

By: Representative Bain

To: Judiciary B

HOUSE BILL NO. 409

1 AN ACT TO AMEND SECTION 41-29-181, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT PROCEEDS FROM CRIMINAL FORFEITURES THAT ARE
 3 DEPOSITED AND CREDITED TO THE PARTICIPATING LAW ENFORCEMENT AGENCY
 4 SHALL BE USED TO INCREASE THE EXISTING BUDGET OF THE PARTICIPATING
 5 LAW ENFORCEMENT AGENCY AND USED TO INCREASE LAW ENFORCEMENT
 6 RESOURCES FOR THE PARTICIPATING LAW ENFORCEMENT AGENCY; TO PROVIDE
 7 THAT SUCH PROCEEDS SHALL NOT BE USED TO REDUCE THE EXISTING BUDGET
 8 OF THE PARTICIPATING LAW ENFORCEMENT AGENCY; AND FOR RELATED
 9 PURPOSES.

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

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

13 41-29-181. (1) Regarding all controlled substances, raw
 14 materials and paraphernalia which have been forfeited, the circuit
 15 court shall by its order direct the Bureau of Narcotics to:

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

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

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



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

23 (2) All other property, real or personal, which is forfeited
24 under this article, except as otherwise provided in Section
25 41-29-185, and except as provided in subsections (3), (7) and (8)
26 of this section, shall be liquidated and, after deduction of court
27 costs and the expenses of liquidation, the proceeds shall be
28 divided and deposited as follows:

29 (a) In the event only one (1) law enforcement agency
30 participates in the underlying criminal case out of which the
31 forfeiture arises, twenty percent (20%) of the proceeds shall be
32 forwarded to the State Treasurer and deposited in the General Fund
33 of the state and eighty percent (80%) of the proceeds shall be
34 deposited and credited to the budget of the participating law
35 enforcement agency.

36 (b) (i) In the event more than one (1) law enforcement
37 agency participates in the underlying criminal case out of which
38 the forfeiture arises, eighty percent (80%) of the proceeds shall
39 be deposited and credited to the budget of the law enforcement
40 agency whose officers initiated the criminal case and twenty
41 percent (20%) shall be divided equitably between or among the
42 other participating law enforcement agencies, and shall be
43 deposited and credited to the budgets of the participating law
44 enforcement agencies. In the event that the other participating
45 law enforcement agencies cannot agree on the division of their



46 twenty percent (20%), a petition shall be filed by any one of them
47 in the court in which the civil forfeiture case is brought and the
48 court shall make an equitable division.

49 If the criminal case is initiated by an officer of the Bureau
50 of Narcotics and more than one (1) law enforcement agency
51 participates in the underlying criminal case out of which the
52 forfeiture arises, the proceeds shall be divided equitably between
53 or among the Bureau of Narcotics and other participating law
54 enforcement agencies and shall be deposited and credited to the
55 budgets of the participating law enforcement agencies. In the
56 event that the Bureau of Narcotics and the other participating law
57 enforcement agencies cannot agree on an equitable division of the
58 proceeds, a petition shall be filed by any one of them in the
59 court in which the civil forfeiture case is brought and the court
60 shall make an equitable division.

61 (ii) The proceeds deposited and credited to the budgets
62 of the participating law enforcement agency shall be used to
63 increase the existing budget of the participating law enforcement
64 agency and used to provide more law enforcement resources to the
65 agency. The proceeds deposited and credited to the budget of the
66 participating law enforcement agency shall not reduce the existing
67 budget of the participating law enforcement agency. For purposes
68 of this subparagraph (ii), the term "existing budget" means the
69 amount of monies designated as an agency's budget before the
70 proceeds are deposited and credit.



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

75 (4) All property forfeited, deposited and credited to the
76 Mississippi Bureau of Narcotics under this article shall be
77 forwarded to the State Treasurer and deposited in a special fund
78 for use by the Mississippi Bureau of Narcotics upon appropriation
79 by the Legislature.

80 (5) All real estate which is forfeited under the provisions
81 of this article shall be sold to the highest and best bidder at a
82 public auction for cash, such auction to be conducted by the chief
83 law enforcement officer of the initiating law enforcement agency,
84 or his designee, at such place, on such notice and in accordance
85 with the same procedure, as far as practicable, as is required in
86 the case of sales of land under execution at law. The proceeds of
87 such sale shall first be applied to the cost and expense in
88 administering and conducting such sale, then to the satisfaction
89 of all mortgages, deeds of trust, liens and encumbrances of record
90 on such property. The remaining proceeds shall be divided,
91 forwarded and deposited in the same manner set out in subsection
92 (2) of this section.

93 (6) All other property that has been forfeited shall, except
94 as otherwise provided, be sold at a public auction for cash by the
95 chief law enforcement officer of the initiating law enforcement



96 agency, or his designee, to the highest and best bidder after
97 advertising the sale for at least once each week for three (3)
98 consecutive weeks, the last notice to appear not more than ten
99 (10) days nor less than five (5) days prior to such sale, in a
100 newspaper having a general circulation in the jurisdiction in
101 which said law enforcement agency is located. Such notices shall
102 contain a description of the property to be sold and a statement
103 of the time and place of sale. It shall not be necessary to the
104 validity of such sale either to have the property present at the
105 place of sale or to have the name of the owner thereof stated in
106 such notice. The proceeds of the sale shall be disposed of as
107 follows:

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

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

115 (7) (a) Any county or municipal law enforcement agency may
116 maintain, repair, use and operate for official purposes all
117 property, other than real property, money or such property that is
118 described in subsection (1) of this section, that has been
119 forfeited to the agency if it is free from any interest of a bona
120 fide lienholder, secured party or other party who holds an



121 interest in the property in the nature of a security interest.
122 Such county or municipal law enforcement agency may purchase the
123 interest of a bona fide lienholder, secured party or other party
124 who holds an interest so that the property can be released for its
125 use. If the property is a motor vehicle susceptible of titling
126 under the Mississippi Motor Vehicle Title Law, the law enforcement
127 agency shall be deemed to be the purchaser, and the certificate of
128 title shall be issued to it as required by subsection (9) of this
129 section.

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

134 (ii) If a vehicle is forfeited to or transferred
135 to a police department, then the police chief may transfer the
136 vehicle to the municipality for official or governmental use as
137 the governing authority of the municipality may direct.

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

143 (8) The Mississippi Bureau of Narcotics may maintain,
144 repair, use and operate for official purposes all property, other
145 than real property, money or such property as is described in



146 subsection (1) of this section, that has been forfeited to the
147 bureau if it is free from any interest of a bona fide lienholder,
148 secured party, or other party who holds an interest in the
149 property in the nature of a security interest. In such case, the
150 bureau may purchase the interest of a bona fide lienholder,
151 secured party or other party who holds an interest so that such
152 property can be released for use by the bureau.

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

159 (9) The Department of Revenue shall issue a certificate of
160 title to any person who purchases property under the provisions of
161 this section when a certificate of title is required under the
162 laws of this state.

163 **SECTION 2.** This act shall take effect and be in force from
164 and after July 1, 2022.

