

By: Representatives Hale, Hopkins

To: Judiciary B

HOUSE BILL NO. 1421

1 AN ACT TO AMEND SECTIONS 41-29-157, 99-15-11, 99-27-15,  
2 99-27-19 AND 9-9-23, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
3 SEARCH WARRANTS AND CERTAIN AFFIDAVITS MAY BE IN ELECTRONIC FORMAT  
4 AND ELECTRONICALLY EXECUTED; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 41-29-157, Mississippi Code of 1972, is  
7 amended as follows:

8 41-29-157. (a) Except as otherwise provided in Section  
9 41-29-107.1, issuance and execution of administrative inspection  
10 warrants and search warrants, which may be in electronic format  
11 and electronically executed, shall be as follows, except as  
12 provided in subsection (c) of this section:

13 (1) A judge of any state court of record, or any  
14 justice court judge within his jurisdiction, and upon proper oath  
15 or affirmation showing probable cause, may issue warrants for the  
16 purpose of conducting administrative inspections authorized by  
17 this article or rules thereunder, and seizures of property  
18 appropriate to the inspections. For purposes of the issuance of  
19 administrative inspection warrants, probable cause exists upon



20 showing a valid public interest in the effective enforcement of  
21 this article or rules thereunder, sufficient to justify  
22 administrative inspection of the area, premises, building or  
23 conveyance in the circumstances specified in the application for  
24 the warrant. All such warrants shall be served during normal  
25 business hours;

26 (2) A search warrant shall issue only upon an  
27 affidavit, which may be in electronic format and electronically  
28 executed, of a person having knowledge or information of the facts  
29 alleged, sworn to before the judge or justice court judge and  
30 establishing the grounds for issuing the warrant. If the judge or  
31 justice court judge is satisfied that grounds for the application  
32 exist or that there is probable cause to believe they exist, he  
33 shall issue a warrant identifying the area, premises, building or  
34 conveyance to be searched, the purpose of the search, and, if  
35 appropriate, the type of property to be searched, if any. The  
36 warrant shall:

37 (A) State the grounds for its issuance and the  
38 name of each person whose affidavit has been taken in support  
39 thereof;

40 (B) Be directed to a person authorized by Section  
41 41-29-159 to execute it;

42 (C) Command the person to whom it is directed to  
43 inspect the area, premises, building or conveyance identified for



44 the purpose specified, and if appropriate, direct the seizure of  
45 the property specified;

46 (D) Identify the item or types of property to be  
47 seized, if any;

48 (E) Direct that it be served and designate the  
49 judge or magistrate to whom it shall be returned;

50 (3) A warrant issued pursuant to this section must be  
51 executed and returned within ten (10) days of its date unless,  
52 upon a showing of a need for additional time, the court orders  
53 otherwise. If property is seized pursuant to a warrant, a copy  
54 shall be given to the person from whom or from whose premises the  
55 property is taken, together with a receipt for the property taken.  
56 The return of the warrant shall be made promptly, accompanied by a  
57 written inventory of any property taken. The inventory shall be  
58 made in the presence of the person executing the warrant and of  
59 the person from whose possession or premises the property was  
60 taken, if present, or in the presence of at least one (1) credible  
61 person other than the person executing the warrant. A copy of the  
62 inventory shall be delivered to the person from whom or from whose  
63 premises the property was taken and to the applicant for the  
64 warrant;

65 (4) The judge or justice court judge who has issued a  
66 warrant shall attach thereto a copy of the return and all papers  
67 returnable in connection therewith and file them with the clerk of



68 the appropriate state court for the judicial district in which the  
69 inspection was made.

70 (b) The Mississippi Bureau of Narcotics, the State Board of  
71 Pharmacy, the State Board of Medical Licensure, the State Board of  
72 Dental Examiners, the Mississippi Board of Nursing or the State  
73 Board of Optometry may make administrative inspections of  
74 controlled premises in accordance with the following provisions:

75 (1) For purposes of this section only, "controlled  
76 premises" means:

77 (A) Places where persons registered or exempted  
78 from registration requirements under this article are required to  
79 keep records; and

80 (B) Places including factories, warehouses,  
81 establishments and conveyances in which persons registered or  
82 exempted from registration requirements under this article are  
83 permitted to hold, manufacture, compound, process, sell, deliver,  
84 or otherwise dispose of any controlled substance.

85 (2) When authorized by an administrative inspection  
86 warrant issued in accordance with the conditions imposed in this  
87 section, an officer or employee designated by the Mississippi  
88 Bureau of Narcotics, the State Board of Pharmacy, the State Board  
89 of Medical Licensure, the State Board of Dental Examiners, the  
90 Mississippi Board of Nursing or the State Board of Optometry, upon  
91 presenting the warrant and appropriate credentials to the owner,



92 operator or agent in charge, may enter controlled premises for the  
93 purpose of conducting an administrative inspection.

94 (3) When authorized by an administrative inspection  
95 warrant, an officer or employee designated by the Mississippi  
96 Bureau of Narcotics, the State Board of Pharmacy, the State Board  
97 of Medical Licensure, the State Board of Dental Examiners, the  
98 Mississippi Board of Nursing or the State Board of Optometry may:

99 (A) Inspect and copy records required by this  
100 article to be kept;

101 (B) Inspect, within reasonable limits and in a  
102 reasonable manner, controlled premises and all pertinent  
103 equipment, finished and unfinished material, containers and  
104 labeling found therein, and, except as provided in paragraph (5)  
105 of this subsection, all other things therein, including records,  
106 files, papers, processes, controls and facilities bearing on  
107 violation of this article; and

108 (C) Inventory any stock of any controlled  
109 substance therein and obtain samples thereof.

110 (4) This section does not prevent the inspection  
111 without a warrant of books and records pursuant to an  
112 administrative subpoena, nor does it prevent entries and  
113 administrative inspections, including seizures of property,  
114 without a warrant:

115 (A) If the owner, operator or agent in charge of  
116 the controlled premises consents;



117 (B) In situations presenting imminent danger to  
118 health or safety;

119 (C) In situations involving inspection of  
120 conveyances if there is reasonable cause to believe that the  
121 mobility of the conveyance makes it impracticable to obtain a  
122 warrant;

123 (D) In any other exceptional or emergency  
124 circumstance where time or opportunity to apply for a warrant is  
125 lacking; or

126 (E) In all other situations in which a warrant is  
127 not constitutionally required.

128 (5) An inspection authorized by this section shall not  
129 extend to financial data, sales data, other than shipment data, or  
130 pricing data unless the owner, operator or agent in charge of the  
131 controlled premises consents in writing.

132 (c) Any agent of the bureau authorized to execute a search  
133 warrant involving controlled substances, the penalty for which is  
134 imprisonment for more than one (1) year, may, without notice of  
135 his authority and purpose, break open an outer door or inner door,  
136 or window of a building, or any part of the building, if the judge  
137 issuing the warrant:

138 (1) Is satisfied that there is probable cause to  
139 believe that:

140 (A) The property sought may, and, if such notice  
141 is given, will be easily and quickly destroyed or disposed of; or



142 (B) The giving of such notice will immediately  
143 endanger the life or safety of the executing officer or another  
144 person; and

145 (2) Has included in the warrant a direction that the  
146 officer executing the warrant shall not be required to give such  
147 notice.

148 Any officer acting under such warrant shall, as soon as  
149 practical, after entering the premises, identify himself and give  
150 the reasons and authority for his entrance upon the premises.

151 Search warrants which include the instruction that the  
152 executing officer shall not be required to give notice of  
153 authority and purpose as authorized by this subsection shall be  
154 issued only by the county court or county judge in vacation,  
155 chancery court or by the chancellor in vacation, by the circuit  
156 court or circuit judge in vacation, or by a justice of the  
157 Mississippi Supreme Court.

158 This subsection shall expire and stand repealed from and  
159 after July 1, 1974, except that the repeal shall not affect the  
160 validity or legality of any search authorized under this  
161 subsection and conducted prior to July 1, 1974.

162 **SECTION 2.** Section 99-15-11, Mississippi Code of 1972, is  
163 amended as follows:

164 99-15-11. Any conservator of the peace, on the affidavit,  
165 which may be in electronic format and electronically executed, of  
166 a credible person, may issue a search warrant, which may be in



167 electronic format and electronically executed, and cause stolen or  
168 embezzled goods to be seized; but the affidavit and warrant must  
169 specify the goods to be seized and the person or place to be  
170 searched.

171 **SECTION 3.** Section 99-27-15, Mississippi Code of 1972, is  
172 amended as follows:

173 99-27-15. Upon the affidavit, which may be in electronic  
174 format and electronically executed, of any credible person that he  
175 has reason to believe and does believe: (1) That intoxicating  
176 liquor is being stored, kept, owned, controlled, or possessed, in  
177 violation of the laws of the state, at any designated place or  
178 within any designated receptacle, which place is to be stated in  
179 the affidavit; or (2) that intoxicating liquor is being sold or  
180 offered for sale contrary to law at any designated place; or (3)  
181 that liquor is being manufactured or distilled, or attempted to be  
182 manufactured or distilled at any designated place, in violation of  
183 the laws of the state; or (4) that intoxicating liquor is being  
184 transported, attempted to be transported within the state at or  
185 over or through any designated place, contrary to the laws of the  
186 state, it shall be the duty of any justice of the peace of the  
187 county or county judge, or the judge of the circuit court of the  
188 district or the chancellor of the district in which the place is  
189 situated, to issue a search warrant, which may be in electronic  
190 format and electronically executed, directed to the sheriff or any  
191 constable of the county, or if in a municipality, to the sheriff





192 or any constable or marshal or policeman therein, commanding him  
193 to proceed in the day or night time, to enter by breaking if  
194 necessary, and to diligently search any building, room in a  
195 building, outhouses, place, wagon, cart, buggy, automobile,  
196 motorcycle, motor truck, water or air craft or other vehicle, as  
197 may be designated in the affidavit, and to seize said intoxicating  
198 liquor, and any wagon, buggy, cart, automobile, motorcycle, motor  
199 truck, water or air craft or other vehicle used or attempted to be  
200 used in the transporting of the same, or any still or distillery  
201 or integral part of the same including appliances, vessels and  
202 equipment pertaining thereto used in making or manufacturing or  
203 attempting to make or manufacture said intoxicating liquor, and to  
204 hold the same until disposed of by law, and to arrest the person,  
205 or persons in possession and control of the same.

206 The writ shall be returnable instanter or on a day stated and  
207 a copy shall be served on the owner or person in possession if  
208 such person be present or readily found.

209 **SECTION 4.** Section 99-27-19, Mississippi Code of 1972, is  
210 amended as follows:

211 99-27-19. The form of search warrant, which may be in  
212 electronic format and electronically executed, may be as follows:

213 **"SEARCH WARRANT \* \* \***

214 State of Mississippi,

215 \_\_\_\_\_ County.

216 To any lawful officer of \_\_\_\_\_ County:



217           Whereas, \_\_\_\_\_ has this day made complaint on oath, before the  
218 undersigned officer in and for said county, that he has reason to  
219 believe, and does believe, that intoxicating liquor is being  
220 (strike out any of the following not sworn to):

221           (1)   Stored, kept, owned, controlled or possessed for  
222 purposes of sale in violation of law

223           (2)   Sold or offered for sale in violation of law

224           (3)   Manufactured or distilled in violation of law

225           (4)   Attempted to be manufactured or distilled in violation  
226 of law

227           (5)   Attempted to be transported in violation of law in the  
228 residence, outhouses, barns, stalls, smokehouses, crib, and in the  
229 yard and garden, and in the field and woods near the residence of  
230 \_\_\_\_\_ in the \_\_\_\_\_ district of said \_\_\_\_\_ County and on Section \_\_\_\_\_  
231 Township \_\_\_\_\_ Range \_\_\_\_\_ in said county, and more particularly  
232 described as follows: \_\_\_\_\_

233 \_\_\_\_\_  
234 violation of the laws of the State of Mississippi;

235           And that intoxicating liquor is being transported and  
236 attempted to be transported in a wagon, cart, automobile or other  
237 vehicle along the public road in said county known as the \_\_\_\_\_  
238 public road, in violation of the laws of the State of Mississippi.

239 And that \_\_\_\_\_ is suspected of being guilty of said violations in  
240 said county and state. And the undersigned having examined and  
241 considered said affidavit, and also after having heard and



242 considered evidence in support thereof, doth find that probable  
243 cause for the issuance of a search warrant in the premises doth  
244 exist;

245         Wherefore, we command you that with such aid as in your  
246 judgment shall be needed, you do proceed in the day, or nighttime,  
247 to enter by breaking, if necessary, and to diligently search said  
248 above described places, or any of them, or said described vehicles  
249 and automobiles, in said county and state, for said intoxicating  
250 liquor, stills, and integral parts thereof, vehicles and  
251 receptacles and appliances as are used in connection therewith,  
252 making known to the person or persons in control thereof, if any,  
253 your authority for so doing, and if any intoxicating liquor,  
254 stills, or still, or integral part or parts thereof, vehicles,  
255 vessels, receptacles, as are used in connection therewith be  
256 found, that you seize same, and if practicable, that you bring  
257 them before me at my office instanter, and also arrest the said  
258 \_\_\_\_ and all other persons as may be in possession or control  
259 thereof, and bring them before me, and have then and there this  
260 writ, with your proceedings noted thereon. Herein fail not.

261         Witness my hand, this the \_\_\_\_ day of \_\_\_\_, 2\_\_.

262 \_\_\_\_\_  
263 (Official title)"

264         **SECTION 5.** Section 9-9-23, Mississippi Code of 1972, is  
265 amended as follows:



266 9-9-23. The county judge shall have power to issue writs,  
267 and to try matters, of habeas corpus on application to him  
268 therefor, or when made returnable before him by a superior judge.  
269 He shall also have the power to order the issuance of writs of  
270 certiorari, supersedeas, attachments, and other remedial writs in  
271 all cases pending in, or within the jurisdiction of, his court.  
272 He shall have the authority to issue search warrants, which may be  
273 in electronic format and electronically executed, in his county  
274 returnable to his own court or to any court of a justice of the  
275 peace within his county in the same manner as is provided by law  
276 for the issuance of search warrants by justices of the peace. In  
277 all cases pending in, or within the jurisdiction of, his court, he  
278 shall have, in term time, and in vacation, the power to order, do  
279 or determine to the same extent and in the same manner as a  
280 justice of the peace or a circuit judge or a chancellor could do  
281 in term time or in vacation in such cases. But he shall not have  
282 original power to issue writs of injunction, or other remedial  
283 writs in equity or in law except in those cases hereinabove  
284 specified as being within his jurisdiction: Provided, however,  
285 that when any judge or chancellor authorized to issue such writs  
286 of injunction, or any other equitable or legal remedial writs  
287 hereinabove reserved, shall so direct in writing the hearing of  
288 application therefor may be by him referred to the county judge,  
289 in which event the said direction of the superior judge shall vest  
290 in the said county judge all authority to take such action on said



291 application as the said superior judge could have taken under the  
292 right and the law, had the said application been at all times  
293 before the said superior judge. The jurisdiction authorized under  
294 the foregoing proviso shall cease upon the denying or granting of  
295 the application.

296         **SECTION 6.** This act shall take effect and be in force from  
297 and after July 1, 2019.

