

By: Senator(s) Hill

To: Judiciary, Division A;
Judiciary, Division B

SENATE BILL NO. 2374

1 AN ACT TO CRIMINALIZE THE INCITING OR PARTICIPATION IN A
2 VIOLENT OR DISORDERLY ASSEMBLY; TO PROVIDE FOR CERTAIN
3 ENHANCEMENTS FOR THE CONVICTION OF PARTICIPATING IN A VIOLENT OR
4 DISORDERLY ASSEMBLY; TO SET A CERTAIN JAIL TERM FOR ANY DEFENDANT
5 CONVICTED OF A CRIME UNDER THIS ACT WHO USED FORCE OR VIOLENCE
6 AGAINST A LAW ENFORCEMENT OFFICER DURING THE COMMISSION OF THE
7 OFFENSE; TO CRIMINALIZE THE MALICIOUS OBSTRUCTION OF A PUBLIC
8 STREET, HIGHWAY OR ROAD DURING A VIOLENT OR DISORDERLY PROTEST OR
9 ASSEMBLY; TO PROVIDE CIVIL AND CRIMINAL IMMUNITY TO ANY DRIVER
10 FLEEING FOR SAFETY FROM A MOB DURING A DISORDERLY OR VIOLENT
11 ASSEMBLY; TO CRIMINALIZE THE WILLFUL DESTRUCTION OR TOPPLING OF
12 MONUMENTS; TO CRIMINALIZE THE WILLFUL HARASSMENT OR INTIMIDATION
13 OF PERSONS AT PUBLIC ACCOMMODATIONS; TO PROVIDE THAT A LOCAL
14 GOVERNMENT UNIT THAT REDUCES FUNDING TO ITS LOCAL LAW ENFORCEMENT
15 AGENCY BY A CERTAIN AMOUNT SHALL BE INELIGIBLE FOR ANY STATE
16 FUNDING; TO PROVIDE THAT ANY PUBLIC EMPLOYEE CONVICTED UNDER THIS
17 ACT MAY NOT MAINTAIN EMPLOYMENT WITH ANY STATE OR LOCAL GOVERNMENT
18 ENTITY; TO PROVIDE THAT ANY PERSON CONVICTED UNDER THIS ACT SHALL
19 BE INELIGIBLE FOR GOVERNMENT ASSISTANCE PROGRAMS; TO PROVIDE THAT
20 ANY DEFENDANT CHARGED UNDER THIS ACT AND SUBJECT TO A SENTENCING
21 ENHANCEMENT SHALL BE INELIGIBLE FOR BAIL UNTIL THE DEFENDANT'S
22 FIRST APPEARANCE IN COURT AND THAT THERE SHALL BE A REBUTTABLE
23 PRESUMPTION AGAINST BAIL TO THE DEFENDANT; TO AMEND SECTION
24 11-46-1, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM "LOCAL
25 GOVERNMENT UNIT"; TO CREATE NEW SECTION 11-46-6, MISSISSIPPI CODE
26 OF 1972, TO WAIVE THE IMMUNITY OF LOCAL GOVERNMENT UNITS FOR SUITS
27 BY THE VICTIM OF A CRIME RELATED TO A RIOT OR A VIOLENT OR
28 DISORDERLY ASSEMBLY WHERE THE LOCAL GOVERNMENT UNIT WAS GROSSLY
29 NEGLIGENT IN ITS FAILURE TO PROTECT THE VICTIM OF THE CRIME; TO
30 AMEND SECTION 97-43-3, MISSISSIPPI CODE OF 1972, TO AMEND THE
31 DEFINITION OF "RACKETEERING ACTIVITY" TO INCLUDE THE OFFENSES
32 DESCRIBED IN THIS ACT; TO AMEND SECTION 21-35-9, MISSISSIPPI CODE
33 OF 1972, TO REQUIRE THE GOVERNING AUTHORITIES OF A MUNICIPALITY TO
34 CERTIFY THAT ANY REDUCTION OF A MUNICIPALITY'S LAW ENFORCEMENT



35 BUDGET HAS NOT BEEN DISPROPORTIONATE AND TO PROVIDE THAT ANY
36 MUNICIPALITY THAT DISPROPORTIONATELY REDUCES ITS LAW ENFORCEMENT
37 BUDGET SHALL NOT BE ELIGIBLE FOR STATE FUNDS; TO AMEND SECTION
38 19-11-7, MISSISSIPPI CODE OF 1972, TO REQUIRE THE GOVERNING
39 AUTHORITIES OF A COUNTY TO CERTIFY THAT ANY REDUCTION OF A
40 COUNTY'S LAW ENFORCEMENT BUDGET HAS NOT BEEN DISPROPORTIONATE AND
41 TO PROVIDE THAT ANY COUNTY THAT DISPROPORTIONATELY REDUCES ITS LAW
42 ENFORCEMENT BUDGET SHALL NOT BE ELIGIBLE FOR STATE FUNDS; TO AMEND
43 SECTION 97-3-111, MISSISSIPPI CODE OF 1972, TO SUBJECT VEHICLES
44 USED TO BLOCK ROADS OR DESTROY MONUMENTS TO FORFEITURE; TO STATE
45 LEGISLATIVE INTENT; AND FOR RELATED PURPOSES.

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

47 **SECTION 1.** As used in this act, the following words shall
48 have the meanings ascribed below unless the context clearly
49 requires otherwise:

50 (a) "Violent or disorderly assembly" means the
51 gathering of ten (10) or more persons resulting in conduct which:

52 (i) Creates an immediate danger of damage to
53 property or injury to persons;

54 (ii) Obstructs law enforcement or other
55 governmental functions or services substantially; and

56 (iii) Deprives, by force, threat of force or
57 physical action, any person of a legal right or disturbs any
58 person in the enjoyment of a legal right.

59 A "violent or disorderly assembly" also means a gathering of
60 ten (10) or more people who disobey or refuse to heed a lawful
61 order to disburse.

62 (b) "Harass" means to engage in conduct directed at a
63 specific person which causes substantial emotional distress to
64 that person and serves no legitimate purpose.



65 (c) "Intimidate" means to frighten or threaten someone
66 for the purpose of coercing that person to take action.

67 (d) "Law enforcement officer" means any officers as
68 defined by Section 45-6-3(c) and (d).

69 **SECTION 2.** (1) A person who:

70 (a) Incites a violent or disorderly assembly;

71 (b) Organizes, promotes, encourages, participates in,
72 or carries out a violent or disorderly assembly;

73 (c) Commits any act in furtherance of a violent or
74 disorderly assembly; or

75 (d) Aids or abets any person in inciting or
76 participating in or carrying on a violent or disorderly assembly;
77 with intent shall be fined up to Three Thousand Dollars
78 (\$3,000.00) or imprisoned for a term of years not exceeding two
79 (2) years, or both.

80 (2) It is a defense to prosecution under subsection (1) of
81 this section that the assembly was at first lawful and the person
82 retired from the assembly once one of those assembled manifested
83 an intent to engage in the conduct described in Section 1(a) of
84 this act.

85 (3) In its discretion, the sentencing authority may enhance
86 the sentence of any defendant convicted under subsection (1) of
87 this section by a fine of Two Thousand Dollars (\$2,000.00) or
88 imprisonment for a term of two (2) years in addition to the



89 penalties described in subsection (1) of this section if the
90 defendant:

91 (a) Struck a civilian or law enforcement officer with a
92 projectile during a violent or disorderly assembly;

93 (b) Assaulted or used force or violence against a law
94 enforcement officer during a violent or disorderly assembly; or

95 (c) Participated in a violent or disorderly assembly as
96 a nonresident of Mississippi.

97 (4) A defendant convicted under subsection (1) of this
98 section shall be sentenced to a term of at least six (6) months
99 imprisonment if the defendant willfully used force or violence,
100 including by use of a projectile, against a law enforcement
101 officer during the commission of the offense.

102 **SECTION 3.** (1) A person who maliciously obstructs the free,
103 convenient and normal use of any public street, highway, road or
104 interstate during an unpermitted protest or a violent or
105 disorderly assembly shall be fined up to One Thousand Dollars
106 (\$1,000.00) or imprisoned for a term not exceeding one (1) year in
107 the county jail, or both. A defendant convicted under this
108 subsection shall, at a minimum, be imprisoned in the county jail
109 for a term of twenty-five (25) days.

110 (2) If an emergency vehicle is delayed as a result of the
111 unlawful conduct described in subsection (1) of this section, a
112 defendant under this section, in addition to the penalties
113 described in subsection (1) of this section and any other



114 enhancements, shall be fined One Thousand Five Hundred Dollars
115 (\$1,500.00) and imprisoned for a term of at least one (1) year and
116 not to exceed five (5) years in the custody of the Mississippi
117 Department of Corrections.

118 (3) If motor vehicles of persons attempting to pass the
119 unlawful conduct described in subsection (1) of this section are
120 damaged, a defendant under this subsection, in addition to
121 penalties described in subsection (1) of this section and any
122 other enhancements, shall be fined Five Hundred Dollars or
123 imprisoned for a term of at least twenty-five (25) days in jail
124 but not to exceed two (2) years in the custody of the Mississippi
125 Department of Corrections, or both. Where damages over One
126 Thousand Dollars (\$1,000.00) are incurred as a result of the
127 defendant's actions under this subsection, a defendant shall be
128 imprisoned for a term of at least one (1) year and not to exceed
129 five years (5) years in the custody of the Mississippi Department
130 of Corrections.

131 (4) A person who operates a motor vehicle to escape a mob
132 during an unpermitted protest or violent or disorderly assembly
133 shall not be liable for any unintended injury or death caused as a
134 result of the person's flight to safety. For purposes of this
135 subsection, a "mob" means a crowd of more than ten (10) people who
136 are participating in a violent or disorderly assembly as defined
137 in Section 1(a) of this act.



138 **SECTION 4.** A person who willfully destroys, defaces,
139 vandalizes, or topples any monument as defined in Section
140 55-15-81(1) during a violent or disorderly assembly shall be fined
141 up to Ten Thousand Dollars (\$10,000.00) or imprisoned for a term
142 of at least twenty-five (25) days but not exceeding ten (10)
143 years, or both. Where damages over One Thousand Dollars
144 (\$1,000.00) are incurred as a result of the defendant's actions
145 under this subsection, a defendant shall be imprisoned for a term
146 of at least one (1) year and not to exceed five years (5) years in
147 the custody of the Mississippi Department of Corrections.

148 **SECTION 5.** A person who willfully harasses or intimidate any
149 other person at a hotel, lodging place, business open to the
150 public for the sale of any goods or services, and all places of
151 public accommodation, amusement, or resort during a violent or
152 disorderly assembly shall be fined up to One Thousand Dollars
153 (\$1,000.00) or imprisoned for a term of at least twenty-five (25)
154 days in jail but not exceeding one (1) year in the county jail.

155 **SECTION 6.** To the extent permissible by federal law, a
156 person convicted of any offense under this act shall be ineligible
157 for any government assistance programs including, but not limited
158 to, the Temporary Assistance to Needy Families program and the
159 Supplemental Nutritional Assistance Program. A person ineligible
160 for government assistance programs under this section shall be
161 required to reimburse to the state any funds the person received
162 from any government assistance programs during the time period



163 between when the person was charged with the offense and when the
164 person was sentenced for the offense.

165 **SECTION 7.** Any public employee found guilty under Section 3
166 of this act may not maintain employment with any state or local
167 government entity.

168 **SECTION 8.** (1) For any offense under this act subject to an
169 enhanced sentence, a defendant shall be ineligible for bail under
170 the provisions of Sections 99-5-1 through 99-5-39 until the
171 defendant's first appearance in court in order to ensure the full
172 participation of prosecutor and the protection of the public.
173 There shall be a rebuttable presumption against the grant of bail
174 to a defendant under this subsection.

175 (2) A court shall, in any sentence imposed for a violation
176 under this act, include an order of restitution for any property
177 damage or loss incurred as a result of the offense. At its
178 discretion, the court may require the defendant to make
179 restitution to the owner of the property that was damaged in an
180 amount up to twice the value of the property that was damaged.

181 **SECTION 9.** Section 11-46-1, Mississippi Code of 1972, is
182 amended as follows:

183 11-46-1. As used in this chapter, the following terms shall
184 have the meanings ascribed unless the context otherwise requires:

185 (a) "Claim" means any demand to recover damages from a
186 governmental entity as compensation for injuries.



187 (b) "Claimant" means any person seeking compensation
188 under the provisions of this chapter, whether by administrative
189 remedy or through the courts.

190 (c) "Board" means the Mississippi Tort Claims Board.

191 (d) "Department" means the Department of Finance and
192 Administration.

193 (e) "Director" means the executive director of the
194 department who is also the executive director of the board.

195 (f) "Employee" means any officer, employee or servant
196 of the State of Mississippi or a political subdivision of the
197 state, including elected or appointed officials and persons acting
198 on behalf of the state or a political subdivision in any official
199 capacity, temporarily or permanently, in the service of the state
200 or a political subdivision whether with or without compensation,
201 including firefighters who are members of a volunteer fire
202 department that is a political subdivision. The term "employee"
203 shall not mean a person or other legal entity while acting in the
204 capacity of an independent contractor under contract to the state
205 or a political subdivision; and

206 (i) For purposes of the limits of liability
207 provided for in Section 11-46-15, the term "employee" shall
208 include:

209 1. Physicians under contract to provide
210 health services with the State Board of Health, the State Board of



211 Mental Health or any county or municipal jail facility while
212 rendering services under the contract;

213 2. Any physician, dentist or other health
214 care practitioner employed by the University of Mississippi
215 Medical Center (UMMC) and its departmental practice plans who is a
216 faculty member and provides health care services only for patients
217 at UMMC or its affiliated practice sites, including any physician
218 or other health care practitioner employed by UMMC under an
219 arrangement with a public or private health-related organization;

220 3. Any physician, dentist or other health
221 care practitioner employed by any university under the control of
222 the Board of Trustees of State Institutions of Higher Learning who
223 practices only on the campus of any university under the control
224 of the Board of Trustees of State Institutions of Higher Learning;

225 4. Any physician, dentist or other health
226 care practitioner employed by the State Veterans Affairs Board and
227 who provides health care services for patients for the State
228 Veterans Affairs Board;

229 (ii) The term "employee" shall also include
230 Mississippi Department of Human Services licensed foster parents
231 for the limited purposes of coverage under the Tort Claims Act as
232 provided in Section 11-46-8; and

233 (iii) The term "employee" also shall include any
234 employee or member of the governing board of a charter school but
235 shall not include any person or entity acting in the capacity of



236 an independent contractor to provide goods or services under a
237 contract with a charter school.

238 (g) "Governmental entity" means the state and political
239 subdivisions, including any local government unit.

240 (h) "Injury" means death, injury to a person, damage to
241 or loss of property or any other injury that a person may suffer
242 that is actionable at law or in equity.

243 (i) "Political subdivision" means any body politic or
244 body corporate other than the state responsible for governmental
245 activities only in geographic areas smaller than that of the
246 state, including, but not limited to, any county, municipality,
247 school district, charter school, volunteer fire department that is
248 a chartered nonprofit corporation providing emergency services
249 under contract with a county or municipality, community hospital
250 as defined in Section 41-13-10, airport authority, or other
251 instrumentality of the state, whether or not the body or
252 instrumentality has the authority to levy taxes or to sue or be
253 sued in its own name, including any local government unit.

254 (j) "State" means the State of Mississippi and any
255 office, department, agency, division, bureau, commission, board,
256 institution, hospital, college, university, airport authority or
257 other instrumentality thereof, whether or not the body or
258 instrumentality has the authority to levy taxes or to sue or be
259 sued in its own name.



260 (k) "Law" means all species of law, including, but not
261 limited to, any and all constitutions, statutes, case law, common
262 law, customary law, court order, court rule, court decision, court
263 opinion, court judgment or mandate, administrative rule or
264 regulation, executive order, or principle or rule of equity.

265 (l) "Local government unit" means any county or
266 incorporated city, town or village in the state, any school
267 district, any community college, any institution of higher
268 learning, any municipal airport authority, any regional airport
269 authority or any port authority.

270 **SECTION 10.** The following shall be codified as Section
271 11-46-6, Mississippi Code of 1972:

272 11-46-6. (1) Local government units have a duty of
273 reasonable care to protect individuals within their borders from
274 being harmed or suffering property damage caused by participants
275 in a riot or violent or disorderly assembly.

276 (2) Notwithstanding the immunity granted in Section 11-46-3,
277 or the provisions of any other law to the contrary, the immunity
278 of the local government units from claims for money damages from
279 the victim of a crime related to a violent or disorderly assembly
280 arising out of the gross negligence of local government units from
281 failing to protect the victim from injuries or damages from
282 violent or disorderly assemblies is waived.



283 (3) The immunity of a local government unit under subsection
284 (1) of this section shall be waived only to the extent of the
285 maximum amount of liability provided for in Section 11-46-15.

286 **SECTION 11.** Section 97-43-3, Mississippi Code of 1972, is
287 amended as follows:

288 97-43-3. The following terms shall have the meanings
289 ascribed to them herein unless the context requires otherwise:

290 (a) "Racketeering activity" means to commit, to attempt
291 to commit, to conspire to commit, or to solicit, coerce or
292 intimidate another person to commit any crime which is chargeable
293 under the following provisions of the Mississippi Code of 1972:

294 (1) Section 97-19-71, which relates to fraud in
295 connection with any state or federally funded assistance programs.

296 (2) Section 75-71-735, which relates to violations
297 of the Mississippi Securities Act.

298 (3) Sections 45-13-105, 45-13-109, 97-37-23 and
299 97-37-25, which relate to unlawful possession, use and
300 transportation of explosives.

301 (4) Sections 97-3-19 and 97-3-21, which relate to
302 murder.

303 (5) Section 97-3-7(2), which relates to aggravated
304 assaults.

305 (6) Section 97-3-53, which relates to kidnapping.

306 (7) Sections 97-3-73 through 97-3-83, which relate
307 to robbery.



308 (8) Sections 97-17-19 through 97-17-37, which
309 relate to burglary.

310 (9) Sections 97-17-1 through 97-17-13, which
311 relate to arson.

312 (10) Sections 97-29-49 and 97-29-51, which relate
313 to prostitution.

314 (11) Sections 97-5-5 and 97-5-31 through 97-5-37,
315 which relate to the exploitation of children and enticing children
316 for concealment, prostitution or marriage.

317 (12) Section 41-29-139, which relates to
318 violations of the Uniform Controlled Substances Law; provided,
319 however, that in order to be classified as "racketeering
320 activity," such offense must be punishable by imprisonment for
321 more than one (1) year.

322 (13) Sections 97-21-1 through 97-21-63, which
323 relate to forgery and counterfeiting.

324 (14) Sections 97-9-1 through 97-9-77, which relate
325 to offenses affecting administration of justice.

326 (15) Sections 97-33-1 through 97-33-49, which
327 relate to gambling and lotteries.

328 (16) Section 97-3-54 et seq., which relate to
329 human trafficking.

330 (17) Sections 1 through 4 of this act, which
331 relate to violent or disorderly assemblies.



332 (b) "Unlawful debt" means money or any other thing of
333 value constituting principal or interest of a debt which is
334 legally unenforceable, in whole or in part, because the debt was
335 incurred or contracted in gambling activity in violation of state
336 law or in the business of lending money at a rate usurious under
337 state law, where the usurious rate is at least twice the
338 enforceable rate.

339 (c) "Enterprise" means any individual, sole
340 proprietorship, partnership, corporation, union or other legal
341 entity, or any association or group of individuals associated in
342 fact although not a legal entity. It includes illicit as well as
343 licit enterprises and governmental, as well as other, entities.

344 (d) "Pattern of racketeering activity" means engaging
345 in at least two (2) incidents of racketeering conduct that have
346 the same or similar intents, results, accomplices, victims, or
347 methods of commission or otherwise are interrelated by
348 distinguishing characteristics and are not isolated incidents,
349 provided at least one (1) of such incidents occurred after July 1,
350 1984, and that the last of such incidents occurred within five (5)
351 years after a prior incident of racketeering conduct.

352 **SECTION 12.** Section 21-35-9, Mississippi Code of 1972, is
353 amended as follows:

354 21-35-9. (1) The budget as finally determined, in addition
355 to setting out separately each item for which any appropriation of
356 expenditures is authorized to be expended and the fund out of



357 which the same is to be paid, shall set out the total amount
358 appropriated and authorized to be expended from each fund, the
359 cash balance in the fund at the close of the present preceding
360 fiscal year, the working cash balance necessary for the next
361 fiscal year, the estimated amount, if any, which will accrue to
362 the fund from sources other than taxation for the current fiscal
363 year, and the amount necessary to be raised for each fund by tax
364 levy during the current fiscal year. The governing authorities of
365 the municipality shall then, by resolution, approve and adopt the
366 budget as finally determined, and enter the same at length and in
367 detail in their official minutes.

368 (2) (a) If the budget of the municipality's law enforcement
369 agencies is reduced, the governing authorities of the municipality
370 shall certify to each state agency, through which it receives any
371 state funds, that there has been no disproportionate funding
372 reduction to the county's law enforcement agencies. The
373 certification must include a statement that any reduction in
374 funding or proposed funding is a result of reduced revenue
375 collection and is proportionate to that reduction in revenue.

376 (b) A reduction in law enforcement funding is
377 proportionate if the portion of the local government's total
378 budget allocated to law enforcement agencies, expressed as a
379 percentage, remains within three (3) percentage points of the
380 percentage decrease in total revenue from the previous fiscal year
381 to the current fiscal year.



382 (c) A municipality that has disproportionately reduced
383 its law enforcement funding shall not be eligible to receive state
384 funds.

385 (3) The * * * governing authorities of the municipality
386 shall not authorize any expenditure of money, and the city clerk
387 shall not issue any warrant for same, except for bonds, notes,
388 debts and interest, after October 1 in each year, unless and until
389 the budget be finally approved, and such approval entered upon
390 their minutes.

391 **SECTION 13.** Section 19-11-7, Mississippi Code of 1972, is
392 amended as follows:

393 **[With regard to any county which is exempt from the**
394 **provisions of Section 19-2-3, this section shall read as follows:]**

395 19-11-7. (1) The board of supervisors of each county of the
396 State of Mississippi shall, at its August meeting of each year,
397 prepare a complete budget of revenues, expenses and a working cash
398 balance estimated for the next fiscal year, which shall be based
399 on the aggregate funds estimated to be available for the ensuing
400 fiscal year for each fund, from which such estimated expenses will
401 be paid, exclusive of school maintenance funds, which shall be
402 shown separately. Such statement of revenues shall show every
403 source of revenue along with the amount derived from each source.
404 The budget containing such statement of revenues and expenses
405 shall be published at least one (1) time during August or
406 September but not later than September 30 of the year in a



407 newspaper published in the county, or if no newspaper is published
408 therein, then in a newspaper having a general circulation therein.

409 (2) The board of supervisors shall not prepare a budget that
410 reduces the county budget by more than twenty percent (20%) in the
411 last year of the members' term of office if a majority of the
412 members of the board are not reelected.

413 (3) (a) If the budget of the county's law enforcement
414 agencies is reduced, the board of supervisors shall certify to
415 each state agency, through which it receives any state funds, that
416 there has been no disproportionate funding reduction to the
417 county's law enforcement agencies. The certification must include
418 a statement that any reduction in funding or proposed funding is a
419 result of reduced revenue collection and is proportionate to that
420 reduction in revenue.

421 (b) A reduction in law enforcement funding is
422 proportionate if the portion of the local government's total
423 budget allocated to law enforcement agencies, expressed as a
424 percentage, remains within three (3) percentage points of the
425 percentage decrease in total revenue from the previous fiscal year
426 to the current fiscal year.

427 (c) A county that has disproportionately reduced its
428 law enforcement funding shall not be eligible to receive state
429 funds.



430 **[With regard to any county which is required to operate on a**
431 **countywide system of road administration as described in Section**
432 **19-2-3, this section shall read as follows:]**

433 19-11-7. (1) The county administrator of each county of the
434 State of Mississippi shall prepare and submit to the board of
435 supervisors at its August meeting of each year a complete budget
436 of revenues, expenses and a working cash balance estimated for the
437 next fiscal year, which shall be based on the aggregate funds
438 estimated to be available for the ensuing fiscal year for each
439 fund, from which such estimated expenses will be paid, exclusive
440 of school maintenance funds, which shall be shown separately and
441 exclusive of the budget of the sheriff's department which shall be
442 prepared by the sheriff. Such statement of revenues shall show
443 every source of revenue along with the amount derived from each
444 source. The budget, including the sheriff's budget, containing
445 such statement of revenues and expenses shall be published at
446 least one (1) time during August or September but not later than
447 September 30 of the year in a newspaper published in the county,
448 or if no newspaper is published therein, then in a newspaper
449 having a general circulation therein.

450 (2) The county administrator shall not prepare a budget that
451 reduces the county budget by more than twenty percent (20%) in the
452 last year of the members' term of office if a majority of the
453 members of the board are not reelected.



454 (3) (a) If the budget of the county's law enforcement
455 agencies is reduced, the county administrator shall certify to
456 each state agency, through which it receives any state funds, that
457 there has been no disproportionate funding reduction to the
458 county's law enforcement agencies. The certification must include
459 a statement that any reduction in funding or proposed funding is a
460 result of reduced revenue collection and is proportionate to that
461 reduction in revenue.

462 (b) A reduction in law enforcement funding is
463 proportionate if the portion of the local government's total
464 budget allocated to law enforcement agencies, expressed as a
465 percentage, remains within three (3) percentage points of the
466 percentage decrease in total revenue from the previous fiscal year
467 to the current fiscal year.

468 (c) A county that has disproportionately reduced its
469 law enforcement funding shall not be eligible to receive state
470 funds.

471 **SECTION 14.** Section 97-3-111, Mississippi Code of 1972, is
472 amended as follows:

473 97-3-111. (1) All vehicles which are used in any manner to
474 facilitate the discharging of a firearm or the throwing or
475 ejection of a bomb or explosive device in violation of Section
476 97-3-109, all vehicles which are used in any manner to obstruct
477 any public street, highway, road or interstate in violation of
478 Section 3 of this act, and all vehicles which are used to



479 willfully destroy, deface, vandalize or topple any monument in
480 violation of Section 4 of this act shall be subject to forfeiture,
481 however:

482 (a) No conveyance used by any person as a common
483 carrier in the transaction of business as a common carrier is
484 subject to forfeiture under this section unless it appears that
485 the owner or other person in charge of the conveyance is a
486 consenting party or privy to a violation of Section 97-3-109 and
487 this section;

488 (b) No conveyance is subject to forfeiture under this
489 section by reason of any act or omission proved by the owner
490 thereof to have been committed or omitted without his knowledge or
491 consent; if the confiscating authority has reason to believe that
492 the conveyance is a leased or rented conveyance, then the
493 confiscating authority shall notify the owner of the conveyance
494 within five (5) days of the confiscation;

495 (c) A forfeiture of a conveyance encumbered by a bona
496 fide security interest is subject to the interest of the secured
497 party if he neither had knowledge of nor consented to the act or
498 omission.

499 (2) Except as otherwise provided in subsection (16), when
500 any property is seized pursuant to subsection (1), proceedings
501 under this section shall be instituted promptly.

502 (3) A petition for forfeiture shall be filed promptly in the
503 name of the State of Mississippi, the county or the municipality



504 and may be filed in the county in which the seizure is made, the
505 county in which the criminal prosecution is brought or the county
506 in which the owner of the seized property is found. Forfeiture
507 proceedings may be brought in (a) the circuit court, or (b) the
508 county court if a county court exists in the county and the value
509 of the seized property is within the jurisdictional limits of the
510 county court as set forth in Section 9-9-21, Mississippi Code of
511 1972, or (c) the youth court in the case of a person adjudicated
512 delinquent where the underlying basis for the delinquency is a
513 violation of Section 97-3-109, Mississippi Code of 1972. A copy
514 of such petition shall be served upon the following persons by
515 service of process in the same manner as in civil cases:

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

517 (b) Any secured party who has registered his lien or
518 filed a financing statement as provided by law, if the identity of
519 such secured party can be ascertained by the local law enforcement
520 agency by making a good faith effort to ascertain the identity of
521 such secured party as described in subsections (4), (5), (6), (7)
522 and (8) of this section;

523 (c) Any other bona fide lienholder or secured party or
524 other person holding an interest in the property in the nature of
525 a security interest of whom the local law enforcement agency has
526 actual knowledge; and

527 (d) Any person in possession of property subject to
528 forfeiture at the time that it was seized.



529 (4) If the property is a motor vehicle susceptible of
530 titling under the Mississippi Motor Vehicle Title Law and if there
531 is any reasonable cause to believe that the vehicle has been
532 titled, the local law enforcement agency shall make inquiry of
533 the * * * Department of Revenue as to what the records of
534 the * * * Department of Revenue show as to who is the record owner
535 of the vehicle and who, if anyone, holds any lien or security
536 interest which affects the vehicle.

537 (5) If the property is a motor vehicle and is not titled in
538 the State of Mississippi, then the local law enforcement agency
539 shall attempt to ascertain the name and address of the person in
540 whose name the vehicle is licensed, and if the vehicle is licensed
541 in a state which has in effect a certificate of title law, the
542 local law enforcement agency shall make inquiry of the appropriate
543 agency of that state as to what the records of the agency show as
544 to who is the record owner of the vehicle and who, if anyone,
545 holds any lien, security interest or other instrument in the
546 nature of a security device which affects the vehicle.

547 (6) In the event the answer to an inquiry states that the
548 record owner of the property is any person other than the person
549 who was in possession of it when it was seized, or states that any
550 person holds any lien, encumbrance, security interest or other
551 interest which affects the property, the local law enforcement
552 agency shall cause any record owner and also any lienholder,
553 secured party or other person who holds an interest in the



554 property in the nature of a security interest which affects the
555 property to be named in the petition of forfeiture and to be
556 served with process in the same manner as in civil cases.

557 (7) If the owner of the property cannot be found and served
558 with a copy of the petition of forfeiture, or if no person was in
559 possession of the property subject to forfeiture at the time that
560 it was seized and the owner of the property is unknown, the local
561 law enforcement agency shall file with the clerk of the court in
562 which the proceeding is pending an affidavit to such effect,
563 whereupon the clerk of the court shall publish notice of the
564 hearing addressed to "the Unknown Owner of _____", filling in
565 the blank space with a reasonably detailed description of the
566 property subject to forfeiture. Service by publication shall
567 contain the other requisites prescribed in Section 11-33-41,
568 Mississippi Code of 1972, and shall be served as provided in
569 Section 11-33-37, Mississippi Code of 1972, for publication of
570 notice for attachments at law.

571 (8) No proceedings instituted pursuant to the provisions of
572 this section shall proceed to hearing unless the judge conducting
573 the hearing is satisfied that this section has been complied with.
574 Any answer received from an inquiry required by subsections (4)
575 through (5) of this section shall be introduced into evidence at
576 the hearing.

577 (9) Except as otherwise provided in subsection (16), an
578 owner of property that has been seized pursuant to subsection (1)



579 shall file an answer within thirty (30) days after the completion
580 of service of process. If an answer is not filed, the court shall
581 hear evidence that the property is subject to forfeiture and
582 forfeit the property to the local law enforcement agency. If an
583 answer is filed, a time for hearing on forfeiture shall be set
584 within thirty (30) days of filing the answer or at the succeeding
585 term of court, if court would not be in progress within thirty
586 (30) days after filing the answer. Provided, however, that upon
587 request by the local law enforcement agency or the owner of the
588 property, the court may postpone said forfeiture hearing to a date
589 past the time any criminal action is pending against said owner.

590 (10) If the owner of the property has filed an answer
591 denying that the property is subject to forfeiture, then the
592 burden is on the petitioner to prove that the property is subject
593 to forfeiture. However, if an answer has not been filed by the
594 owner of the property, the petition for forfeiture may be
595 introduced into evidence and is prima facie evidence that the
596 property is subject to forfeiture. The standard of proof placed
597 upon the petitioner in regard to property forfeited under the
598 provisions of Section 97-3-109 and this section shall be by a
599 preponderance of the evidence.

600 (11) At the hearing any claimant of any right, title or
601 interest in the property may prove his lien, encumbrance, security
602 interest or other interest in the nature of a security interest to
603 be bona fide and created without knowledge or consent that the



604 property was to be used so as to cause the property to be subject
605 to forfeiture.

606 (12) If it is found that the property is subject to
607 forfeiture, then the judge shall forfeit the property to the local
608 law enforcement agency. However, if proof at the hearing
609 discloses that the interest of any bona fide lienholder, secured
610 party or other person holding an interest in the property in the
611 nature of a security interest is greater than or equal to the
612 present value of the property, the court shall order the property
613 released to him. If such interest is less than the present value
614 of the property and if the proof shows that the property is
615 subject to forfeiture, the court shall order the property
616 forfeited to the local law enforcement agency.

617 (13) All other property which is forfeited under this
618 section shall be liquidated and, after deduction of court costs
619 and the expenses of liquidation, the proceeds shall be divided and
620 deposited as follows:

621 (a) In the event only one (1) law enforcement agency
622 participates in the underlying criminal case out of which the
623 forfeiture arises, fifty percent (50%) of the proceeds shall be
624 forwarded to the State Treasurer and deposited in the General Fund
625 of the state and fifty percent (50%) of the proceeds shall be
626 deposited and credited to the budget of the participating law
627 enforcement agency.



628 (b) In the event more than one (1) law enforcement
629 agency participates in the underlying criminal case out of which
630 the forfeiture arises, fifty percent (50%) of the proceeds shall
631 be deposited and credited to the budget of the law enforcement
632 agency whose officers initiated the criminal case and fifty
633 percent (50%) shall be divided equitably between or among the
634 other participating law enforcement agencies, and shall be
635 deposited and credited to the budgets of the participating law
636 enforcement agencies. In the event that the other participating
637 law enforcement agencies cannot agree on the division of their
638 fifty percent (50%), a petition shall be filed by any one (1) of
639 them in the court in which the civil forfeiture case is brought
640 and the court shall make an equitable division.

641 (14) All other property that has been forfeited shall,
642 except as otherwise provided, be sold at a public auction for cash
643 by the chief law enforcement officer of the initiating law
644 enforcement agency, or his designee, to the highest and best
645 bidder after advertising the sale for at least once each week for
646 three (3) consecutive weeks, the last notice to appear not more
647 than ten (10) days nor less than five (5) days prior to such sale,
648 in a newspaper having a general circulation in the jurisdiction in
649 which said law enforcement agency is located. Such notices shall
650 contain a description of the property to be sold and a statement
651 of the time and place of sale. It shall not be necessary to the
652 validity of such sale either to have the property present at the



653 place of sale or to have the name of the owner thereof stated in
654 such notice. The proceeds of the sale shall be disposed of as
655 follows:

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

659 (b) The balance, if any, remaining after deduction of
660 all storage, court costs and expenses of liquidation shall be
661 divided, forwarded and deposited in the same manner set out in
662 subsection (13) of this section.

663 (15) The * * * Department of Revenue shall issue a
664 certificate of title to any person who purchases property under
665 the provisions of this section when a certificate of title is
666 required under the laws of this state.

667 (16) When any property the value of which does not exceed
668 Five Thousand Dollars (\$5,000.00) is seized pursuant to subsection
669 (1), the property may be forfeited by the administrative
670 forfeiture procedures provided for in subsections (16) through
671 (22).

672 (17) The attorney for the seizing law enforcement agency
673 shall provide notice of intention to forfeit the seized property
674 administratively, by certified mail, return receipt requested, to
675 all persons who are required to be notified.

676 (18) In the event that notice of intention to forfeit the
677 seized property administratively cannot be given as provided in



678 subsection (17) of this section because of refusal, failure to
679 claim, insufficient address or any other reason, the attorney for
680 the seizing law enforcement agency shall provide notice by
681 publication in a newspaper of general circulation in the county in
682 which the seizure occurred for once a week for three (3)
683 consecutive weeks.

684 (19) Notice pursuant to subsections (17) and (18) of this
685 section shall include the following information:

686 (a) A description of the property;

687 (b) The approximate value of the property;

688 (c) The date and place of the seizure;

689 (d) The connection between the property and the
690 violation of Section 97-3-109;

691 (e) The instructions for filing a request for judicial
692 review; and

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

696 (20) Persons claiming an interest in the seized property may
697 initiate judicial review of the seizure and proposed forfeiture by
698 filing a request for judicial review with the attorney for the
699 seizing law enforcement agency, within thirty (30) days after
700 receipt of the certified letter or within thirty (30) days after
701 the first publication of notice, whichever is applicable.



702 (21) If no request for judicial review is timely filed, the
703 attorney for the seizing law enforcement agency shall prepare a
704 written declaration of forfeiture of the subject property and the
705 forfeited property shall be used, distributed or disposed of in
706 accordance with the provisions of this section.

707 (22) Upon receipt of a timely request for judicial review,
708 the attorney for the seizing law enforcement agency shall promptly
709 file a petition for forfeiture and proceed as provided in
710 subsections (3) through (15).

711 **SECTION 15.** It is the intent of the Legislature that:

712 (a) Nothing in the provisions of this act shall be
713 construed to infringe and impede upon any individual's First
714 Amendment rights.

715 (b) Every provision of this act shall operate with
716 equal force and shall be severable one from the other and that, in
717 the event that any provision of this act shall be held invalid or
718 unenforceable by a court of competent jurisdiction, the provision
719 shall be severable and the remaining provisions of this act shall
720 be fully enforceable.

721 (c) The provisions of this act are supplementary to the
722 provisions of any other statute of this state.

723 **SECTION 16.** This act shall take effect and be in force from
724 and after July 1, 2021.

