 usage.

43 (4) Notice pursuant to subsections (2) and (3) of this
44 section shall include the following information:

- 45 (a) A description of the property;
- 46 (b) The approximate value of the property;
- 47 (c) The date and place of the seizure;



48 (d) The connection between the property and the
49 violation of the Uniform Controlled Substances Law;

50 (e) The instructions for filing a request for judicial
51 review; and

52 (f) A statement that the property will be forfeited to
53 the seizing law enforcement agency if a request for judicial
54 review is not timely filed.

55 (5) Any person claiming an interest in property which is the
56 subject of a notice under this section may, within thirty (30)
57 days after receipt of the notice or of the date of the first
58 publication of the notice, file a petition to contest forfeiture
59 signed by the claimant in the county court, if a county court
60 exists, or otherwise in the circuit court of the county in which
61 the seizure is made or the county in which the criminal
62 prosecution is brought, in order to claim an interest in the
63 property. Upon the filing of the petition and the payment of the
64 filing fees, service of the petition shall be made on the attorney
65 for or representative of the seizing law enforcement agency, and
66 the proceedings shall thereafter be governed by the rules of civil
67 procedure.

68 (6) If no petition to contest forfeiture is timely filed and
69 a seizure warrant was properly obtained, the district attorney or
70 his or her designee or the attorney for the bureau, as applicable,
71 shall prepare a written declaration of forfeiture of the subject
72 property and the forfeited property shall be used, distributed or



73 disposed of in accordance with the provisions of Section
74 41-29-181.

75 (7) This section shall stand repealed on July 1, 2021.

76 **SECTION 2.** Section 2, Chapter 484, Laws of 2013, as amended
77 by Section 5, Chapter 501, Laws of 2014, as amended by Section 23,
78 Chapter 452, Laws of 2015, is amended as follows:

79 Section 2. This act shall take effect and be in force from
80 and after July 1, 2013 * * *.

81 **SECTION 3.** This act shall take effect and be in force from
82 and after July 1, 2018.

