

By: Representative Brown (20th)

To: Accountability,
Efficiency, Transparency;
Judiciary B

HOUSE BILL NO. 1408

1 AN ACT TO AMEND SECTION 41-29-107.1, MISSISSIPPI CODE OF
2 1972, TO SPECIFY ADDITIONAL INFORMATION THAT THE MISSISSIPPI
3 BUREAU OF NARCOTICS MUST INCLUDE ON ITS WEBSITE THAT TRACKS SEIZED
4 PROPERTY; TO AMEND SECTION 41-29-153, MISSISSIPPI CODE OF 1972, TO
5 INFORM THE CODE PUBLISHER OF A NONSUBSTANTIVE CORRECTION RELATING
6 TO THE SPECIFIC DESIGNATION OF A SUBSECTION; TO BRING FORWARD
7 SECTIONS 41-29-176.1, 41-29-177, 41-29-179, 41-29-181 AND
8 41-29-183, MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE
9 PROSECUTION OF CASES INVOLVING SEIZED PROPERTY AND PROCEDURES FOR
10 THE DISPOSITION OF SEIZED PROPERTY, FOR PURPOSES OF POSSIBLE
11 AMENDMENT; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 41-29-107.1, Mississippi Code of 1972, is
14 amended as follows:

15 41-29-107.1. (1) The Mississippi Bureau of Narcotics shall
16 establish and maintain a public website that is searchable by case
17 numbers created by the bureau which tracks seized property from
18 the time of seizure to final disposition of the property. The
19 website shall be designed in a manner that allows the information
20 required by this section to be uploaded to the website. The
21 website shall include the following information regarding property



22 that is seized by a law enforcement agency pursuant to Section
23 41-29-153:

24 (a) The name of the law enforcement agency that seized
25 the property;

26 (b) The date of the seizure;

27 (c) A description of each item seized, including the
28 approximate value of the property;

29 (d) The place of seizure (whether a home, business or
30 traffic stop), and if a traffic stop on an interstate or state
31 highway, the direction of the traffic flow (whether eastbound,
32 westbound, southbound or northbound);

33 (e) The alleged criminal offense that led to the
34 seizure (including whether under state or federal law);

35 (f) The crime for which the suspect was charged
36 (including whether under state or federal law);

37 (g) The criminal case number and court in which the
38 case was filed;

39 (h) The outcome of the suspect's criminal case,
40 including no charge filed, charges dropped, acquittal, plea
41 agreement, jury conviction or other disposition;

42 (i) If forfeiture is sought under federal law, the
43 reason for the federal transfer (whether adoption or joint task
44 force);

45 (j) The method of final forfeiture proceeding, whether
46 criminal, civil-judicial or civil-administrative;



47 (k) The date of the forfeiture order;
48 (l) Whether or not there was a forfeiture settlement
49 agreement;
50 (m) The date of the property disposition;
51 (n) The value of the property forfeited, or if
52 forfeited under federal law, the amount of proceeds received from
53 the federal government;
54 (o) The estimate of total costs to the agency to:
55 (i) Store property in impound lots or evidence
56 rooms;
57 (ii) Pay for law enforcement personnel and
58 prosecutors' time and expenses to litigate forfeiture cases; and
59 (iii) Sell or dispose of forfeited property;
60 (p) The amount of the attorney fees awarded to property
61 owners; and
62 (q) If any property was retained by a law enforcement
63 agency, the purpose for which it is used.
64 (* * *r) A copy of the notice of intent to forfeit as
65 described in Section 41-29-176 or the petition for forfeiture as
66 described in Section 41-29-177, whichever is applicable;
67 (* * *s) A copy of any petition to contest forfeiture
68 filed as described in Section 41-29-176;
69 (* * *t) If a forfeiture was obtained because no
70 petition to contest forfeiture was timely filed as provided in



71 Section 41-29-176, a copy of the written declaration of forfeiture
72 as required by Section 41-29-176;

73 (* * *u) If a forfeiture is obtained under Section
74 41-29-177, a copy of any final judgment or dispositive order
75 regarding the merits of the petition for forfeiture; and

76 (* * *y) If the forfeiture was initiated under Section
77 41-29-176 and a petition to contest is filed, a copy of any final
78 order or other dispositive order regarding the forfeiture.

79 (w) The circumstances of search and seizure of assets,
80 including: search warrant, incident to arrest, vehicle consent,
81 probable cause, inventory, public health, other consent.

82 (x) The type and amount of controlled substances seized
83 in accordance with the interception, if applicable.

84 (2) (a) Except as otherwise provided in this section for
85 the bureau, upon seizure of any property by a law enforcement
86 agency pursuant to Section 41-29-153, the seizing law enforcement
87 agency shall provide the applicable information required by
88 subsection (1) of this section to the district attorney of the
89 county in which the property was seized within thirty (30) days of
90 such seizure. However, if the bureau is conducting the seizure of
91 property on behalf of a law enforcement agency, the provisions of
92 paragraph (b) of this subsection shall apply. Within thirty (30)
93 days of receipt of notice of intent to forfeit as described in
94 Section 41-29-176 or the filing of a petition for forfeiture as
95 described in Section 41-29-177 in a court of competent



96 jurisdiction, the district attorney shall upload the information
97 required by this section to the bureau's website. Within thirty
98 (30) days of service of a petition to contest forfeiture as
99 described by Section 41-29-176, the district attorney shall upload
100 the information required by the section to the bureau's website.
101 Within thirty (30) days of dispositive actions regarding any
102 seized property, the district attorney shall upload the applicable
103 information required by subsection (1) of this section to the
104 bureau's website. The commander of a multijurisdictional
105 taskforce may appoint one (1) agency to report its seizures to the
106 district attorney of the county in which the property was seized.
107 Any law enforcement agency that fails to provide the information
108 required by this section shall be disqualified from applying for
109 or receiving state grants.

110 (b) Upon seizure of any property by the bureau pursuant
111 to Section 41-29-153 or pursuant to a request by a law enforcement
112 agency for the bureau to seize property on behalf of the law
113 enforcement agency, the bureau shall upload the information
114 required by this subsection in a machine-readable format on its
115 website within thirty (30) days of the seizure, or from the time
116 of the receipt of the request from the law enforcement agency.

117 (3) Failure to upload the information required by this
118 section shall not invalidate the seizure or otherwise preclude the
119 same.



120 (4) The Mississippi Bureau of Narcotics shall adopt rules
121 and regulations that are necessary to implement this section.

122 (5) For purposes of this section, the term "law enforcement
123 agency" includes any person or entity having seizure authority
124 under Section 41-29-159.

125 (6) Failure to substantially comply with the provisions of
126 this section shall disqualify the seizing law enforcement agency
127 from applying for or receiving federal or state grants until such
128 time as in compliance with this section.

129 (7) The provisions of this section shall be required only at
130 such time as the Legislature has appropriated funds for the bureau
131 to create and maintain the required website. The website shall be
132 created and functionally operational, not more than twelve (12)
133 months from the date that sufficient funds have been appropriated
134 for that purpose. The bureau shall provide at least thirty (30)
135 days notice in advance of the date when the website will be
136 operational to each district attorney in the state.

137 **SECTION 2.** Section 41-29-153, Mississippi Code of 1972, is
138 amended as follows:

139 41-29-153. (a) The following are subject to forfeiture:

140 (1) All controlled substances which have been
141 manufactured, distributed, dispensed or acquired in violation of
142 this article or in violation of Article 5 of this chapter;

143 (2) All raw materials, products and equipment of any
144 kind which are used, or intended for use, in manufacturing,



145 compounding, processing, delivering, importing, or exporting any
146 controlled substance in violation of this article or in violation
147 of Article 5 of this chapter;

148 (3) All property which is used, or intended for use, as
149 a container for property described in paragraph (1) or (2) of this
150 subsection;

151 (4) All conveyances, including aircraft, vehicles or
152 vessels, which are used, or intended for use, to transport, or in
153 any manner to facilitate the transportation, sale, receipt,
154 possession or concealment of property described in paragraph (1)
155 or (2) of this subsection, however:

156 A. No conveyance used by any person as a common
157 carrier in the transaction of business as a common carrier is
158 subject to forfeiture under this section unless it appears that
159 the owner or other person in charge of the conveyance is a
160 consenting party or privy to a violation of this article;

161 B. No conveyance is subject to forfeiture under
162 this section by reason of any act or omission proved by the owner
163 thereof to have been committed or omitted without his knowledge or
164 consent; if the confiscating authority has reason to believe that
165 the conveyance is a leased or rented conveyance, then the
166 confiscating authority shall notify the owner of the conveyance
167 within five (5) days of the confiscation;

168 C. A forfeiture of a conveyance encumbered by a
169 bona fide security interest is subject to the interest of the



170 secured party if he neither had knowledge of nor consented to the
171 act or omission;

172 D. A conveyance is not subject to forfeiture for a
173 violation of Section 41-29-139(c) (2) (A) 1, 2 or (B)1 or (C)1, 2,
174 3;

175 (5) All money, deadly weapons, books, records, and
176 research products and materials, including formulas, microfilm,
177 tapes and data which are used, or intended for use, in violation
178 of this article or in violation of Article 5 of this chapter;

179 (6) All drug paraphernalia as defined in Section
180 41-29-105(v); and

181 (7) Everything of value, including real estate,
182 furnished, or intended to be furnished, in exchange for a
183 controlled substance in violation of this article, all proceeds
184 traceable to such an exchange, and all monies, negotiable
185 instruments, businesses or business investments, securities, and
186 other things of value used, or intended to be used, to facilitate
187 any violation of this article. All monies, coin and currency
188 found in close proximity to forfeitable controlled substances, to
189 forfeitable drug manufacturing or distributing paraphernalia, or
190 to forfeitable records of the importation, manufacture or
191 distribution of controlled substances are presumed to be
192 forfeitable under this paragraph; the burden of proof is upon
193 claimants of the property to rebut this presumption.



194 A. No property shall be forfeited under the
195 provisions of subsection (a)(7) of this section, to the extent of
196 the interest of an owner, by reason of any act or omission
197 established by him to have been committed or omitted without his
198 knowledge or consent.

199 B. Neither personal property encumbered by a bona
200 fide security interest nor real estate encumbered by a bona fide
201 mortgage, deed of trust, lien or encumbrance shall be forfeited
202 under the provisions of subsection (a)(7) of this section, to the
203 extent of the interest of the secured party or the interest of the
204 mortgagee, holder of a deed of trust, lien or encumbrance by
205 reason of any act or omission established by him to have been
206 committed or omitted without his knowledge or consent.

207 (b) Property subject to forfeiture may be seized by the
208 bureau, local law enforcement officers, enforcement officers of
209 the Mississippi Department of Transportation, highway patrolmen,
210 the board, or the State Board of Pharmacy upon process issued by
211 any appropriate court having jurisdiction over the property.

212 Seizure without process may be made if:

213 (1) The seizure is incident to an arrest or a search
214 under a search warrant or an inspection under an administrative
215 inspection warrant;

216 (2) The property subject to seizure has been the
217 subject of a prior judgment in favor of the state in a criminal
218 injunction or forfeiture proceeding based upon this article;



219 (3) The bureau, the board, local law enforcement
220 officers, enforcement officers of the Mississippi Department of
221 Transportation, or highway patrolmen, or the State Board of
222 Pharmacy have probable cause to believe that the property is
223 directly or indirectly dangerous to health or safety;

224 (4) The bureau, local law enforcement officers,
225 enforcement officers of the Mississippi Department of
226 Transportation, highway patrolmen, the board, or the State Board
227 of Pharmacy have probable cause to believe that the property was
228 used or is intended to be used in violation of this article; or

229 (5) The seizing law enforcement agency obtained a
230 seizure warrant as described in * * * subsection (f) of this
231 section.

232 (c) Controlled substances listed in Schedule I of Section
233 41-29-113 that are possessed, transferred, sold, or offered for
234 sale in violation of this article are contraband and shall be
235 seized and summarily forfeited to the state. Controlled
236 substances listed in the said Schedule I, which are seized or come
237 into the possession of the state, the owners of which are unknown,
238 are contraband and shall be summarily forfeited to the state.

239 (d) Species of plants from which controlled substances in
240 Schedules I and II of Sections 41-29-113 and 41-29-115 may be
241 derived which have been planted or cultivated in violation of this
242 article, or of which the owners or cultivators are unknown, or



243 which are wild growths, may be seized and summarily forfeited to
244 the state.

245 (e) The failure, upon demand by the bureau and/or local law
246 enforcement officers, or their authorized agents, or highway
247 patrolmen designated by the bureau, the board, or the State Board
248 of Pharmacy, of the person in occupancy or in control of land or
249 premises upon which the species of plants are growing or being
250 stored, to produce an appropriate registration, or proof that he
251 is the holder thereof, constitutes authority for the seizure and
252 forfeiture of the plants.

253 (f) (1) When any property is seized under the Uniform
254 Controlled Substances Law, except as otherwise provided in
255 paragraph (3) of this subsection, by a law enforcement agency with
256 the intent to be forfeited, the law enforcement agency that seized
257 the property shall obtain a seizure warrant from the county or
258 circuit court having jurisdiction of such property within
259 seventy-two (72) hours of any seizure, excluding weekends and
260 holidays. Any law enforcement agency that fails to obtain a
261 seizure warrant within seventy-two (72) hours as required by this
262 section shall notify the person from whom the property was seized
263 that it will not be forfeited and shall provide written
264 instructions advising the person how to retrieve the seized
265 property.

266 (2) A circuit or county judge having jurisdiction of
267 any property other than a controlled substance, raw material or



268 paraphernalia, may issue a seizure warrant upon proper oath or
269 affirmation from a law enforcement agency. The law enforcement
270 agency that is seeking a seizure warrant shall provide the
271 following information to the judge:

272 A. Probable cause to believe that the property was
273 used or intended to be used in violation of this article;

274 B. The name of the person from whom the property
275 was seized; and

276 C. A detailed description of the property which is
277 seized, including the value of the property.

278 (3) This subsection does not apply to seizures
279 performed pursuant to Section 41-29-157 when property is
280 specifically set forth in a search and seizure warrant.

281 **SECTION 3.** Section 41-29-176.1, Mississippi Code of 1972, is
282 brought forward as follows:

283 41-29-176.1. The seizing law enforcement agency shall within
284 thirty (30) days of a seizure, request either the district
285 attorney of the county in which property is seized or the
286 Mississippi Bureau of Narcotics to prosecute any cases involving
287 seized property. No one other than the district attorney of the
288 county in which the seizure occurred or an attorney from the
289 Mississippi Bureau of Narcotics shall have authority to prosecute
290 the forfeiture of the seized property. If the district attorney
291 and the Mississippi Bureau of Narcotics decline to prosecute the
292 forfeiture of the seized property, the seizing law enforcement



293 agency shall notify the person from whom the property was seized
294 that the property will not be forfeited, within thirty (30) days
295 of receiving the notice not to prosecute, and shall provide
296 written instructions advising the person how to retrieve the
297 seized property.

298 **SECTION 4.** Section 41-29-177, Mississippi Code of 1972, is
299 brought forward as follows:

300 41-29-177. (1) Except as otherwise provided in Section
301 41-29-176, Mississippi Code of 1972, and in Section 41-29-107.1,
302 when any property, other than a controlled substance, raw material
303 or paraphernalia, is seized under the Uniform Controlled
304 Substances Law, proceedings under this section shall be instituted
305 within thirty (30) days from the date of seizure or the subject
306 property shall be immediately returned to the party from whom
307 seized.

308 (2) A petition for forfeiture shall be filed by the district
309 attorney or his or her designee, or an attorney for the bureau, as
310 applicable, in the name of the State of Mississippi, the county or
311 the municipality and may be filed in the county in which the
312 seizure is made, the county in which the criminal prosecution is
313 brought or the county in which the owner of the seized property is
314 found. Forfeiture proceedings may be brought in the circuit court
315 or the county court if a county court exists in the county and the
316 value of the seized property is within the jurisdictional limits
317 of the county court as set forth in Section 9-9-21, Mississippi



318 Code of 1972. A copy of such petition shall be served upon the
319 following persons by service of process in the same manner as in
320 civil cases:

321 (a) The owner of the property, if address is known;

322 (b) Any secured party who has registered his lien or
323 filed a financing statement as provided by law, if the identity of
324 such secured party can be ascertained by the Bureau of Narcotics
325 or the local law enforcement agency by making a good faith effort
326 to ascertain the identity of such secured party as described in
327 subsections (3), (4), (5), (6) and (7) of this section;

328 (c) Any other bona fide lienholder or secured party or
329 other person holding an interest in the property in the nature of
330 a security interest of whom the Mississippi Bureau of Narcotics or
331 the local law enforcement agency has actual knowledge;

332 (d) Any holder of a mortgage, deed of trust, lien or
333 encumbrance of record, if the property is real estate, by making a
334 good faith inquiry as described in subsection (8) of this section;
335 and

336 (e) Any person in possession of property subject to
337 forfeiture at the time that it was seized.

338 (3) If the property is a motor vehicle susceptible of
339 titling under the Mississippi Motor Vehicle Title Law and if there
340 is any reasonable cause to believe that the vehicle has been
341 titled, the Bureau of Narcotics or the local law enforcement
342 agency shall make inquiry of the Department of Revenue as to what



343 the records of the Department of Revenue show as to who is the
344 record owner of the vehicle and who, if anyone, holds any lien or
345 security interest which affects the vehicle.

346 (4) If the property is a motor vehicle and is not titled in
347 the State of Mississippi, then the Bureau of Narcotics or the
348 local law enforcement agency shall attempt to ascertain the name
349 and address of the person in whose name the vehicle is licensed,
350 and if the vehicle is licensed in a state which has in effect a
351 certificate of title law, the bureau or the local law enforcement
352 agency shall make inquiry of the appropriate agency of that state
353 as to what the records of the agency show as to who is the record
354 owner of the vehicle and who, if anyone, holds any lien, security
355 interest or other instrument in the nature of a security device
356 which affects the vehicle.

357 (5) If the property is of a nature that a financing
358 statement is required by the laws of this state to be filed to
359 perfect a security interest affecting the property and if there is
360 any reasonable cause to believe that a financing statement
361 covering the security interest has been filed under the laws of
362 this state, the Bureau of Narcotics or the local law enforcement
363 agency shall make inquiry of the appropriate office designated in
364 Section 75-9-501, Mississippi Code of 1972, as to what the records
365 show as to who is the record owner of the property and who, if
366 anyone, has filed a financing statement affecting the property.



367 (6) If the property is an aircraft or part thereof and if
368 there is any reasonable cause to believe that an instrument in the
369 nature of a security device affects the property, then the Bureau
370 of Narcotics or the local law enforcement agency shall make
371 inquiry of the Mississippi Department of Transportation as to what
372 the records of the Federal Aviation Administration show as to who
373 is the record owner of the property and who, if anyone, holds an
374 instrument in the nature of a security device which affects the
375 property.

376 (7) In the case of all other personal property subject to
377 forfeiture, if there is any reasonable cause to believe that an
378 instrument in the nature of a security device affects the
379 property, then the Bureau of Narcotics or the local law
380 enforcement agency shall make a good faith inquiry to identify the
381 holder of any such instrument.

382 (8) If the property is real estate, the Bureau of Narcotics
383 or the local law enforcement agency shall make inquiry of the
384 chancery clerk of the county wherein the property is located to
385 determine who is the owner of record and who, if anyone, is a
386 holder of a bona fide mortgage, deed of trust, lien or
387 encumbrance.

388 (9) In the event the answer to an inquiry states that the
389 record owner of the property is any person other than the person
390 who was in possession of it when it was seized, or states that any
391 person holds any lien, encumbrance, security interest, other



392 interest in the nature of a security interest, mortgage or deed of
393 trust which affects the property, the Bureau of Narcotics or the
394 local law enforcement agency shall cause any record owner and also
395 any lienholder, secured party, other person who holds an interest
396 in the property in the nature of a security interest, or holder of
397 an encumbrance, mortgage or deed of trust which affects the
398 property to be named in the petition of forfeiture and to be
399 served with process in the same manner as in civil cases.

400 (10) If the owner of the property cannot be found and served
401 with a copy of the petition of forfeiture, or if no person was in
402 possession of the property subject to forfeiture at the time that
403 it was seized and the owner of the property is unknown, the Bureau
404 of Narcotics or the local law enforcement agency shall file with
405 the clerk of the court in which the proceeding is pending an
406 affidavit to such effect, whereupon the clerk of the court shall
407 publish notice of the hearing addressed to "the Unknown Owner of
408 _____," filling in the blank space with a reasonably
409 detailed description of the property subject to forfeiture.
410 Service by publication shall contain the other requisites
411 prescribed in Section 11-33-41, and shall be served as provided in
412 Section 11-33-37, Mississippi Code of 1972, for publication of
413 notice for attachments at law.

414 (11) No proceedings instituted pursuant to the provisions of
415 this article shall proceed to hearing unless the judge conducting
416 the hearing is satisfied that this section and Section 41-29-107.1



417 has been complied with. Any answer received from an inquiry
418 required by subsections (3) through (8) of this section shall be
419 introduced into evidence at the hearing.

420 **SECTION 5.** Section 41-29-179, Mississippi Code of 1972, is
421 brought forward as follows:

422 41-29-179. (1) Except as otherwise provided in Section
423 41-29-176 and Section 41-29-107.1, an owner of property, other
424 than a controlled substance, raw material or paraphernalia, that
425 has been seized shall file an answer within thirty (30) days after
426 the completion of service of process. If an answer is not filed,
427 the court shall hear evidence that the property is subject to
428 forfeiture and forfeit the property to the Mississippi Bureau of
429 Narcotics or the local law enforcement agency. If an answer is
430 filed, a time for hearing on forfeiture shall be set within thirty
431 (30) days of filing the answer or at the succeeding term of court
432 if court would not be in progress within thirty (30) days after
433 filing the answer. Provided, however, that upon request by the
434 Bureau of Narcotics, the local law enforcement agency or the owner
435 of the property, the court may postpone said forfeiture hearing to
436 a date past the time any criminal action is pending against said
437 owner.

438 (2) If the owner of the property has filed an answer denying
439 that the property is subject to forfeiture, then the burden is on
440 the petitioner to prove that the property is subject to
441 forfeiture. However, if an answer has not been filed by the owner



442 of the property, the petition for forfeiture may be introduced
443 into evidence and is prima facie evidence that the property is
444 subject to forfeiture. The standard of proof placed upon the
445 petitioner in regard to property forfeited under the provisions of
446 this article shall be by a preponderance of the evidence.

447 (3) At the hearing any claimant of any right, title or
448 interest in the property may prove his lien, encumbrance, security
449 interest, other interest in the nature of a security interest,
450 mortgage or deed of trust to be bona fide and created without
451 knowledge or consent that the property was to be used so as to
452 cause the property to be subject to forfeiture.

453 (4) If it is found that the property is subject to
454 forfeiture, then the judge shall forfeit the property to the
455 Mississippi Bureau of Narcotics or the local law enforcement
456 agency. However, if proof at the hearing discloses that the
457 interest of any bona fide lienholder, secured party, other person
458 holding an interest in the property in the nature of a security
459 interest, or any holder of a bona fide encumbrance, mortgage or
460 deed of trust is greater than or equal to the present value of the
461 property, the court shall order the property released to him. If
462 such interest is less than the present value of the property and
463 if the proof shows that the property is subject to forfeiture, the
464 court shall order the property forfeited to the Mississippi Bureau
465 of Narcotics or the local law enforcement agency.



466 (5) Upon a petition filed in the name of the State of
467 Mississippi, the county or the municipality with the clerk of the
468 circuit court of the county in which the seizure of any controlled
469 substance or raw material is made, the circuit court having
470 jurisdiction may order the controlled substance or raw material
471 summarily forfeited except when lawful possession and title can be
472 ascertained. If a person is found to have had lawful possession
473 and title prior to seizure, the court shall order the controlled
474 substance or raw material returned to the owner, if the owner so
475 desires. Upon a petition filed in the name of the State of
476 Mississippi, the county or the municipality with the clerk of the
477 circuit court of the county in which the seizure of any purported
478 paraphernalia is made, the circuit court having jurisdiction may
479 order such seized property summarily forfeited when the court has
480 determined the seized property to be paraphernalia as defined in
481 Section 41-29-105(v).

482 **SECTION 6.** Section 41-29-181, Mississippi Code of 1972, is
483 brought forward as follows:

484 41-29-181. (1) Regarding all controlled substances, raw
485 materials and paraphernalia which have been forfeited, the circuit
486 court shall by its order direct the Bureau of Narcotics to:

- 487 (a) Retain the property for its official purposes;
488 (b) Deliver the property to a government agency or
489 department for official purposes;



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

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

494 (2) All other property, real or personal, which is forfeited
495 under this article, except as otherwise provided in Section
496 41-29-185, and except as provided in subsections (3), (7) and (8)
497 of this section, shall be liquidated and, after deduction of court
498 costs and the expenses of liquidation, the proceeds shall be
499 divided and deposited as follows:

500 (a) In the event only one (1) law enforcement agency
501 participates in the underlying criminal case out of which the
502 forfeiture arises, twenty percent (20%) of the proceeds shall be
503 forwarded to the State Treasurer and deposited in the General Fund
504 of the state and eighty percent (80%) of the proceeds shall be
505 deposited and credited to the budget of the participating law
506 enforcement agency.

507 (b) In the event more than one (1) law enforcement
508 agency participates in the underlying criminal case out of which
509 the forfeiture arises, eighty percent (80%) of the proceeds shall
510 be deposited and credited to the budget of the law enforcement
511 agency whose officers initiated the criminal case and twenty
512 percent (20%) shall be divided equitably between or among the
513 other participating law enforcement agencies, and shall be
514 deposited and credited to the budgets of the participating law



515 enforcement agencies. In the event that the other participating
516 law enforcement agencies cannot agree on the division of their
517 twenty percent (20%), a petition shall be filed by any one of them
518 in the court in which the civil forfeiture case is brought and the
519 court shall make an equitable division.

520 If the criminal case is initiated by an officer of the Bureau
521 of Narcotics and more than one (1) law enforcement agency
522 participates in the underlying criminal case out of which the
523 forfeiture arises, the proceeds shall be divided equitably between
524 or among the Bureau of Narcotics and other participating law
525 enforcement agencies and shall be deposited and credited to the
526 budgets of the participating law enforcement agencies. In the
527 event that the Bureau of Narcotics and the other participating law
528 enforcement agencies cannot agree on an equitable division of the
529 proceeds, a petition shall be filed by any one of them in the
530 court in which the civil forfeiture case is brought and the court
531 shall make an equitable division.

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

536 (4) All property forfeited, deposited and credited to the
537 Mississippi Bureau of Narcotics under this article shall be
538 forwarded to the State Treasurer and deposited in a special fund



539 for use by the Mississippi Bureau of Narcotics upon appropriation
540 by the Legislature.

541 (5) All real estate which is forfeited under the provisions
542 of this article shall be sold to the highest and best bidder at a
543 public auction for cash, such auction to be conducted by the chief
544 law enforcement officer of the initiating law enforcement agency,
545 or his designee, at such place, on such notice and in accordance
546 with the same procedure, as far as practicable, as is required in
547 the case of sales of land under execution at law. The proceeds of
548 such sale shall first be applied to the cost and expense in
549 administering and conducting such sale, then to the satisfaction
550 of all mortgages, deeds of trust, liens and encumbrances of record
551 on such property. The remaining proceeds shall be divided,
552 forwarded and deposited in the same manner set out in subsection
553 (2) of this section.

554 (6) All other property that has been forfeited shall, except
555 as otherwise provided, be sold at a public auction for cash by the
556 chief law enforcement officer of the initiating law enforcement
557 agency, or his designee, to the highest and best bidder after
558 advertising the sale for at least once each week for three (3)
559 consecutive weeks, the last notice to appear not more than ten
560 (10) days nor less than five (5) days prior to such sale, in a
561 newspaper having a general circulation in the jurisdiction in
562 which said law enforcement agency is located. Such notices shall
563 contain a description of the property to be sold and a statement



564 of the time and place of sale. It shall not be necessary to the
565 validity of such sale either to have the property present at the
566 place of sale or to have the name of the owner thereof stated in
567 such notice. The proceeds of the sale shall be disposed of as
568 follows:

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

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

576 (7) (a) Any county or municipal law enforcement agency may
577 maintain, repair, use and operate for official purposes all
578 property, other than real property, money or such property that is
579 described in subsection (1) of this section, that has been
580 forfeited to the agency if it is free from any interest of a bona
581 fide lienholder, secured party or other party who holds an
582 interest in the property in the nature of a security interest.
583 Such county or municipal law enforcement agency may purchase the
584 interest of a bona fide lienholder, secured party or other party
585 who holds an interest so that the property can be released for its
586 use. If the property is a motor vehicle susceptible of titling
587 under the Mississippi Motor Vehicle Title Law, the law enforcement
588 agency shall be deemed to be the purchaser, and the certificate of



589 title shall be issued to it as required by subsection (9) of this
590 section.

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

595 (ii) If a vehicle is forfeited to or transferred
596 to a police department, then the police chief may transfer the
597 vehicle to the municipality for official or governmental use as
598 the governing authority of the municipality may direct.

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

604 (8) The Mississippi Bureau of Narcotics may maintain,
605 repair, use and operate for official purposes all property, other
606 than real property, money or such property as is described in
607 subsection (1) of this section, that has been forfeited to the
608 bureau if it is free from any interest of a bona fide lienholder,
609 secured party, or other party who holds an interest in the
610 property in the nature of a security interest. In such case, the
611 bureau may purchase the interest of a bona fide lienholder,
612 secured party or other party who holds an interest so that such
613 property can be released for use by the bureau.



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

620 (9) The Department of Revenue shall issue a certificate of
621 title to any person who purchases property under the provisions of
622 this section when a certificate of title is required under the
623 laws of this state.

624 **SECTION 7.** Section 41-29-183, Mississippi Code of 1972, is
625 brought forward as follows:

626 41-29-183. The forfeiture procedure set forth in Sections
627 41-29-177 through 41-29-181 is the sole remedy of any claimant,
628 and no court shall have jurisdiction to interfere therewith by
629 replevin, injunction, supersedeas or in any other manner.

630 **SECTION 8.** This act shall take effect and be in force from
631 and after July 1, 2020.

