

By: Representative Summers

To: Judiciary B

HOUSE BILL NO. 102

1 AN ACT TO REQUIRE ANY PERSON EXECUTING A WARRANT AT A
2 RESIDENCE, HOME, APARTMENT, ROOM, BUILDING OR PREMISES OR ANY
3 OTHER DWELLING PLACE UNDER THE LAWS OF THIS STATE TO GIVE
4 APPROPRIATE NOTICE OF THE IDENTITY, AUTHORITY AND PURPOSE OF THE
5 OFFICER TO THE PERSON TO BE SEARCHED OR ARRESTED BEFORE ENTERING
6 SUCH, OR TO THE PERSON IN APPARENT CONTROL OF THE PREMISES TO BE
7 SEARCHED; TO REQUIRE THE EXECUTING OFFICER TO READ AND GIVE A COPY
8 OF THE WARRANT TO THE PERSON TO BE SEARCHED OR ARRESTED, OR TO THE
9 PERSON IN APPARENT CONTROL OF THE PREMISES TO BE SEARCHED; TO
10 REQUIRE ALL WARRANTS TO BE EXECUTED WITHIN THE PERIOD AND AT THE
11 TIMES AUTHORIZED BY THE WARRANT; TO LIMIT THE ISSUANCE OF NO-KNOCK
12 WARRANTS TO THE COUNTY COURT OR COUNTY JUDGE IN VACATION, CHANCERY
13 COURT OR BY THE CHANCELLOR IN VACATION, BY THE CIRCUIT COURT OR
14 CIRCUIT JUDGE IN VACATION, OR BY A JUSTICE OF THE MISSISSIPPI
15 SUPREME COURT; TO AMEND SECTION 41-29-157, MISSISSIPPI CODE OF
16 1972, TO REMOVE THE REPEALED PROVISIONS REGARDING NO-KNOCK
17 WARRANTS; TO AMEND SECTIONS 99-3-1 AND 99-3-7, MISSISSIPPI CODE OF
18 1972, WHICH GOVERN WARRANTLESS ARRESTS FOR DOMESTIC VIOLENCE, TO
19 CONFORM TO THE PRECEDING SECTIONS; TO AMEND SECTIONS 7-1-21,
20 7-5-67 AND 7-7-211, MISSISSIPPI CODE OF 1972, WHICH REGULATE THE
21 POWERS AND DUTIES OF INVESTIGATORS, TO CONFORM TO THE PRECEDING
22 SECTIONS; TO AMEND SECTION 9-9-23, MISSISSIPPI CODE OF 1972, WHICH
23 PROVIDES THE POWERS OF THE COUNTY JUDGE, TO CONFORM TO THE
24 PRECEDING; TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF 1972,
25 WHICH REGULATES OPERATIONS OF THE MUNICIPAL COURT, TO CONFORM TO
26 THE PRECEDING SECTIONS; TO AMEND SECTION 27-69-59, MISSISSIPPI
27 CODE OF 1972, WHICH AUTHORIZES THE DEPARTMENT OF REVENUE
28 COMMISSIONER TO REQUEST ISSUANCE OF WARRANTS, TO CONFORM TO THE
29 PRECEDING SECTIONS; TO AMEND SECTIONS 41-29-153, 41-29-159 AND
30 41-29-161, MISSISSIPPI CODE OF 1972, WHICH REGULATE ARRESTS
31 SUBJECT TO VIOLATIONS OF THE UNIFORM CONTROLLED SUBSTANCES
32 PROVISIONS, TO CONFORM TO THE PRECEDING SECTIONS; TO AMEND
33 SECTIONS 43-13-221 AND 43-13-229, MISSISSIPPI CODE OF 1972, WHICH
34 REGULATE THE MEDICAID FRAUD CONTROL UNIT, TO CONFORM TO THE



35 PRECEDING SECTIONS; TO AMEND SECTION 45-11-1, MISSISSIPPI CODE OF
36 1972, WHICH REGULATES THE STATE CHIEF DEPUTY FIRE MARSHAL AND
37 DEPUTY STATE FIRE MARSHALS, TO CONFORM TO THE PRECEDING SECTIONS;
38 TO AMEND SECTION 47-5-28, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
39 FOR THE POWERS OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS, TO
40 CONFORM TO THE PRECEDING SECTIONS; TO AMEND SECTIONS 49-1-43 AND
41 49-15-21, MISSISSIPPI CODE OF 1972, WHICH REGULATE THE AUTHORITY
42 OF CONSERVATION OFFICERS' AUTHORITY TO ARREST, TO CONFORM TO THE
43 PRECEDING SECTIONS; TO AMEND SECTION 67-1-17, MISSISSIPPI CODE OF
44 1972, WHICH REGULATES SEARCH AND ARREST FOR VIOLATION OF ALCOHOL
45 PROVISIONS, TO CONFORM TO THE PRECEDING SECTION; TO AMEND SECTION
46 69-29-1, MISSISSIPPI CODE OF 1972, WHICH ESTABLISHES THE LIVESTOCK
47 THEFT BUREAU, TO CONFORM TO THE PRECEDING SECTIONS; TO AMEND
48 SECTION 93-29-17, MISSISSIPPI CODE OF 1972, WHICH REGULATES
49 ARRESTS DUE TO LIVESTOCK THEFT, TO CONFORM TO THE PRECEDING
50 SECTIONS; TO AMEND SECTIONS 97-3-54.7 AND 97-17-4, MISSISSIPPI
51 CODE OF 1972, WHICH REGULATE ARRESTS RELATED TO SEIZURE OF
52 PROPERTY, TO CONFORM TO THE PRECEDING SECTIONS; TO AMEND SECTION
53 97-21-101, MISSISSIPPI CODE OF 1972, WHICH REGULATES TRADEMARK
54 VIOLATIONS, TO CONFORM TO THE PRECEDING SECTIONS; TO AMEND
55 SECTIONS 97-37-23, 97-43-9 AND 99-3-2, MISSISSIPPI CODE OF 1972,
56 WHICH REGULATE SEARCH AND SEIZURE PROVISIONS, TO CONFORM TO THE
57 PRECEDING SECTION; TO AMEND SECTION 99-15-11, MISSISSIPPI CODE OF
58 1972, WHICH REGULATES CERTAIN SEARCH WARRANTS, TO CONFORM TO THE
59 PRECEDING SECTIONS; TO AMEND SECTIONS 99-27-15 AND 99-27-21,
60 MISSISSIPPI CODE OF 1972, WHICH REGULATE THE FORM OF CERTAIN
61 WARRANTS, TO CONFORM TO THE PRECEDING SECTIONS; TO AMEND SECTION
62 11-43-25, MISSISSIPPI CODE OF 1972, WHICH REGULATES UNLAWFUL
63 DETAINMENT, TO CONFORM TO THE PRECEDING SECTIONS; TO AMEND SECTION
64 19-25-11, MISSISSIPPI CODE OF 1972, WHICH REGULATES A SHERIFF'S
65 AUTHORITY TO ARREST, TO CONFORM TO THE PRECEDING SECTIONS; TO
66 AMEND SECTION 23-15-941, MISSISSIPPI CODE OF 1972, WHICH REGULATES
67 VIOLATIONS AND ARRESTS SUBJECT TO THE ELECTION PROVISIONS, TO
68 CONFORM TO THE PRECEDING SECTION; TO AMEND SECTIONS 27-7-79,
69 27-13-65, 27-19-133, 27-19-135 AND 27-19-136, MISSISSIPPI CODE OF
70 1972, WHICH REGULATE ARRESTS RELATED TO CERTAIN LIENS, TO CONFORM
71 TO THE PRECEDING SECTIONS; TO AMEND SECTIONS 27-65-91, 33-13-21,
72 33-13-321, 33-13-615 AND 33-13-623, MISSISSIPPI CODE OF 1972,
73 WHICH REGULATE ARRESTS BY SPECIAL AGENTS AND MILITARY COURTS, TO
74 CONFORM TO THE PRECEDING SECTIONS; TO AMEND SECTION 33-15-41,
75 MISSISSIPPI CODE OF 1972, WHICH REGULATES CERTAIN WARRANTLESS
76 ARRESTS, TO CONFORM TO THE PRECEDING SECTIONS; TO AMEND SECTION
77 41-21-93, MISSISSIPPI CODE OF 1972, WHICH REGULATES THE ARRESTS OF
78 CERTAIN PATIENTS, TO CONFORM TO THE PRECEDING SECTIONS; TO AMEND
79 SECTION 43-21-301, MISSISSIPPI CODE OF 1972, WHICH REGULATES CHILD
80 CUSTODY ORDERS, TO CONFORM TO THE PRECEDING SECTIONS; TO AMEND
81 SECTIONS 45-3-21 AND 45-27-9, MISSISSIPPI CODE OF 1972, WHICH
82 REGULATE CERTAIN CRIMES AGAINST CHILDREN, TO CONFORM TO THE
83 PRECEDING SECTIONS; TO AMEND SECTIONS 45-33-33 AND 45-33-63,
84 MISSISSIPPI CODE OF 1972, WHICH REGULATE SEX OFFENDERS, TO CONFORM
85 TO THE PRECEDING SECTIONS; TO AMEND SECTION 47-7-27, MISSISSIPPI



86 CODE OF 1972, WHICH REGULATES PROCEDURES FOR PAROLE REVOCATION; TO
87 AMEND SECTIONS 49-5-47 AND 49-5-115, MISSISSIPPI CODE OF 1972,
88 WHICH REGULATE CORPORATE CRIMES, TO CONFORM TO THE PRECEDING
89 SECTIONS; TO AMEND SECTION 49-15-45, MISSISSIPPI CODE OF 1972,
90 WHICH REGULATES OYSTER LAW ENFORCEMENT, TO CONFORM TO THE
91 PRECEDING SECTIONS; TO AMEND SECTION 51-9-175, MISSISSIPPI CODE OF
92 1972, WHICH REGULATES THE AUTHORITY OF THE PEARL RIVER VALLEY
93 WATER SUPPLY DISTRICT, TO CONFORM TO THE PRECEDING SECTIONS; TO
94 AMEND SECTION 59-21-127, MISSISSIPPI CODE OF 1972, WHICH REGULATES
95 THE BOAT AND WATER SAFETY ENFORCEMENT OFFICERS, TO CONFORM TO THE
96 PRECEDING SECTIONS; TO AMEND SECTIONS 63-9-23, 63-17-5 AND
97 65-1-131, MISSISSIPPI CODE OF 1972, WHICH REGULATE CERTAIN
98 VIOLATIONS OF THE TRANSPORTATION PROVISIONS, TO CONFORM TO THE
99 PRECEDING SECTIONS; TO AMEND SECTION 67-1-31, MISSISSIPPI CODE OF
100 1972, WHICH REGULATES VIOLATIONS OF ALCOHOLIC BEVERAGES
101 PROVISIONS, TO CONFORM TO THE PRECEDING SECTIONS; TO AMEND
102 SECTIONS 77-7-335 AND 77-9-505, MISSISSIPPI CODE OF 1972, WHICH
103 REGULATE ENFORCEMENT BY PUBLIC UTILITIES AND RAILROAD OFFICERS, TO
104 CONFORM TO THE PRECEDING PROVISIONS; TO AMEND SECTION 93-9-31,
105 MISSISSIPPI CODE OF 1972, WHICH REGULATES PATERNITY, TO CONFORM TO
106 THE PRECEDING SECTIONS; TO AMEND SECTIONS 97-19-75 AND 97-19-79,
107 MISSISSIPPI CODE OF 1972, WHICH REGULATE RESTITUTION CENTERS, TO
108 CONFORM TO THE PRECEDING SECTIONS; TO AMEND SECTIONS 99-3-18,
109 99-3-19, 99-3-21 AND 99-3-28, MISSISSIPPI CODE OF 1972, WHICH
110 REGULATE ARRESTS INCIDENT TO VARIOUS CRIMES, TO CONFORM TO THE
111 PRECEDING SECTIONS; TO AMEND SECTIONS 99-20-17, 99-21-1, 99-33-3
112 AND 99-37-7, MISSISSIPPI CODE OF 1972, WHICH PROVIDE ARREST FOR
113 CERTAIN DEFAULTS AND CONTEMPT, TO CONFORM TO THE PRECEDING
114 SECTIONS; AND FOR RELATED PURPOSES.

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

116 **SECTION 1.** (1) When executing any warrant in or at a
117 residence, home, apartment, room, building or premises or any
118 other dwelling place under the laws of this state, the executing
119 officer shall, before entering the premises, give appropriate
120 notice of the identity, authority and purpose of the officer to
121 the person to be searched or arrested, or to the person in
122 apparent control of the premises to be searched.

123 (2) The executing officer shall read and give a copy of the
124 warrant to the person to be searched or arrested, or to the person
125 in apparent control of the premises to be searched. If the



126 premises are unoccupied or there is no one in apparent control,
127 the officer shall leave a copy of the warrant suitably affixed to
128 the premises.

129 (3) All warrants shall only be executed within the period
130 and at the times authorized by the warrant and only by a police
131 officer. A police officer charged with its execution may be
132 accompanied by such other persons as may be reasonably necessary
133 for the successful execution of the warrant with all practicable
134 safety.

135 **SECTION 2.** Section 41-29-157, Mississippi Code of 1972, is
136 amended as follows:

137 41-29-157. (a) Except as otherwise provided in
138 Section * * * 1 of this act, issuance and execution of
139 administrative inspection warrants and search warrants shall be as
140 follows, except as provided in subsection (c) of this section:

141 (1) A judge of any state court of record, or any
142 justice court judge within his jurisdiction, and upon proper oath
143 or affirmation showing probable cause, may issue warrants for the
144 purpose of conducting administrative inspections authorized by
145 this article or rules thereunder, and seizures of property
146 appropriate to the inspections. For purposes of the issuance of
147 administrative inspection warrants, probable cause exists upon
148 showing a valid public interest in the effective enforcement of
149 this article or rules thereunder, sufficient to justify
150 administrative inspection of the area, premises, building or



151 conveyance in the circumstances specified in the application for
152 the warrant. All such warrants shall be served during normal
153 business hours;

154 (2) A search warrant shall issue only upon an affidavit
155 of a person having knowledge or information of the facts alleged,
156 sworn to before the judge or justice court judge and establishing
157 the grounds for issuing the warrant. If the judge or justice
158 court judge is satisfied that grounds for the application exist or
159 that there is probable cause to believe they exist, he shall issue
160 a warrant identifying the area, premises, building or conveyance
161 to be searched, the purpose of the search, and, if appropriate,
162 the type of property to be searched, if any. The warrant shall:

163 (A) State the grounds for its issuance and the
164 name of each person whose affidavit has been taken in support
165 thereof;

166 (B) Be directed to a person authorized by Section
167 41-29-159 to execute it;

168 (C) Command the person to whom it is directed to
169 inspect the area, premises, building or conveyance identified for
170 the purpose specified, and if appropriate, direct the seizure of
171 the property specified;

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

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



176 (3) A warrant issued pursuant to this section must be
177 executed and returned within ten (10) days of its date unless,
178 upon a showing of a need for additional time, the court orders
179 otherwise. If property is seized pursuant to a warrant, a copy
180 shall be given to the person from whom or from whose premises the
181 property is taken, together with a receipt for the property taken.
182 The return of the warrant shall be made promptly, accompanied by a
183 written inventory of any property taken. The inventory shall be
184 made in the presence of the person executing the warrant and of
185 the person from whose possession or premises the property was
186 taken, if present, or in the presence of at least one (1) credible
187 person other than the person executing the warrant. A copy of the
188 inventory shall be delivered to the person from whom or from whose
189 premises the property was taken and to the applicant for the
190 warrant;

191 (4) The judge * * * who has issued a warrant shall
192 attach thereto a copy of the return and all papers returnable in
193 connection therewith and file them with the clerk of the
194 appropriate state court for the judicial district in which the
195 inspection was made.

196 (b) The Mississippi Bureau of Narcotics, the State Board of
197 Pharmacy, the State Board of Medical Licensure, the State Board of
198 Dental Examiners, the Mississippi Board of Nursing or the State
199 Board of Optometry may make administrative inspections of
200 controlled premises in accordance with the following provisions:



201 (1) For purposes of this section only, "controlled
202 premises" means:

203 (A) Places where persons registered or exempted
204 from registration requirements under this article are required to
205 keep records; and

206 (B) Places including factories, warehouses,
207 establishments and conveyances in which persons registered or
208 exempted from registration requirements under this article are
209 permitted to hold, manufacture, compound, process, sell, deliver,
210 or otherwise dispose of any controlled substance.

211 (2) When authorized by an administrative inspection
212 warrant issued in accordance with the conditions imposed in this
213 section and Section 1 of this act, an officer or employee
214 designated by the Mississippi Bureau of Narcotics, the State Board
215 of Pharmacy, the State Board of Medical Licensure, the State Board
216 of Dental Examiners, the Mississippi Board of Nursing or the State
217 Board of Optometry, upon presenting the warrant and appropriate
218 credentials to the owner, operator or agent in charge, may enter
219 controlled premises for the purpose of conducting an
220 administrative inspection.

221 (3) When authorized by an administrative inspection
222 warrant, an officer or employee designated by the Mississippi
223 Bureau of Narcotics, the State Board of Pharmacy, the State Board
224 of Medical Licensure, the State Board of Dental Examiners, the
225 Mississippi Board of Nursing or the State Board of Optometry may:



226 (A) Inspect and copy records required by this
227 article to be kept;

228 (B) Inspect, within reasonable limits and in a
229 reasonable manner, controlled premises and all pertinent
230 equipment, finished and unfinished material, containers and
231 labeling found therein, and, except as provided in paragraph (5)
232 of this subsection, all other things therein, including records,
233 files, papers, processes, controls and facilities bearing on
234 violation of this article; and

235 (C) Inventory any stock of any controlled
236 substance therein and obtain samples thereof.

237 (4) This section does not prevent the inspection
238 without a warrant of books and records pursuant to an
239 administrative subpoena, nor does it prevent entries and
240 administrative inspections, including seizures of property,
241 without a warrant:

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

244 (B) In situations presenting imminent danger to
245 health or safety;

246 (C) In situations involving inspection of
247 conveyances if there is reasonable cause to believe that the
248 mobility of the conveyance makes it impracticable to obtain a
249 warrant;



250 (D) In any other exceptional or emergency
251 circumstance where time or opportunity to apply for a warrant is
252 lacking; or

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

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

259 * * *

260 **SECTION 3.** Section 99-3-1, Mississippi Code of 1972, is
261 amended as follows:

262 99-3-1. (1) Arrests for crimes and offenses may be made by
263 the sheriff or his or her deputy or by any constable or
264 conservator of the peace within his or her county, or by any
265 marshal or policeman of a city, town or village within the same,
266 or by any United States Marshal or Deputy United States Marshal,
267 or, when in cooperation with local law enforcement officers, by
268 any other federal law enforcement officer who is employed by the
269 United States government, authorized to effect an arrest for a
270 violation of the United States Code, and authorized to carry a
271 firearm in the performance of his or her duties. Private persons
272 may also make arrests.

273 (2) (a) Any person authorized by a court of law to
274 supervise or monitor a convicted offender who is under an



275 intensive supervision program may arrest the offender when the
276 offender is in violation of the terms or conditions of the
277 intensive supervision program, without having a warrant if:

278 (i) The arrest is authorized or ordered by a judge
279 of the court;

280 (ii) The person making the arrest has been trained
281 at the Law Enforcement Officers Training Academy established under
282 Section 45-5-1 et seq. or at a course approved by the Board on Law
283 Enforcement Officer Standards and Training; and

284 (iii) The judge identifies the person making the
285 arrest in his or her order and a copy of the order is served upon
286 the person being arrested.

287 (b) For the purposes of * * * this subsection (2), the
288 term "intensive supervision program" means an intensive
289 supervision program of the Department of Corrections as described
290 in Section 47-5-1001 et seq., of any similar program authorized by
291 a court for offenders who are not under jurisdiction of the
292 Department of Corrections.

293 (3) Any arrests made under the provisions of this section
294 shall comply with Section 1 of this act.

295 **SECTION 4.** Section 99-3-7, Mississippi Code of 1972, is
296 amended as follows:

297 99-3-7. (1) An officer or private person may arrest any
298 person without warrant, for an indictable offense committed, or a
299 breach of the peace threatened or attempted in his presence; or



300 when a person has committed a felony, though not in his presence;
301 or when a felony has been committed, and he has reasonable ground
302 to suspect and believe the person proposed to be arrested to have
303 committed it; or on a charge, made upon reasonable cause, of the
304 commission of a felony by the party proposed to be arrested. And
305 in all cases of arrests without warrant, the person making such
306 arrest must inform the accused of the object and cause of the
307 arrest in compliance with Section 1 of this act, except when he is
308 in the actual commission of the offense, or is arrested on
309 pursuit.

310 (2) Any law enforcement officer may arrest any person on a
311 misdemeanor charge without having a warrant in his possession when
312 a warrant is in fact outstanding for that person's arrest and the
313 officer has knowledge through official channels that the warrant
314 is outstanding for that person's arrest. In all such cases, the
315 officer making the arrest must inform such person at the time of
316 the arrest the object and cause therefor in compliance with
317 Section 1 of this act. If the person arrested so requests, the
318 warrant shall be shown to him as soon as practicable.

319 (3) (a) Any law enforcement officer shall arrest a person
320 with or without a warrant when he has probable cause to believe
321 that the person has, within twenty-four (24) hours of such arrest,
322 knowingly committed a misdemeanor or felony that is an act of
323 domestic violence or knowingly violated provisions of a criminal
324 domestic violence or sexual assault protection order issued



325 pursuant to Section 97-3-7(11), 97-3-65(6) or 97-3-101(5) or an ex
326 parte protective order, protective order after hearing or
327 court-approved consent agreement entered by a chancery, circuit,
328 county, justice or municipal court pursuant to the Protection from
329 Domestic Abuse Law, Sections 93-21-1 through 93-21-29, Mississippi
330 Code of 1972, or a restraining order entered by a foreign court of
331 competent jurisdiction to protect an applicant from domestic
332 violence.

333 (b) If a law enforcement officer has probable cause to
334 believe that two (2) or more persons committed an act of domestic
335 violence as defined herein, or if two (2) or more persons make
336 complaints of domestic violence to the officer, the officer shall
337 attempt to determine who was the principal aggressor. The term
338 principal aggressor is defined as the party who poses the most
339 serious ongoing threat, or who is the most significant, rather
340 than the first, aggressor. The officer shall presume that arrest
341 is not the appropriate response for the person or persons who were
342 not the principal aggressor. If the officer affirmatively finds
343 more than one (1) principal aggressor was involved, the officer
344 shall document those findings.

345 (c) To determine which party was the principal
346 aggressor, the officer shall consider the following factors,
347 although such consideration is not limited to these factors:

348 (i) Evidence from the persons involved in the
349 domestic abuse;



350 (ii) The history of domestic abuse between the
351 parties, the likelihood of future injury to each person, and the
352 intent of the law to protect victims of domestic violence from
353 continuing abuse;

354 (iii) Whether one (1) of the persons acted in
355 self-defense; and

356 (iv) Evidence from witnesses of the domestic
357 violence.

358 (d) A law enforcement officer shall not base the
359 decision of whether to arrest on the consent or request of the
360 victim.

361 (e) A law enforcement officer's determination regarding
362 the existence of probable cause or the lack of probable cause
363 shall not adversely affect the right of any party to independently
364 seek appropriate remedies.

365 (4) (a) Any person authorized by a court of law to
366 supervise or monitor a convicted offender who is under an
367 intensive supervision program may arrest the offender when the
368 offender is in violation of the terms or conditions of the
369 intensive supervision program, without having a warrant, provided
370 that the person making the arrest has been trained at the Law
371 Enforcement Officers Training Academy established under Section
372 45-5-1 et seq., or at a course approved by the Board on Law
373 Enforcement Officer Standards and Training.



374 (b) For the purposes of this subsection, the term
375 "intensive supervision program" means an intensive supervision
376 program of the Department of Corrections as described in Section
377 47-5-1001 et seq., or any similar program authorized by a court
378 for offenders who are not under jurisdiction of the Department of
379 Corrections.

380 (5) As used in subsection (3) of this section, the phrase
381 "misdemeanor or felony that is an act of domestic violence" shall
382 mean one or more of the following acts between current or former
383 spouses or a child of current or former spouses, persons living as
384 spouses or who formerly lived as spouses or a child of persons
385 living as spouses or who formerly lived as spouses, a parent,
386 grandparent, child, grandchild or someone similarly situated to
387 the defendant, persons who have a current or former dating
388 relationship, or persons who have a biological or legally adopted
389 child together:

390 (a) Simple or aggravated domestic violence within the
391 meaning of Section 97-3-7;

392 (b) Disturbing the family or public peace within the
393 meaning of Section 97-35-9, 97-35-11, 97-35-13 or 97-35-15; or

394 (c) Stalking within the meaning of Section 97-3-107.

395 (6) Any arrest made pursuant to subsection (3) of this
396 section shall be designated as domestic assault or domestic
397 violence on both the arrest docket and the incident report. Any
398 officer investigating a complaint of a misdemeanor or felony that



399 is a crime of domestic violence who finds probable cause that such
400 an offense has occurred within the past twenty-four (24) hours
401 shall file an affidavit on behalf of the victim(s) of the crime,
402 regardless of whether an arrest is made within that time period.
403 If the crime is reported or investigated outside of that
404 twenty-four-hour period, the officer may file the affidavit on
405 behalf of the victim. In the event the officer does not file an
406 affidavit on behalf of the victim, the officer shall instruct the
407 victim of the procedure for filing on his or her own behalf.

408 (7) A law enforcement officer shall not be held liable in
409 any civil action for an arrest based on probable cause and in good
410 faith pursuant to subsection (3) of this section, or failure, in
411 good faith, to make an arrest pursuant to subsection (3) of this
412 section.

413 (8) The authority for the State Chief Deputy Fire Marshal
414 and deputy state fire marshals to make arrests shall be governed
415 by the provisions of Section 45-11-1.

416 **SECTION 5.** Section 7-1-21, Mississippi Code of 1972, is
417 amended as follows:

418 7-1-21. Investigators and other personnel, employed by the
419 Governor pursuant to Section 7-1-19, shall have full power to
420 investigate, apprehend, or arrest any person, firm, corporation,
421 or any combination or conspiracy thereof committing said acts of
422 violence, or threats of violence, or intimidations, or acts of
423 terror, or damaging, injuring, or destroying property as a result



424 of acts of violence or terror, in any manner whatever, and to help
425 indict or prosecute, or both, in all such cases. Such
426 investigators or other personnel so employed by the Governor, in
427 the performance of their duties under Sections 7-1-19 through
428 7-1-23, are authorized and empowered to carry firearms and to
429 serve warrants and subpoenas issued under the authority of the
430 State of Mississippi in compliance with Section 1 of this act; to
431 make arrests without warrant in such cases where the person making
432 the arrest has reasonable grounds to believe that the person so
433 arrested is guilty of any of the offenses herein named and there
434 is a likelihood of the person escaping before a warrant can be
435 obtained for his or her arrest, but the person arrested shall be
436 immediately taken before a committing officer; to acquire,
437 collect, classify, and preserve records and evidence obtained
438 hereunder; and to make all lawful searches and seizures to obtain
439 evidence of such acts, when based upon reasonable grounds or
440 probable cause that such is necessary in the accomplishment of the
441 purposes of the aforesaid sections.

442 **SECTION 6.** Section 7-5-67, Mississippi Code of 1972, is
443 amended as follows:

444 7-5-67. Persons employed by the Attorney General as
445 investigators in the Public Integrity Division whose primary
446 responsibility is the prevention and detection of crime, the
447 apprehension of criminals and the enforcement of the criminal laws
448 of this state shall be empowered to make arrests and to serve and



449 execute search warrants and other valid legal process anywhere
450 within the State of Mississippi in compliance with Section 1 of
451 this act.

452 **SECTION 7.** Section 7-7-211, Mississippi Code of 1972, is
453 amended as follows:

454 7-7-211. The department shall have the power and it shall be
455 its duty:

456 (a) To identify and define for all public offices of
457 the state and its subdivisions generally accepted accounting
458 principles or other accounting principles as promulgated by
459 nationally recognized professional organizations and to consult
460 with the State Fiscal Officer in the prescription and
461 implementation of accounting rules and regulations;

462 (b) To provide best practices, for all public offices
463 of regional and local subdivisions of the state, systems of
464 accounting, budgeting and reporting financial facts relating to
465 said offices in conformity with legal requirements and with
466 generally accepted accounting principles or other accounting
467 principles as promulgated by nationally recognized professional
468 organizations; to assist such subdivisions in need of assistance
469 in the installation of such systems; to revise such systems when
470 deemed necessary, and to report to the Legislature at periodic
471 times the extent to which each office is maintaining such systems,
472 along with such recommendations to the Legislature for improvement
473 as seem desirable;



474 (c) To study and analyze existing managerial policies,
475 methods, procedures, duties and services of the various state
476 departments and institutions upon written request of the Governor,
477 the Legislature or any committee or other body empowered by the
478 Legislature to make such request to determine whether and where
479 operations can be eliminated, combined, simplified and improved;

480 (d) To postaudit each year and, when deemed necessary,
481 preaudit and investigate the financial affairs of the departments,
482 institutions, boards, commissions, or other agencies of state
483 government, as part of the publication of a comprehensive annual
484 financial report for the State of Mississippi, or as deemed
485 necessary by the State Auditor. In complying with the
486 requirements of this paragraph, the department shall have the
487 authority to conduct all necessary audit procedures on an interim
488 and year-end basis;

489 (e) To postaudit and, when deemed necessary, preaudit
490 and investigate separately the financial affairs of (i) the
491 offices, boards and commissions of county governments and any
492 departments and institutions thereof and therein; (ii) public
493 school districts, departments of education and junior college
494 districts; and (iii) any other local offices or agencies which
495 share revenues derived from taxes or fees imposed by the State
496 Legislature or receive grants from revenues collected by
497 governmental divisions of the state; the cost of such audits,
498 investigations or other services to be paid as follows: Such part



499 shall be paid by the state from appropriations made by the
500 Legislature for the operation of the State Department of Audit as
501 may exceed the sum of Thirty-five Dollars (\$35.00) per man-hour
502 for the services of each staff person engaged in performing the
503 audit or other service plus the actual cost of any independent
504 specialist firm contracted by the State Auditor to assist in the
505 performance of the audit, which sum shall be paid by the county,
506 district, department, institution or other agency audited out of
507 its general fund or any other available funds from which such
508 payment is not prohibited by law. Costs paid for independent
509 specialists or firms contracted by the State Auditor shall be paid
510 by the audited entity through the State Auditor to the specialist
511 or firm conducting the postaudit.

512 Each school district in the state shall have its financial
513 records audited annually, at the end of each fiscal year, either
514 by the State Auditor or by a certified public accountant approved
515 by the State Auditor. Beginning with the audits of fiscal year
516 2010 activity, no certified public accountant shall be selected to
517 perform the annual audit of a school district who has audited that
518 district for three (3) or more consecutive years previously.
519 Certified public accountants shall be selected in a manner
520 determined by the State Auditor. The school district shall have
521 the responsibility to pay for the audit, including the review by
522 the State Auditor of audits performed by certified public
523 accountants;



524 (f) To postaudit and, when deemed necessary, preaudit
525 and investigate the financial affairs of the levee boards;
526 agencies created by the Legislature or by executive order of the
527 Governor; profit or nonprofit business entities administering
528 programs financed by funds flowing through the State Treasury or
529 through any of the agencies of the state, or its subdivisions; and
530 all other public bodies supported by funds derived in part or
531 wholly from public funds, except municipalities which annually
532 submit an audit prepared by a qualified certified public
533 accountant using methods and procedures prescribed by the
534 department;

535 (g) To make written demand, when necessary, for the
536 recovery of any amounts representing public funds improperly
537 withheld, misappropriated and/or otherwise illegally expended by
538 an officer, employee or administrative body of any state, county
539 or other public office, and/or for the recovery of the value of
540 any public property disposed of in an unlawful manner by a public
541 officer, employee or administrative body, such demands to be made
542 (i) upon the person or persons liable for such amounts and upon
543 the surety on official bond thereof, and/or (ii) upon any
544 individual, partnership, corporation or association to whom the
545 illegal expenditure was made or with whom the unlawful disposition
546 of public property was made, if such individual, partnership,
547 corporation or association knew or had reason to know through the
548 exercising of reasonable diligence that the expenditure was



549 illegal or the disposition unlawful. Such demand shall be
550 premised on competent evidence, which shall include at least one
551 (1) of the following: (i) sworn statements, (ii) written
552 documentation, (iii) physical evidence, or (iv) reports and
553 findings of government or other law enforcement agencies. Other
554 provisions notwithstanding, a demand letter issued pursuant to
555 this paragraph shall remain confidential by the State Auditor
556 until the individual against whom the demand letter is being filed
557 has been served with a copy of such demand letter. If, however,
558 such individual cannot be notified within fifteen (15) days using
559 reasonable means and due diligence, such notification shall be
560 made to the individual's bonding company, if he or she is bonded.
561 Each such demand shall be paid into the proper treasury of the
562 state, county or other public body through the office of the
563 department in the amount demanded within thirty (30) days from the
564 date thereof, together with interest thereon in the sum of one
565 percent (1%) per month from the date such amount or amounts were
566 improperly withheld, misappropriated and/or otherwise illegally
567 expended. In the event, however, such person or persons or such
568 surety shall refuse, neglect or otherwise fail to pay the amount
569 demanded and the interest due thereon within the allotted thirty
570 (30) days, the State Auditor shall have the authority and it shall
571 be his duty to institute suit, and the Attorney General shall
572 prosecute the same in any court of the state to the end that there
573 shall be recovered the total of such amounts from the person or



574 persons and surety on official bond named therein; and the amounts
575 so recovered shall be paid into the proper treasury of the state,
576 county or other public body through the State Auditor. In any
577 case where written demand is issued to a surety on the official
578 bond of such person or persons and the surety refuses, neglects or
579 otherwise fails within one hundred twenty (120) days to either pay
580 the amount demanded and the interest due thereon or to give the
581 State Auditor a written response with specific reasons for
582 nonpayment, then the surety shall be subject to a civil penalty in
583 an amount of twelve percent (12%) of the bond, not to exceed Ten
584 Thousand Dollars (\$10,000.00), to be deposited into the State
585 General Fund;

586 (h) To investigate any alleged or suspected violation
587 of the laws of the state by any officer or employee of the state,
588 county or other public office in the purchase, sale or the use of
589 any supplies, services, equipment or other property belonging
590 thereto; and in such investigation to do any and all things
591 necessary to procure evidence sufficient either to prove or
592 disprove the existence of such alleged or suspected violations.
593 The * * * Division of Investigation of the State Department of
594 Audit may investigate, for the purpose of prosecution, any
595 suspected criminal violation of the provisions of this chapter.
596 For the purpose of administration and enforcement of this chapter,
597 the enforcement employees of the * * * Division of Investigation
598 of the State Department of Audit have the powers of a law



599 enforcement officer of this state, and shall be empowered to make
600 arrests and to serve and execute search warrants and other valid
601 legal process anywhere within the State of Mississippi in
602 compliance with Section 1 of this act. All enforcement employees
603 of the * * * Division of Investigation of the State Department of
604 Audit hired on or after July 1, 1993, shall be required to
605 complete the Law Enforcement Officers Training Program and shall
606 meet the standards of the program;

607 (i) To issue subpoenas, with the approval of, and
608 returnable to, a judge of a chancery or circuit court, in termtime
609 or in vacation, to examine the records, documents or other
610 evidence of persons, firms, corporations or any other entities
611 insofar as such records, documents or other evidence relate to
612 dealings with any state, county or other public entity. The
613 circuit or chancery judge must serve the county in which the
614 records, documents or other evidence is located; or where all or
615 part of the transaction or transactions occurred which are the
616 subject of the subpoena;

617 (j) In any instances in which the State Auditor is or
618 shall be authorized or required to examine or audit, whether
619 preaudit or postaudit, any books, ledgers, accounts or other
620 records of the affairs of any public hospital owned or owned and
621 operated by one or more political subdivisions or parts thereof or
622 any combination thereof, or any school district, including
623 activity funds thereof, it shall be sufficient compliance



624 therewith, in the discretion of the State Auditor, that such
625 examination or audit be made from the report of any audit or other
626 examination certified by a certified public accountant and
627 prepared by or under the supervision of such certified public
628 accountant. Such audits shall be made in accordance with
629 generally accepted standards of auditing, with the use of an audit
630 program prepared by the State Auditor, and final reports of such
631 audits shall conform to the format prescribed by the State
632 Auditor. All files, working papers, notes, correspondence and all
633 other data compiled during the course of the audit shall be
634 available, without cost, to the State Auditor for examination and
635 abstracting during the normal business hours of any business day.
636 The expense of such certified reports shall be borne by the
637 respective hospital, or any available school district funds other
638 than minimum program funds, subject to examination or audit. The
639 State Auditor shall not be bound by such certified reports and
640 may, in his or their discretion, conduct such examination or audit
641 from the books, ledgers, accounts or other records involved as may
642 be appropriate and authorized by law;

643 (k) The State Auditor shall have the authority to
644 contract with qualified public accounting firms to perform
645 selected audits required in paragraphs (d), (e), (f) and (j) of
646 this section, if funds are made available for such contracts by
647 the Legislature, or if funds are available from the governmental
648 entity covered by paragraphs (d), (e), (f) and (j). Such audits



649 shall be made in accordance with generally accepted standards of
650 auditing. All files, working papers, notes, correspondence and
651 all other data compiled during the course of the audit shall be
652 available, without cost, to the State Auditor for examination and
653 abstracting during the normal business hours of any business day;

654 (l) The State Auditor shall have the authority to
655 establish training courses and programs for the personnel of the
656 various state and local governmental entities under the
657 jurisdiction of the Office of the State Auditor. The training
658 courses and programs shall include, but not be limited to, topics
659 on internal control of funds, property and equipment control and
660 inventory, governmental accounting and financial reporting, and
661 internal auditing. The State Auditor is authorized to charge a
662 fee from the participants of these courses and programs, which fee
663 shall be deposited into the Department of Audit Special Fund.
664 State and local governmental entities are authorized to pay such
665 fee and any travel expenses out of their general funds or any
666 other available funds from which such payment is not prohibited by
667 law;

668 (m) Upon written request by the Governor or any member
669 of the State Legislature, the State Auditor may audit any state
670 funds and/or state and federal funds received by any nonprofit
671 corporation incorporated under the laws of this state;

672 (n) To conduct performance audits of personal or
673 professional service contracts by state agencies on a random



674 sampling basis, or upon request of the State Personal Service
675 Contract Review Board under Section 25-9-120(3);

676 (o) At the discretion of the State Auditor, the Auditor
677 may conduct risk assessments, as well as performance and
678 compliance audits based on Generally Accepted Government Auditing
679 Standards (GAGAS) of any state-funded economic development program
680 authorized under Title 57, Mississippi Code of 1972. After risk
681 assessments or program audits, the State Auditor may conduct
682 audits of those projects deemed high-risk, specifically as they
683 identify any potential wrongdoing or noncompliance based on
684 objectives of the economic development program. The Auditor is
685 granted authority to gather, audit and review data and information
686 from the Mississippi Development Authority or any of its agents,
687 the Department of Revenue, and when necessary under this
688 paragraph, the recipient business or businesses or any other
689 private, public or nonprofit entity with information relevant to
690 the audit project. The maximum amount the State Auditor may bill
691 the oversight agency under this paragraph in any fiscal year is
692 One Hundred Thousand Dollars (\$100,000.00), based on reasonable
693 and necessary expenses;

694 (p) To review and approve any independent auditor
695 selected by the Mississippi Lottery Corporation in accordance with
696 Section 27-115-89, to conduct an annual audit of the corporation;
697 and



698 (q) To conduct audits or investigations of the
699 Mississippi Lottery Corporation if in the opinion of the State
700 Auditor conditions justify such audits or investigations.

701 **SECTION 8.** Section 9-9-23, Mississippi Code of 1972, is
702 amended as follows:

703 9-9-23. The county judge shall have power to issue writs,
704 and to try matters, of habeas corpus on application to him or her
705 therefor, or when made returnable before him or her by a superior
706 judge. He shall also have the power to order the issuance of
707 writs of certiorari, supersedeas, attachments, and other remedial
708 writs in all cases pending in, or within the jurisdiction of, his
709 or her court. He or she shall have the authority to issue search
710 warrants in his or her county returnable to his or her own court
711 or to any court of a justice of the peace within his or her county
712 in the same manner as is provided by law and in Section 1 of this
713 act for the issuance of search warrants by justices of the peace.
714 In all cases pending in, or within the jurisdiction of, his or her
715 court, he or she shall have, in term time, and in vacation, the
716 power to order, do or determine to the same extent and in the same
717 manner as a justice of the peace or a circuit judge or a
718 chancellor could do in term time or in vacation in such cases.
719 But he or she shall not have original power to issue writs of
720 injunction, or other remedial writs in equity or in law except in
721 those cases hereinabove specified as being within his or her
722 jurisdiction: Provided, however, that when any judge or



723 chancellor authorized to issue such writs of injunction, or any
724 other equitable or legal remedial writs hereinabove reserved,
725 shall so direct in writing the hearing of application therefor may
726 be by him or her referred to the county judge, in which event the
727 said direction of the superior judge shall vest in the said county
728 judge all authority to take such action on said application as the
729 said superior judge could have taken under the right and the law,
730 had the said application been at all times before the said
731 superior judge. The jurisdiction authorized under the foregoing
732 proviso shall cease upon the denying or granting of the
733 application.

734 **SECTION 9.** Section 21-23-7, Mississippi Code of 1972, is
735 amended as follows:

736 21-23-7. (1) The municipal judge shall hold court in a
737 public building designated by the governing authorities of the
738 municipality, or may hold court in an adult detention center as
739 provided under this subsection, and may hold court every day
740 except Sundays and legal holidays if the business of the
741 municipality so requires; provided, however, the municipal judge
742 may hold court outside the boundaries of the municipality but not
743 more than within a sixty-mile radius of the municipality to handle
744 preliminary matters and criminal matters such as initial
745 appearances and felony preliminary hearings. The municipal judge
746 may hold court outside the boundaries of the municipality but not
747 more than within a one-mile radius of the municipality for any



748 purpose; however, a municipal judge may hold court outside the
749 boundaries of the municipality more than within a one-mile radius
750 of the municipality when accepting a plea of a defendant at an
751 adult detention center within the county. The municipal judge
752 shall have the jurisdiction to hear and determine, without a jury
753 and without a record of the testimony, all cases charging
754 violations of the municipal ordinances and state misdemeanor laws
755 made offenses against the municipality and to punish offenders
756 therefor as may be prescribed by law. Except as otherwise
757 provided by law, criminal proceedings shall be brought by sworn
758 complaint filed in the municipal court. Such complaint shall
759 state the essential elements of the offense charged and the
760 statute or ordinance relied upon. Such complaint shall not be
761 required to conclude with a general averment that the offense is
762 against the peace and dignity of the state or in violation of the
763 ordinances of the municipality. He may sit as a committing court
764 in all felonies committed within the municipality, and he shall
765 have the power to bind over the accused to the grand jury or to
766 appear before the proper court having jurisdiction to try the
767 same, and to set the amount of bail or refuse bail and commit the
768 accused to jail in cases not bailable. The municipal judge is a
769 conservator of the peace within his municipality. He may conduct
770 preliminary hearings in all violations of the criminal laws of
771 this state occurring within the municipality, and any person
772 arrested for a violation of law within the municipality may be



773 brought before him for initial appearance. The municipal court
774 shall have jurisdiction of any case remanded to it by a circuit
775 court grand jury. The municipal court shall have civil
776 jurisdiction over actions filed pursuant to and as provided in
777 Chapter 21, Title 93, * * * Mississippi Code of 1972, the
778 Protection from Domestic Abuse Act.

779 (2) In the discretion of the court, where the objects of
780 justice would be more likely met, as an alternative to imposition
781 or payment of fine and/or incarceration, the municipal judge shall
782 have the power to sentence convicted offenders to work on a public
783 service project where the court has established such a program of
784 public service by written guidelines filed with the clerk for
785 public record. Such programs shall provide for reasonable
786 supervision of the offender and the work shall be commensurate
787 with the fine and/or incarceration that would have ordinarily been
788 imposed. Such program of public service may be utilized in the
789 implementation of the provisions of Section 99-19-20, and public
790 service work thereunder may be supervised by persons other than
791 the sheriff.

792 (3) The municipal judge may solemnize marriages, take oaths,
793 affidavits and acknowledgments, and issue orders, subpoenas,
794 summonses, citations, warrants for search and arrest upon a
795 finding of probable cause in compliance with Section 1 of this
796 act, and other such process under seal of the court to any county
797 or municipality, in a criminal case, to be executed by the lawful



798 authority of the county or the municipality of the respondent, and
799 enforce obedience thereto. The absence of a seal shall not
800 invalidate the process.

801 (4) When a person shall be charged with an offense in
802 municipal court punishable by confinement, the municipal judge,
803 being satisfied that such person is an indigent person and is
804 unable to employ counsel, may, in the discretion of the court,
805 appoint counsel from the membership of The Mississippi Bar
806 residing in his county who shall represent him. Compensation for
807 appointed counsel in criminal cases shall be approved and allowed
808 by the municipal judge and shall be paid by the municipality. The
809 maximum compensation shall not exceed Two Hundred Dollars
810 (\$200.00) for any one (1) case. The governing authorities of a
811 municipality may, in their discretion, appoint a public
812 defender(s) who must be a licensed attorney and who shall receive
813 a salary to be fixed by the governing authorities.

814 (5) The municipal judge of any municipality is hereby
815 authorized to suspend the sentence and to suspend the execution of
816 the sentence, or any part thereof, on such terms as may be imposed
817 by the municipal judge. However, the suspension of imposition or
818 execution of a sentence hereunder may not be revoked after a
819 period of two (2) years. The municipal judge shall have the power
820 to establish and operate a probation program, dispute resolution
821 program and other practices or procedures appropriate to the
822 judiciary and designed to aid in the administration of justice.



823 Any such program shall be established by the court with written
824 policies and procedures filed with the clerk of the court for
825 public record. Subsequent to original sentencing, the municipal
826 judge, in misdemeanor cases, is hereby authorized to suspend
827 sentence and to suspend the execution of a sentence, or any part
828 thereof, on such terms as may be imposed by the municipal judge,
829 if (a) the judge or his or her predecessor was authorized to order
830 such suspension when the sentence was originally imposed; and (b)
831 such conviction (i) has not been appealed; or (ii) has been
832 appealed and the appeal has been voluntarily dismissed.

833 (6) Upon prior notice to the municipal prosecuting attorney
834 and upon a showing in open court of rehabilitation, good conduct
835 for a period of two (2) years since the last conviction in any
836 court and that the best interest of society would be served, the
837 court may, in its discretion, order the record of conviction of a
838 person of any or all misdemeanors in that court expunged, and upon
839 so doing the said person thereafter legally stands as though he
840 had never been convicted of the said misdemeanor(s) and may
841 lawfully so respond to any query of prior convictions. This order
842 of expunction does not apply to the confidential records of law
843 enforcement agencies and has no effect on the driving record of a
844 person maintained under Title 63, Mississippi Code of 1972, or any
845 other provision of said Title 63.

846 (7) Notwithstanding the provisions of subsection (6) of this
847 section, a person who was convicted in municipal court of a



848 misdemeanor before reaching his twenty-third birthday, excluding
849 conviction for a traffic violation, and who is a first offender,
850 may utilize the provisions of Section 99-19-71, to expunge such
851 misdemeanor conviction.

852 (8) In the discretion of the court, a plea of nolo
853 contendere may be entered to any charge in municipal court. Upon
854 the entry of a plea of nolo contendere the court shall convict the
855 defendant of the offense charged and shall proceed to sentence the
856 defendant according to law. The judgment of the court shall
857 reflect that the conviction was on a plea of nolo contendere. An
858 appeal may be made from a conviction on a plea of nolo contendere
859 as in other cases.

860 (9) Upon execution of a sworn complaint charging a
861 misdemeanor, the municipal court may, in its discretion and in
862 lieu of an arrest warrant, issue a citation requiring the
863 appearance of the defendant to answer the charge made against him.
864 On default of appearance, an arrest warrant may be issued for the
865 defendant in compliance with Section 1 of this act. The clerk of
866 the court or deputy clerk may issue such citations.

867 (10) The municipal court shall have the power to make rules
868 for the administration of the court's business, which rules, if
869 any, shall be in writing filed with the clerk of the court and
870 shall include the enactment of rules related to the court's
871 authority to issue domestic abuse protection orders pursuant to
872 Section 93-21-1 et seq.



873 (11) The municipal court shall have the power to impose
874 punishment of a fine of not more than One Thousand Dollars
875 (\$1,000.00) or six (6) months imprisonment, or both, for contempt
876 of court. The municipal court may have the power to impose
877 reasonable costs of court, not in excess of the following:

878 Dismissal of any affidavit, complaint or charge
879 in municipal court.....\$ 50.00
880 Suspension of a minor's driver's license in lieu of
881 conviction.....\$ 50.00
882 Service of scire facias or return "not found".....\$ 20.00
883 Causing search warrant to issue or causing
884 prosecution without reasonable cause or refusing to
885 cooperate after initiating action.....\$ 100.00
886 Certified copy of the court record.....\$ 5.00
887 Service of arrest warrant for failure to answer
888 citation or traffic summons.....\$ 25.00
889 Jail cost per day - actual jail cost paid by the municipality
890 but not to exceed..... \$ 35.00
891 Service of court documents related to the filing
892 of a petition or issuance of a protection from domestic
893 abuse order under Chapter 21, Title 93, * * * Mississippi Code of
894 1972\$ 25.00
895 Any other item of court cost.....\$ 50.00
896 No filing fee or such cost shall be imposed for the bringing
897 of an action in municipal court.



898 (12) A municipal court judge shall not dismiss a criminal
899 case but may transfer the case to the justice court of the county
900 if the municipal court judge is prohibited from presiding over the
901 case by the Canons of Judicial Conduct and provided that venue and
902 jurisdiction are proper in the justice court. Upon transfer of
903 any such case, the municipal court judge shall give the municipal
904 court clerk a written order to transmit the affidavit or complaint
905 and all other records and evidence in the court's possession to
906 the justice court by certified mail or to instruct the arresting
907 officer to deliver such documents and records to the justice
908 court. There shall be no court costs charged for the transfer of
909 the case to the justice court.

910 (13) A municipal court judge shall expunge the record of any
911 case in which an arrest was made, the person arrested was released
912 and the case was dismissed or the charges were dropped, there was
913 no disposition of such case or the person was found not guilty at
914 trial.

915 (14) For violations of municipal ordinances related to real
916 property, the municipal judge shall have the power to order a
917 defendant to remedy violations within a reasonable time period as
918 set by the judge, and at the discretion of the judge, the judge
919 may simultaneously authorize the municipality, at its request, the
920 option to remedy the violation itself, through the use of its own
921 employees or its contractors, without further notice should the
922 defendant fail to fully do so within the time period set by the



923 judge. Subsequent to the municipality remedying the violation,
924 the municipality may petition the court to assess documented
925 cleanup costs to the defendant, and, if, following a hearing on
926 such petition, the judge determines (a) the violations were not
927 remedied by the defendant within the time required by the court,
928 (b) that the municipality remedied the violation itself after such
929 time period expired and (c) that the costs incurred by the
930 municipality were reasonable, the court may assess the costs to
931 the defendant as a judgement, which may be enrolled in the office
932 of the circuit clerk.

933 **SECTION 10.** Section 27-69-59, Mississippi Code of 1972, is
934 amended as follows:

935 27-69-59. When the commissioner has good reason to believe
936 that tobacco is being kept, sold, offered for sale, or given away
937 in violation of this chapter, or regulations issued under
938 authority hereof, he may make affidavit of such fact, describing
939 the place or thing to be searched, before any justice of the
940 peace, mayor of any city, town or village, or county or circuit
941 judge of any county in this state, and such justice of the peace,
942 mayor or county or circuit judge shall issue a search warrant
943 directed to the sheriff or any constable or any police officer in
944 any city, town or village, commanding him to proceed in the day
945 time, or in the night time, to enter by breaking, if necessary,
946 and to diligently search any building, room in a building,
947 outhouses, place, wagon, cart, buggy, motorcycle, motor truck,



948 automobile, water or air craft, or other vehicle as may be
949 designated in the affidavit and search warrant, and to seize such
950 tobacco so possessed and to hold the same until disposed of by
951 law, and to arrest the person or persons in possession or control
952 of the same. Any search or arrest authorized by this section
953 shall be executed in compliance with Section 1 of this act.

954 Such writ shall be returnable instanter, or on a day to be
955 stated, and a copy shall be served on the owner or person in
956 possession, if such person be present or readily found.

957 If upon hearing, or the return of such search warrant, it
958 shall appear that any tobacco unlawfully possessed were seized,
959 the same shall be declared forfeited to this state, and shall be
960 sold as provided in Section 27-69-55 of this chapter.

961 **SECTION 11.** Section 41-29-153, Mississippi Code of 1972, is
962 amended as follows:

963 41-29-153. (a) The following are subject to forfeiture:

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

967 (2) All raw materials, products and equipment of any
968 kind which are used, or intended for use, in manufacturing,
969 compounding, processing, delivering, importing, or exporting any
970 controlled substance in violation of this article or in violation
971 of Article 5 of this chapter;



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

975 (4) All conveyances, including aircraft, vehicles or
976 vessels, which are used, or intended for use, to transport, or in
977 any manner to facilitate the transportation, sale, receipt,
978 possession or concealment of property described in paragraph (1)
979 or (2) of this subsection, however:

980 A. No conveyance used by any person as a common
981 carrier in the transaction of business as a common carrier is
982 subject to forfeiture under this section unless it appears that
983 the owner or other person in charge of the conveyance is a
984 consenting party or privy to a violation of this article;

985 B. No conveyance is subject to forfeiture under
986 this section by reason of any act or omission proved by the owner
987 thereof to have been committed or omitted without his knowledge or
988 consent; if the confiscating authority has reason to believe that
989 the conveyance is a leased or rented conveyance, then the
990 confiscating authority shall notify the owner of the conveyance
991 within five (5) days of the confiscation;

992 C. A forfeiture of a conveyance encumbered by a
993 bona fide security interest is subject to the interest of the
994 secured party if he neither had knowledge of nor consented to the
995 act or omission;



996 D. A conveyance is not subject to forfeiture for a
997 violation of Section 41-29-139(c) (2) (A) 1, 2 or (B)1 or (C)1, 2,
998 3;

999 (5) All money, deadly weapons, books, records, and
1000 research products and materials, including formulas, microfilm,
1001 tapes and data which are used, or intended for use, in violation
1002 of this article or in violation of Article 5 of this chapter;

1003 (6) All drug paraphernalia as defined in Section
1004 41-29-105(v); and

1005 (7) Everything of value, including real estate,
1006 furnished, or intended to be furnished, in exchange for a
1007 controlled substance in violation of this article, all proceeds
1008 traceable to such an exchange, and all monies, negotiable
1009 instruments, businesses or business investments, securities, and
1010 other things of value used, or intended to be used, to facilitate
1011 any violation of this article. All monies, coin and currency
1012 found in close proximity to forfeitable controlled substances, to
1013 forfeitable drug manufacturing or distributing paraphernalia, or
1014 to forfeitable records of the importation, manufacture or
1015 distribution of controlled substances are presumed to be
1016 forfeitable under this paragraph; the burden of proof is upon
1017 claimants of the property to rebut this presumption.

1018 A. No property shall be forfeited under the
1019 provisions of subsection (a) (7) of this section, to the extent of
1020 the interest of an owner, by reason of any act or omission



1021 established by him to have been committed or omitted without his
1022 knowledge or consent.

1023 B. Neither personal property encumbered by a bona
1024 fide security interest nor real estate encumbered by a bona fide
1025 mortgage, deed of trust, lien or encumbrance shall be forfeited
1026 under the provisions of subsection (a)(7) of this section, to the
1027 extent of the interest of the secured party or the interest of the
1028 mortgagee, holder of a deed of trust, lien or encumbrance by
1029 reason of any act or omission established by him to have been
1030 committed or omitted without his knowledge or consent.

1031 (b) Property subject to forfeiture may be seized by the
1032 bureau, local law enforcement officers, enforcement officers of
1033 the Mississippi Department of Transportation, highway patrolmen,
1034 the board, or the State Board of Pharmacy upon process issued by
1035 any appropriate court having jurisdiction over the property.
1036 Seizure without process may be made if:

1037 (1) The seizure is incident to an arrest or a search
1038 under a search warrant or an inspection under an administrative
1039 inspection warrant;

1040 (2) The property subject to seizure has been the
1041 subject of a prior judgment in favor of the state in a criminal
1042 injunction or forfeiture proceeding based upon this article;

1043 (3) The bureau, the board, local law enforcement
1044 officers, enforcement officers of the Mississippi Department of
1045 Transportation, or highway patrolmen, or the State Board of



1046 Pharmacy have probable cause to believe that the property is
1047 directly or indirectly dangerous to health or safety;

1048 (4) The bureau, local law enforcement officers,
1049 enforcement officers of the Mississippi Department of
1050 Transportation, highway patrolmen, the board, or the State Board
1051 of Pharmacy have probable cause to believe that the property was
1052 used or is intended to be used in violation of this article; or

1053 (5) The seizing law enforcement agency obtained a
1054 seizure warrant as described in * * * subsection (f) of this
1055 section and in compliance with Section 1 of this act.

1056 (c) Controlled substances listed in Schedule I of Section
1057 41-29-113 that are possessed, transferred, sold, or offered for
1058 sale in violation of this article are contraband and shall be
1059 seized and summarily forfeited to the state. Controlled
1060 substances listed in the said Schedule I, which are seized or come
1061 into the possession of the state, the owners of which are unknown,
1062 are contraband and shall be summarily forfeited to the state.

1063 (d) Species of plants from which controlled substances in
1064 Schedules I and II of Sections 41-29-113 and 41-29-115 may be
1065 derived which have been planted or cultivated in violation of this
1066 article, or of which the owners or cultivators are unknown, or
1067 which are wild growths, may be seized and summarily forfeited to
1068 the state.

1069 (e) The failure, upon demand by the bureau and/or local law
1070 enforcement officers, or their authorized agents, or highway



1071 patrolmen designated by the bureau, the board, or the State Board
1072 of Pharmacy, of the person in occupancy or in control of land or
1073 premises upon which the species of plants are growing or being
1074 stored, to produce an appropriate registration, or proof that he
1075 is the holder thereof, constitutes authority for the seizure and
1076 forfeiture of the plants.

1077 (f) (1) When any property is seized under the Uniform
1078 Controlled Substances Law, except as otherwise provided in
1079 paragraph (3) of this subsection, by a law enforcement agency with
1080 the intent to be forfeited, the law enforcement agency that seized
1081 the property shall obtain a seizure warrant from the county or
1082 circuit court having jurisdiction of such property within
1083 seventy-two (72) hours of any seizure, excluding weekends and
1084 holidays. Any law enforcement agency that fails to obtain a
1085 seizure warrant within seventy-two (72) hours as required by this
1086 section shall notify the person from whom the property was seized
1087 that it will not be forfeited and shall provide written
1088 instructions advising the person how to retrieve the seized
1089 property.

1090 (2) A circuit or county judge having jurisdiction of
1091 any property other than a controlled substance, raw material or
1092 paraphernalia, may issue a seizure warrant upon proper oath or
1093 affirmation from a law enforcement agency. The law enforcement
1094 agency that is seeking a seizure warrant shall provide the
1095 following information to the judge:



1096 A. Probable cause to believe that the property was
1097 used or intended to be used in violation of this article;

1098 B. The name of the person from whom the property
1099 was seized; and

1100 C. A detailed description of the property which is
1101 seized, including the value of the property.

1102 (3) This subsection does not apply to seizures
1103 performed pursuant to Section 41-29-157 when property is
1104 specifically set forth in a search and seizure warrant.

1105 **SECTION 12.** Section 41-29-159, Mississippi Code of 1972, is
1106 amended as follows:

1107 41-29-159. (a) Any officer or employee of the Mississippi
1108 Bureau of Narcotics, investigative unit of the State Board of
1109 Pharmacy, investigative unit of the State Board of Medical
1110 Licensure, investigative unit of the State Board of Dental
1111 Examiners, investigative unit of the Mississippi Board of Nursing,
1112 investigative unit of the State Board of Optometry, any duly sworn
1113 peace officer of the State of Mississippi, any enforcement officer
1114 of the Mississippi Department of Transportation, or any highway
1115 patrolman, may, while engaged in the performance of his statutory
1116 duties:

1117 (1) Carry firearms;

1118 (2) Execute and serve search warrants * * * and arrest
1119 warrants in compliance with Section 1 of this act, subpoenas, and
1120 summonses issued under the authority of this state;



1121 (3) Make arrests without warrant for any offense under
1122 this article committed in his presence, or if he has probable
1123 cause to believe that the person to be arrested has committed or
1124 is committing a crime; and

1125 (4) Make seizures of property pursuant to this article.

1126 (b) As divided among the Mississippi Bureau of Narcotics,
1127 the State Board of Pharmacy, the State Board of Medical Licensure,
1128 the State Board of Dental Examiners, the Mississippi Board of
1129 Nursing and the State Board of Optometry, the primary
1130 responsibility of the illicit street traffic or other illicit
1131 traffic of drugs is delegated to agents of the Mississippi Bureau
1132 of Narcotics. The State Board of Pharmacy is delegated the
1133 responsibility of regulating and checking the legitimate drug
1134 traffic among pharmacists, pharmacies, hospitals, nursing homes,
1135 drug manufacturers, and any other related professions and
1136 facilities with the exception of the medical, dental, nursing,
1137 optometric and veterinary professions. The State Board of Medical
1138 Licensure is responsible for regulating and checking the
1139 legitimate drug traffic among physicians, podiatrists and
1140 veterinarians. The Mississippi Board of Dental Examiners is
1141 responsible for regulating and checking the legitimate drug
1142 traffic among dentists and dental hygienists. The Mississippi
1143 Board of Nursing is responsible for regulating and checking the
1144 legitimate drug traffic among nurses. The State Board of



1145 Optometry is responsible for regulating and checking the
1146 legitimate drug traffic among optometrists.

1147 (c) The provisions of this section shall not be construed to
1148 limit or preclude the detection or arrest of persons in violation
1149 of Section 41-29-139 by any local law enforcement officer,
1150 sheriff, deputy sheriff or peace officer.

1151 (d) Agents of the bureau are authorized to investigate the
1152 circumstances of deaths which are caused by drug overdose or which
1153 are believed to be caused by drug overdose, and health care
1154 providers, coroners and law enforcement officers shall notify the
1155 bureau of any death caused by a drug overdose within twenty-four
1156 (24) hours.

1157 (e) Any person who shall impersonate in any way the director
1158 or any agent, or who shall in any manner hold himself out as
1159 being, or represent himself as being, an officer or agent of the
1160 Mississippi Bureau of Narcotics shall be guilty of a misdemeanor,
1161 and upon conviction thereof shall be punished by a fine of not
1162 less than One Hundred Dollars (\$100.00) nor more than Five Hundred
1163 Dollars (\$500.00) or by imprisonment for not more than one (1)
1164 year, or by both such fine and imprisonment.

1165 **SECTION 13.** Section 41-29-161, Mississippi Code of 1972, is
1166 amended as follows:

1167 41-29-161. Any officer or employee of the Mississippi Bureau
1168 of Drug Enforcement who is authorized to investigate, carry
1169 firearms, serve search warrants in compliance with Section 1 of



1170 this act, and do all things as set forth in this article shall
1171 prior to entering upon the discharge of his duties enter into a
1172 good and sufficient surety bond in the sum of Ten Thousand Dollars
1173 (\$10,000.00) with a surety company authorized and doing business
1174 within the State of Mississippi. The said bond herein is
1175 conditioned upon the faithful performance of the duties of his
1176 office. All premiums shall be paid as are other expenses of the
1177 bureau.

1178 **SECTION 14.** Section 43-13-221, Mississippi Code of 1972, is
1179 amended as follows:

1180 43-13-221. The Attorney General, acting through the Director
1181 of the Fraud Control Unit, may, in any case involving alleged
1182 violations of this article, conduct an investigation or
1183 prosecution. In conducting such actions, the Attorney General,
1184 acting through the director, shall have all the powers of a
1185 district attorney, including the powers to issue or cause to be
1186 issued subpoenas or other process.

1187 Persons employed by the Attorney General as investigators in
1188 the Medicaid Fraud Control Unit shall serve as law enforcement
1189 officers as defined in Section 45-6-3, and they shall be empowered
1190 to make arrests and to serve and execute search warrants in
1191 compliance with Section 1 of this act and other valid legal
1192 process anywhere within the State of Mississippi.

1193 **SECTION 15.** Section 43-13-229, Mississippi Code of 1972, is
1194 amended as follows:



1195 43-13-229. (1) During any investigation under this article,
1196 the Attorney General, acting through the Director of the Fraud
1197 Control Unit, shall have the right to audit and to inspect the
1198 records of any health care provider or vendor of Medicaid
1199 benefits.

1200 (2) Reimbursement under the Medicaid program shall not be
1201 available for services furnished by a provider or vendor who is
1202 otherwise eligible for Medicaid benefits during any period when
1203 such provider or vendor has refused to provide the Attorney
1204 General and the Director of the Fraud Control Unit such
1205 information as the unit may request in order to complete its
1206 investigation.

1207 (3) Suspension of Medicaid reimbursement payments shall
1208 continue during all periods during which any part of any requested
1209 records are not produced, notwithstanding any administrative,
1210 legal or other proceedings which may be brought or maintained by
1211 such provider or vendor or by any other party to forestall, modify
1212 or prevent the request for records.

1213 (4) As used in this section, "requested records" means those
1214 records required by the unit for investigative or prosecutorial
1215 purposes, and requested by subpoena, subpoena duces tecum, grand
1216 jury subpoena, administrative demand, search warrant executed in
1217 compliance with Section 1 of this act, or other process, demand or
1218 written request.



1219 **SECTION 16.** Section 45-11-1, Mississippi Code of 1972, is
1220 amended as follows:

1221 45-11-1. (1) The Commissioner of Insurance is by virtue of
1222 his office the State Fire Marshal and shall appoint the State
1223 Chief Deputy Fire Marshal who, along with his employees, shall be
1224 designated as a division of the Insurance Department. The State
1225 Chief Deputy Fire Marshal shall be a person qualified by
1226 experience and training and thoroughly knowledgeable in the areas
1227 of arson investigation and prevention, fire prevention, fire
1228 fighting and the training of firemen. The State Chief Deputy Fire
1229 Marshal shall serve at the will and pleasure of the Commissioner
1230 of Insurance.

1231 (2) The State Chief Deputy Fire Marshal shall employ such
1232 deputy state fire marshals as are necessary and in accordance with
1233 availability of funds. Deputy fire marshals shall be deployed
1234 across the state in order to provide effective service to fire
1235 scenes.

1236 (3) It shall be the duty of the State Chief Deputy Fire
1237 Marshal to investigate, by himself or his deputy, the origin of
1238 every fire occurring within the state to which his attention is
1239 called by the chief of the fire department or other law
1240 enforcement authority of any county or municipality. It shall
1241 also be his duty to investigate any case requested by any party in
1242 interest, whenever, in his judgment, there be sufficient evidence
1243 or circumstances indicating that such fire may be of incendiary



1244 origin. All county and municipal law enforcement authorities
1245 shall cooperate with the State Chief Deputy Fire Marshal in such
1246 investigation. This section shall not be construed to impair the
1247 duty and power of county and municipal law enforcement authorities
1248 to investigate any fire occurring within his or their
1249 jurisdiction.

1250 (4) (a) The State Chief Deputy Fire Marshal and deputy
1251 state fire marshals shall have the following powers:

1252 (i) To arrest without warrant subject to the
1253 provisions of Section 1 of this act any person or persons
1254 committing or attempting to commit any misdemeanor or felony
1255 within their presence or view but only such violations of law or
1256 violations of regulations adopted pursuant to this chapter or
1257 Chapter 49, Title 75, Mississippi Code of 1972;

1258 (ii) To pursue and so arrest any person committing
1259 an offense as described under subparagraph (i) of this paragraph
1260 to and at any place in the State of Mississippi where he may go or
1261 be;

1262 (iii) To execute all warrants and search warrants
1263 in compliance with Section 1 of this act related to, and
1264 investigate any violation of the laws and regulations related to
1265 this chapter and Chapter 49, Title 75, Mississippi Code of 1972,
1266 and prevent, arrest and apprehend such violators; and

1267 (iv) To aid and assist any peace officer of this
1268 state or any other state if requested, or in manhunts or natural



1269 disasters within the state, and upon the consent of the State Fire
1270 Marshal, within the jurisdiction of the called event.

1271 (b) Nothing herein shall be construed as granting the
1272 State Chief Deputy Fire Marshal or deputy state fire marshals
1273 general police powers.

1274 (c) All deputy state fire marshals hired on or after
1275 July 1, 2013, shall be required to complete or have completed the
1276 Law Enforcement Officers Training Program and shall meet the
1277 standards of the program.

1278 (5) The State Chief Deputy Fire Marshal shall maintain in
1279 his office a record of all fires investigated by him or his
1280 deputy, including evidence obtained as to the origin of each such
1281 fire.

1282 (6) Such record shall at all times be subject to inspection
1283 by any party of interest in the fire loss; provided, however, that
1284 no record or report of an investigation shall be subject to
1285 inspection pending such investigation or while same is in
1286 progress, and if a report of an investigation contains any
1287 evidence of arson or other felony, same shall not be subject to
1288 inspection by any person other than the district attorney and
1289 county attorney of the county in which such evidence indicates
1290 that arson or other felony may have been committed, except upon
1291 the written approval of such district attorney or the order of a
1292 court of competent jurisdiction. Provided that in cases where a
1293 person has been arrested for the crimes of arson, attempted arson,



1294 or any other felony, the defendant or his attorney shall have
1295 access to these records. Any physical evidence of arson or other
1296 felony shall be delivered to the custody of the sheriff of the
1297 county wherein such fire occurred.

1298 (7) The State Chief Deputy Fire Marshal may appoint, with
1299 the consent of the Commissioner of Insurance, a State Chief
1300 Assistant Deputy Fire Marshal, who shall have power, during the
1301 chief deputy's absence or inability to act due to any cause, to
1302 perform any and all of the duties of the chief deputy. The chief
1303 assistant deputy shall serve at the will and pleasure of the
1304 Commissioner of Insurance.

1305 **SECTION 17.** Section 47-5-28, Mississippi Code of 1972, is
1306 amended as follows:

1307 47-5-28. The commissioner shall have the following powers
1308 and duties:

1309 (a) To implement and administer laws and policy
1310 relating to corrections and coordinate the efforts of the
1311 department with those of the federal government and other state
1312 departments and agencies, county governments, municipal
1313 governments, and private agencies concerned with providing
1314 offender services;

1315 (b) To establish standards, in cooperation with other
1316 state agencies having responsibility as provided by law, provide
1317 technical assistance, and exercise the requisite supervision as it



1318 relates to correctional programs over all state-supported adult
1319 correctional facilities and community-based programs;

1320 (c) To promulgate and publish such rules, regulations
1321 and policies of the department as are needed for the efficient
1322 government and maintenance of all facilities and programs in
1323 accord insofar as possible with currently accepted standards of
1324 adult offender care and treatment;

1325 (d) To provide the Parole Board with suitable and
1326 sufficient office space and support resources and staff necessary
1327 to conduct Parole Board business under the guidance of the
1328 Chairman of the Parole Board;

1329 (e) To contract for transitional reentry center beds
1330 that will be used as noncorrections housing for offenders released
1331 from the department on parole, probation or post-release
1332 supervision but do not have appropriate housing available upon
1333 release. At least one hundred (100) but no more than eight
1334 hundred (800) transitional reentry center beds contracted by the
1335 department and chosen by the Parole Board shall be available for
1336 the Parole Board to place parolees without appropriate housing;

1337 (f) To designate deputy commissioners while performing
1338 their officially assigned duties relating to the custody, control,
1339 transportation, recapture or arrest of any offender within the
1340 jurisdiction of the department or any offender of any jail,
1341 penitentiary, public workhouse or overnight lockup of the state or
1342 any political subdivision thereof not within the jurisdiction of



1343 the department, to the status of peace officers anywhere in the
1344 state in any matter relating to the custody, control,
1345 transportation or recapture of such offender, and shall have the
1346 status of law enforcement officers and peace officers as
1347 contemplated by Sections 45-6-3, 97-3-7 and 97-3-19.

1348 For the purpose of administration and enforcement of this
1349 chapter, deputy commissioners of the Mississippi Department of
1350 Corrections, who are certified by the Mississippi Board on Law
1351 Enforcement Officer Standards and Training, have the powers of a
1352 law enforcement officer of this state. Such powers shall include
1353 to make arrests and to serve and execute search warrants and other
1354 valid legal process anywhere within the State of Mississippi in
1355 compliance with Section 1 of this act, while performing their
1356 officially assigned duties relating to the custody, control,
1357 transportation, recapture or arrest of any offender within the
1358 jurisdiction of the department or any offender of any jail,
1359 penitentiary, public workhouse or overnight lockup of the state or
1360 any political subdivision thereof not within the jurisdiction of
1361 the department in any matter relating to the custody, control,
1362 transportation or recapture of such offender;

1363 (g) To make an annual report to the Governor and the
1364 Legislature reflecting the activities of the department and make
1365 recommendations for improvement of the services to be performed by
1366 the department;



1367 (h) To cooperate fully with periodic independent
1368 internal investigations of the department and to file the report
1369 with the Governor and the Legislature;

1370 (i) To contract with licensed special care facilities
1371 for paroled inmates to provide authorized medical services and
1372 support services for medically frail inmates who have been paroled
1373 and who have voluntarily submitted to the Department of Corrections
1374 an address to one of the licensed care facilities to receive such
1375 services; and

1376 (j) To perform such other duties necessary to
1377 effectively and efficiently carry out the purposes of the
1378 department as may be directed by the Governor.

1379 **SECTION 18.** Section 49-1-43, Mississippi Code of 1972, is
1380 amended as follows:

1381 49-1-43. (1) The director shall have general supervision
1382 and control of all conservation officers, and shall enforce all
1383 the laws and regulations of the state relating to wild animals,
1384 birds and fish, and shall exercise all necessary powers incident
1385 thereto not specifically conferred on the department.

1386 (2) The director, with the approval of the commission, shall
1387 make to the Governor and the Legislature a report covering the
1388 operation of the department for the preceding fiscal year.

1389 (3) It shall be the duty of all conservation officers to
1390 enforce, and to obey and carry out all instructions and directions



1391 of the department with respect to the enforcement of the laws and
1392 regulations relating to wild animals, birds and fish.

1393 (4) The director and each conservation officer shall have
1394 power, and it shall be the duty of the director and of each
1395 conservation officer:

1396 (a) To execute all warrants and search warrants for a
1397 violation of the laws and regulations relating to wild animals,
1398 birds and fish and to serve subpoenas issued for the examination
1399 and investigation or trial of offenses against any of the laws or
1400 regulations;

1401 (b) To search where the conservation officer has cause
1402 to believe and does believe that animals, birds or fish, or any
1403 parts thereof, or the nest or eggs of birds, or spawn or eggs of
1404 fish are possessed in violation of law or regulation and in such
1405 case to examine, without warrant, the contents of any boat, car,
1406 automobile or other vehicle, box, locker, basket, creel, crate,
1407 game bag or other package, to ascertain whether any law or
1408 regulation for the protection of animals, birds or fish have been
1409 or are being violated, and to use such force as may be necessary
1410 for the purpose of such examination and inspection;

1411 (c) With a search warrant to search and examine the
1412 contents of any dwelling house, room, building or premises of any
1413 person suspected of violating any law or regulation, to seize all
1414 animals, birds or fish, or parts thereof, or nests or eggs of
1415 birds taken in violation of law or regulation, or showing evidence



1416 of illegal taking and to seize and confiscate all devices
1417 illegally used in taking animals, birds or fish;

1418 (d) To arrest, without warrant, any person committing
1419 or attempting to commit a misdemeanor, felony or a breach of the
1420 peace within his presence or view and to pursue and so arrest any
1421 person committing an offense in any place in the state where the
1422 person may go or be; to aid and assist any peace officer of this
1423 state or any other state if requested, in manhunts or natural
1424 disasters within the state; and

1425 (e) To exercise other powers of peace officers in the
1426 enforcement of game laws or regulations or of a judgment for the
1427 violation thereof, as are not herein specifically provided.

1428 (5) In all cases of arrest without warrant, the person
1429 making such arrest must inform the accused of the object and cause
1430 of the arrest in compliance with Section 1 of this act, except
1431 when he is in the actual commission of the offense or is arrested
1432 on pursuit.

1433 (6) No conservation officer shall compromise or settle out
1434 of court any violation of this chapter, or any law or regulation
1435 for the protection of wild animals, birds or fish.

1436 (7) Nothing in this section shall be construed as granting
1437 conservation officers general police powers.

1438 (8) Citations issued by a conservation officer for any
1439 violation of the laws for the protection of wild animals, birds
1440 and fish, the trespass laws, the litter laws, and the boating laws



1441 shall be issued on a uniform citation form consisting of an
1442 original and at least two (2) copies. Such citation shall show,
1443 among other necessary information, the name of the issuing
1444 officer, the name of the court in which the cause is to be heard,
1445 and the date and time the person charged with a violation is to
1446 appear to answer the charge. The uniform citation form shall make
1447 a provision on it for information that will constitute a complaint
1448 charging the offense for which the citation was issued and, when
1449 duly sworn to and filed with a court of competent jurisdiction,
1450 prosecution may proceed under that complaint.

1451 **SECTION 19.** Section 49-15-21, Mississippi Code of 1972, is
1452 amended as follows:

1453 49-15-21. (1) The executive director shall appoint the
1454 necessary enforcement officers for the administration of this
1455 chapter. The salary of all enforcement officers employed shall be
1456 as determined by the State Personnel Board. However, the members
1457 of the Enforcement Officers' Reserve Unit created in subsection
1458 (4) shall serve without pay, and shall not be employees of the
1459 State of Mississippi for purposes of the State Personnel System,
1460 the Workers' Compensation Law, the Public Employees' Retirement
1461 System or the State Employees Life and Health Insurance Plan.

1462 (2) All enforcement officers shall be experienced and
1463 qualified persons thoroughly familiar with the seafood business
1464 and shall be at least twenty-one (21) years of age and be a high
1465 school graduate or its equivalent. The enforcement officers shall



1466 diligently enforce all laws and regulations for the protection,
1467 propagation, preservation or conservation of all saltwater aquatic
1468 life of the State of Mississippi, and they are hereby constituted
1469 peace officers of the State of Mississippi, with full police power
1470 and jurisdiction to enforce all laws of the State of Mississippi
1471 and all regulations adopted and promulgated by the commission.
1472 Enforcement officers may exercise such powers in any county of the
1473 State of Mississippi and on any waters of the state, and they are
1474 hereby authorized to carry firearms or other weapons, concealed or
1475 otherwise, and they shall investigate all persons, corporations
1476 and otherwise who are alleged to have violated any laws, and make
1477 affidavits, arrests and serve papers of any court of competent
1478 jurisdiction, in like manner as is provided for sheriffs and
1479 deputy sheriffs, when the same shall be in connection with the
1480 enforcement of the seafood laws of the State of Mississippi and
1481 such other laws and regulations of this state as the commission
1482 may designate. The enforcement officers may seize at any time
1483 aquatic life caught, taken or transported in a manner contrary to
1484 the laws of this state, and may confiscate and dispose of the
1485 same. Any net or other paraphernalia used or employed in
1486 connection with a violation may be seized, and forfeiture
1487 proceedings may be instituted. Enforcement officers may draft the
1488 aid of captains, crews and boats or licensed vessels to enforce
1489 this chapter and may, without warrant, board and search vessels or
1490 vehicles. The application for any license or permit from the



1491 commission to catch, fish, take, transport or handle or process
1492 any form of aquatic life, or the taking, catching, transporting or
1493 handling or processing of any and all aquatic life in this state
1494 shall constitute acquiescence and agreement upon the part of the
1495 owners, captains and crews, employers and dealers to the
1496 provisions of this chapter and the agreement that enforcement
1497 officers may exercise the authority granted under the provisions
1498 hereof.

1499 (3) Prior to entering into performance of their duties or
1500 delegations or as soon after appointment as possible, each
1501 enforcement officer, at the expense of the commission, shall
1502 attend and complete an appropriate curriculum in the field of law
1503 enforcement at the Mississippi Law Enforcement Officers' Training
1504 Academy or other law enforcement training program approved under
1505 Section 45-6-7. However, members of the Enforcement Officers'
1506 Reserve Unit created in subsection (4) of this section may attend
1507 the Mississippi Law Enforcement Officers' Training Academy at the
1508 expense of the commission if it deems the training necessary or
1509 desirable. No enforcement officer shall be entitled to payment of
1510 salary after the first twelve (12) months in office if he has
1511 either failed to attend the academy or has failed to comply with
1512 other qualifications or successfully complete any law enforcement
1513 qualification examinations as the director deems necessary. The
1514 enforcement officers shall, on a periodic basis, be required to
1515 attend additional advanced courses in law enforcement in order



1516 that they will be properly improved and trained in the modern,
1517 technical advances of law enforcement.

1518 (4) (a) There is hereby created an Enforcement Officers'
1519 Reserve Unit, hereinafter termed "the reserve," to assist the
1520 enforcement officers in the performance of their duties under this
1521 chapter. The reserve shall consist of volunteers who are approved
1522 by the Executive Director of the Department of Marine Resources or
1523 his designee. The members of the reserve shall serve without pay.
1524 Reserve officers shall be in such numbers as determined by the
1525 enforcement needs, with the maximum strength of reserve officers
1526 limited to the same number as enforcement officers.

1527 (b) To be eligible for membership in the reserve, an
1528 applicant must be twenty-one (21) years of age, be a high school
1529 graduate or its equivalent, be in good physical condition, have a
1530 Mississippi driver's license, be in good standing with the
1531 community, be available for training and duty, not be a member of
1532 any police, auxiliary police, civil defense, or private security
1533 agency, have never been convicted of a felony, and have one (1) of
1534 the following:

1535 (i) An honorable discharge or honorable separation
1536 certificate from one (1) of the United States military services;

1537 (ii) Three (3) years of responsible post-high
1538 school work experience that required the ability to deal
1539 effectively with individuals and groups of persons;



1540 (iii) Successful completion of sixty (60) semester
1541 hours at an accredited college or university; or

1542 (iv) The qualifications as are outlined in this
1543 section for enforcement officers.

1544 Members of the immediate family of enforcement officers shall
1545 not be eligible for the reserve unless a special waiver is
1546 granted.

1547 Upon acceptance into the reserve, members shall receive a
1548 temporary appointment for one (1) year. During this year of
1549 temporary status, members must successfully complete the required
1550 training and must qualify on the same firearms course as
1551 enforcement officers.

1552 (c) The reserve shall be under the leadership and
1553 direction of the executive director or his designee. The training
1554 of the reserve shall be conducted by an enforcement officer. The
1555 reserve shall meet at least once each month for the purpose of
1556 training and transacting any business as may come before it. The
1557 executive director shall be notified in writing of all meetings of
1558 the reserve and the time and place of the meetings shall be
1559 recorded with the executive director. The executive director
1560 shall prepare a reserve officer's manual with the advice and
1561 consent of the commission. The manual shall include, but is not
1562 limited to, the following: activities and operations, training,
1563 administration and duties. During active service, the reserve
1564 shall be under the direction of the executive director or his



1565 designated representative. When a reserve officer is on active
1566 duty and assigned to a specific enforcement officer, he shall be
1567 under the direct supervision of that officer. Reserve officers
1568 serve at the discretion of the executive director and may be
1569 dismissed by him. Reserve officers shall furnish their own
1570 uniforms and other personal equipment if the executive director
1571 does not provide such items.

1572 (d) The executive director may require members of the
1573 Enforcement Officers' Reserve Unit to attend officer reserve
1574 training programs conducted by county or municipal agencies.

1575 (e) The executive director may issue uniforms to such
1576 reserve officers and may authorize the issuance of any state
1577 equipment necessary for the reserve officers to adequately assist
1578 law enforcement officers. The executive director may develop a
1579 reserve officer identification system to accomplish the issuance
1580 of such items in accordance with the State Auditor guidelines.

1581 (f) If the executive director determines that a member
1582 of the Enforcement Officers' Reserve Unit may attend a training
1583 program as authorized under this section, it shall require that
1584 reserve officer to sign an agreement, prior to attending a
1585 training program, which shall stipulate that if the reserve
1586 officer accepts employment from any other public or private law
1587 enforcement agency within three (3) years after completion of his
1588 training program, the reserve officer or the respective hiring law
1589 enforcement agency shall reimburse the department for the total



1590 cost of his training program. By October 1 of each year, the
1591 department shall provide the Conservation and Water Resources
1592 Committee of the Mississippi House of Representatives and the
1593 Ports and Marine Resources Committee of the Mississippi Senate a
1594 listing which contains each name and the respective cost of
1595 training each reserve officer received during the previous year.
1596 Any warrants executed under the authority of this section shall be
1597 executed in compliance with Section 1 of this act.

1598 **SECTION 20.** Section 67-1-17, Mississippi Code of 1972, is
1599 amended as follows:

1600 67-1-17. (1) It shall be unlawful for any person to have or
1601 possess either alcoholic beverages or personal property intended
1602 for use in violating the provisions of this article, or
1603 regulations prescribed under this article, or Chapter 31 of Title
1604 97, Mississippi Code of 1972. No property rights shall exist in
1605 any such personal property or alcoholic beverages. All such
1606 personal property and alcoholic beverages shall be considered
1607 contraband and shall be seized and forfeited to the State of
1608 Mississippi.

1609 (2) The following are subject to forfeiture:

1610 (a) All alcoholic beverages which have been
1611 manufactured, distilled, distributed, dispensed or acquired in
1612 violation of this article or Chapter 31 of Title 97, Mississippi
1613 Code of 1972;



1614 (b) All raw materials, products and equipment of any
1615 kind which are used, or intended for use, in manufacturing,
1616 compounding, processing, delivering, importing or exporting any
1617 alcoholic beverage in violation of this article or Chapter 31 of
1618 Title 97, Mississippi Code of 1972;

1619 (c) All property which is used, or intended for use, as
1620 a container for property described in items (a) or (b) of this
1621 subsection;

1622 (d) All conveyances, including aircraft, vehicles or
1623 vessels, which are used, or intended for use, to transport, or in
1624 any manner to facilitate the transportation, for the purpose of
1625 sale or receipt, possession or concealment, of property described
1626 in item (a) of this subsection which is in excess of six (6)
1627 gallons or of property described in item (b) of this subsection;
1628 however,

1629 (i) No conveyance used by any person as a common
1630 carrier in the transaction of business as a common carrier is
1631 subject to forfeiture under this section unless it appears that
1632 the owner or other person in charge of the conveyance is a
1633 consenting party or privy to a violation of this article or
1634 Chapter 31 of Title 97, Mississippi Code of 1972;

1635 (ii) No conveyance is subject to forfeiture under
1636 this section by reason of any act or omission proved by the owner
1637 thereof to have been committed or omitted without his knowledge or
1638 consent; if the confiscating authority has reason to believe that



1639 the conveyance is a leased or rented conveyance, then the
1640 confiscating authority shall notify the owner of the conveyance
1641 within five (5) days of the confiscation; and

1642 (iii) A forfeiture of a conveyance encumbered by a
1643 bona fide security interest is subject to the interest of the
1644 secured party if he neither had knowledge of nor consented to the
1645 act or omission;

1646 (e) All money, deadly weapons, books, records and
1647 research products and materials, including formulas, microfilm,
1648 tapes and data which are used, or intended for use, in violation
1649 of this article or Chapter 31 of Title 97, Mississippi Code of
1650 1972.

1651 (3) Property subject to forfeiture may be seized by the
1652 Alcoholic Beverage Control Division and its agents, local law
1653 enforcement officers, Mississippi Highway Patrol officers and
1654 other law enforcement personnel charged by Section 67-1-91, with
1655 enforcing the provisions of this article upon process issued by
1656 any appropriate court having jurisdiction over the property.
1657 Seizure without process may be made if:

1658 (a) The seizure is incident to an arrest or a search
1659 under a search warrant in compliance with Section 1 of this act or
1660 an administrative inspection under Section 67-1-37(k);

1661 (b) The property subject to seizure has been the
1662 subject of a prior judgment in favor of the state in a criminal



1663 injunction or forfeiture proceeding based upon this article or
1664 Chapter 31 of Article 97, Mississippi Code of 1972; or

1665 (c) The Alcoholic Beverage Control Division of the
1666 State Tax Commission and other law enforcement personnel described
1667 in this subsection have probable cause to believe that the
1668 property was used or is intended to be used in violation of this
1669 article or Chapter 31 of Article 97, Mississippi Code of 1972.

1670 (4) Alcoholic beverages and raw materials seized or detained
1671 under the authority of this article or Chapter 31 of Title 97,
1672 Mississippi Code of 1972, is deemed to be in the custody of the
1673 agent or agency so seizing the property and subject only to the
1674 orders and decrees of the court having jurisdiction over the
1675 property. When such property is seized it may be retained as
1676 evidence until final disposition of the cause in which such
1677 property is involved, and then the agent or agency so seizing the
1678 property shall physically transfer such alcoholic beverage or raw
1679 material to the Director of the Alcoholic Beverage Control
1680 Division of the State Tax Commission together with an appropriate
1681 inventory of the items seized. Alcoholic beverages and raw
1682 materials seized or detained under the authority of this section
1683 shall be disposed of in accordance with the provisions of Section
1684 67-1-18.

1685 (5) Any property other than alcoholic beverages and raw
1686 materials seized or detained pursuant to this article or Chapter
1687 31 of Title 97, Mississippi Code of 1972, shall be deemed to be in



1688 the custody of the agent or agency so seizing the property and
1689 subject only to the orders and decrees of the court having
1690 jurisdiction over the property. When such property is seized it
1691 may be retained as evidence until the final disposition of the
1692 cause in which such property is involved. Property seized or
1693 detained other than alcoholic beverages or raw materials shall be
1694 disposed of in accordance with the provisions of Sections 67-1-93,
1695 67-1-95 and 67-1-97.

1696 **SECTION 21.** Section 69-29-1, Mississippi Code of 1972, is
1697 amended as follows:

1698 69-29-1. (1) (a) There is established the Mississippi
1699 Agricultural and Livestock Theft Bureau.

1700 (b) The Commissioner of Agriculture and Commerce shall
1701 appoint a director of the Mississippi Agricultural and Livestock
1702 Theft Bureau. Such director shall have at least five (5) years of
1703 law enforcement experience. Such director shall be responsible
1704 solely to the supervision of the Commissioner of Agriculture and
1705 Commerce and to no other person or entity. Such director may be
1706 discharged only for just cause shown.

1707 (c) The director may employ twelve (12) agricultural
1708 and livestock theft investigators. Each investigator shall be
1709 certified as a law enforcement officer, successfully completing at
1710 least a nine-week training course, in accordance with Section
1711 45-6-11. The curriculum for the training of constables shall not
1712 be sufficient for meeting the certification requirements of this



1713 paragraph. In the selection of investigators under this section,
1714 preference shall be given to persons who have previous law
1715 enforcement experience.

1716 (d) The director appointed under this section, under
1717 the direction, control and supervision of the commissioner, and
1718 the investigators employed under this section shall perform only
1719 the duties described in subsection (2) of this section and shall
1720 not be assigned any other duties.

1721 (2) The director appointed under this section and the
1722 investigators employed under this section shall have the following
1723 powers, duties and authority:

1724 (a) To enforce all of the provisions of Sections
1725 69-29-9 and 69-29-11, and particularly those portions requiring
1726 persons transporting livestock to have a bill of sale in their
1727 possession; to make investigations of violations of such sections
1728 and to arrest persons violating same;

1729 (b) To enforce all of the laws of this state enacted
1730 for the purpose of preventing the theft of livestock, poultry,
1731 timber and agricultural, aquacultural and timber products and
1732 implements; to make investigations of violations thereof and to
1733 arrest persons violating same;

1734 (c) To cooperate with all regularly constituted law
1735 enforcement officers relative to the matters herein set forth;



1736 (d) To serve warrants and other process emanating from
1737 any court of lawful jurisdiction, including search warrants, in
1738 all matters herein set forth;

1739 (e) To carry proper credentials evidencing their
1740 authority, which shall be exhibited to any person making demand
1741 therefor;

1742 (f) To make arrests without warrant in compliance with
1743 Section 1 of this act in all matters herein set forth in cases
1744 where same is authorized under the constitutional and general laws
1745 of this state;

1746 (g) To handle the registration of brands of cattle and
1747 livestock;

1748 (h) To investigate, prevent, apprehend and arrest those
1749 persons anywhere in the state who are violating any of the laws
1750 administered by the Department of Agriculture and Commerce,
1751 including, but not limited to, all agriculture-related crimes;

1752 (i) To access and examine records of any person,
1753 business or entity that harvests, loads, carries, receives or
1754 manufactures timber products as defined in this section. Each
1755 such person or entity shall permit the director or any
1756 investigator of the Mississippi Agricultural and Livestock Theft
1757 Bureau to examine records of the sale, transfer or purchase of
1758 timber or timber products, including, but not limited to,
1759 contracts, load tickets, settlement sheets, drivers' logs,
1760 invoices, checks and any other records or documents related to an



1761 ongoing investigation of the Mississippi Agricultural and
1762 Livestock Theft Bureau;

1763 (j) To conduct training for law enforcement regarding
1764 laws enforced by the bureau and to assist any other law
1765 enforcement agencies in responding to matters that may be related
1766 to agriculture and commerce in the State of Mississippi and in
1767 cases of natural disasters or other disasters to respond as needed
1768 or as requested by other agencies.

1769 (3) The Commissioner of Agriculture and Commerce shall
1770 furnish such investigators with such vehicles, equipment and
1771 supplies as may be necessary. All expenses of same, and all other
1772 expenses incurred in the administration of this section, shall be
1773 paid from such appropriation as may be made by the Legislature.

1774 (4) The Mississippi Department of Revenue and its agents and
1775 employees shall cooperate with such investigators by furnishing to
1776 them information as to any possible or suspected violations of any
1777 of the laws mentioned herein, including specifically Section
1778 69-29-27, and in any other lawful manner.

1779 (5) The conservation officers of the Department of Wildlife,
1780 Fisheries and Parks are authorized to cooperate with and assist
1781 the agricultural and livestock theft investigators in the
1782 enforcement and apprehension of violators of laws regarding
1783 agricultural and livestock theft.

1784 (6) The Mississippi Forestry Commission employees are
1785 excluded from any timber and timber products theft investigative



1786 responsibilities except when technical expertise is needed and
1787 requested through the State Forester or his designee.

1788 (7) For the purposes of this section, "timber product" means
1789 timber of all kinds, species or sizes, including, but not limited
1790 to, logs, lumber, poles, pilings, posts, blocks, bolts, cordwood
1791 and pulpwood, pine stumpwood, pine knots or other distillate wood,
1792 crossties, turpentine (crude gum), pine straw, firewood and all
1793 other products derived from timber or trees that have a sale or
1794 commercial value.

1795 **SECTION 22.** Section 93-29-17, Mississippi Code of 1972, is
1796 amended as follows:

1797 93-29-17. **Warrant to take physical custody of child.** (a)
1798 If a petition under this chapter contains allegations, and the
1799 court finds that there is a credible risk that the child is
1800 imminently likely to be wrongfully removed, the court may issue an
1801 ex parte warrant to take physical custody of the child.

1802 (b) The respondent on a petition under subsection (a) must
1803 be afforded an opportunity to be heard at the earliest possible
1804 time after the ex parte warrant is executed, but not later than
1805 the next judicial day unless a hearing on that date is impossible.
1806 In that event, the court shall hold the hearing on the first
1807 judicial day possible.

1808 (c) An ex parte warrant under subsection (a) to take
1809 physical custody of a child must:



1810 (1) Recite the facts upon which a determination of a
1811 credible risk of imminent wrongful removal of the child is based;

1812 (2) Direct law enforcement officers to take physical
1813 custody of the child immediately;

1814 (3) State the date and time for the hearing on the
1815 petition; and

1816 (4) Provide for the safe interim placement of the child
1817 pending further order of the court.

1818 (d) If feasible, before issuing a warrant and before
1819 determining the placement of the child after the warrant is
1820 executed, the court may order a search of the relevant databases
1821 of the National Crime Information Center system and similar state
1822 databases to determine if either the petitioner or respondent has
1823 a history of domestic violence, stalking or child abuse or
1824 neglect.

1825 (e) The petition and warrant must be served on the
1826 respondent when or immediately after the child is taken into
1827 physical custody and in compliance with Section 1 of this act.

1828 (f) A warrant to take physical custody of a child, issued by
1829 this state or another state, is enforceable throughout this state.
1830 If the court finds that a less intrusive remedy will not be
1831 effective, it may authorize law enforcement officers to enter
1832 private property to take physical custody of the child. If
1833 required by exigent circumstances, the court may authorize law
1834 enforcement officers to make a forcible entry at any hour.



1835 (g) If the court finds, after a hearing, that a petitioner
1836 sought an ex parte warrant under subsection (a) for the purpose of
1837 harassment or in bad faith, the court may award the respondent
1838 reasonable attorney's fees, costs and expenses.

1839 (h) This chapter does not affect the availability of relief
1840 allowed under the law of this state other than this chapter.

1841 **SECTION 23.** Section 97-3-54.7, Mississippi Code of 1972, is
1842 amended as follows:

1843 97-3-54.7. (1) In addition to any other civil or criminal
1844 penalties provided by law, any property used in the commission of
1845 a violation of this act shall be forfeited as provided herein.

1846 (a) The following property shall be subject to
1847 forfeiture if used or intended for use as an instrumentality in or
1848 used in furtherance of a violation of this act:

1849 (i) Conveyances, including aircraft, vehicles or
1850 vessels;

1851 (ii) Books, records, telecommunication equipment,
1852 or computers;

1853 (iii) Money or weapons;

1854 (iv) Everything of value furnished, or intended to
1855 be furnished, in exchange for an act in violation and all proceeds
1856 traceable to the exchange;

1857 (v) Negotiable instruments and securities;



1858 (vi) Any property, real or personal, directly or
1859 indirectly acquired or received in a violation or as an inducement
1860 to violate;

1861 (vii) Any property traceable to proceeds from a
1862 violation; and

1863 (viii) Any real property, including any right,
1864 title and interest in the whole of or any part of any lot or tract
1865 of land used in furtherance of a violation of this act.

1866 (b) (i) No property used by any person as a common
1867 carrier in the transaction of business as a common carrier is
1868 subject to forfeiture under this section unless it appears that
1869 the owner or other person in charge of the property is a
1870 consenting party or privy to a violation of this act;

1871 (ii) No property is subject to forfeiture under
1872 this section by reason of any act or omission proved by the owner
1873 thereof to have been committed or omitted without his knowledge or
1874 consent; if the confiscating authority has reason to believe that
1875 the property is a leased or rented property, then the confiscating
1876 authority shall notify the owner of the property within five (5)
1877 days of the confiscation or within five (5) days of forming reason
1878 to believe that the property is a leased or rented property;

1879 (iii) Forfeiture of a property encumbered by a
1880 bona fide security interest is subject to the interest of the
1881 secured party if he neither had knowledge of nor consented to the
1882 act or omission.



1883 (2) No property shall be forfeited under the provisions of
1884 this section, to the extent of the interest of an owner, by reason
1885 of any act or omission established by him to have been committed
1886 or omitted without his knowledge or consent.

1887 (3) Seizure without process may be made if the seizure is
1888 incident to an arrest or a search under a search warrant in
1889 compliance with Section 1 of this act, or an inspection under an
1890 administrative inspection warrant.

1891 (4) (a) When any property is seized under this section,
1892 proceedings shall be instituted within a reasonable period of time
1893 from the date of seizure or the subject property shall be
1894 immediately returned to the party from whom seized.

1895 (b) A petition for forfeiture shall be filed by the
1896 Attorney General or a district attorney in the name of the State
1897 of Mississippi, the county, or the municipality, and may be filed
1898 in the county in which the seizure is made, the county in which
1899 the criminal prosecution is brought, or the county in which the
1900 owner of the seized property is found. Forfeiture proceedings may
1901 be brought in the circuit court or the county court if a county
1902 court exists in the county and the value of the seized property is
1903 within the jurisdictional limits of the county court as set forth
1904 in Section 9-9-21. A copy of the petition shall be served upon
1905 the following persons by service of process in the same manner as
1906 in civil cases:



1907 (i) The owner of the property, if address is
1908 known;

1909 (ii) Any secured party who has registered his lien
1910 or filed a financing statement as provided by law, if the identity
1911 of the secured party can be ascertained by the entity filing the
1912 petition by making a good faith effort to ascertain the identity
1913 of the secured party;

1914 (iii) Any other bona fide lienholder or secured
1915 party or other person holding an interest in the property in the
1916 nature of a security interest of whom the seizing law enforcement
1917 agency has actual knowledge; and

1918 (iv) Any person in possession of property subject
1919 to forfeiture at the time that it was seized.

1920 (5) If the property is a motor vehicle susceptible of
1921 titling under the Mississippi Motor Vehicle Title Law and if there
1922 is any reasonable cause to believe that the vehicle has been
1923 titled, inquiry of the Department of Revenue shall be made as to
1924 what the records of the Department of Revenue show as to who is
1925 the record owner of the vehicle and who, if anyone, holds any lien
1926 or security interest that affects the vehicle.

1927 (6) If the property is a motor vehicle and is not titled in
1928 the State of Mississippi, then an attempt shall be made to
1929 ascertain the name and address of the person in whose name the
1930 vehicle is licensed, and if the vehicle is licensed in a state
1931 which has in effect a certificate of title law, inquiry of the



1932 appropriate agency of that state shall be made as to what the
1933 records of the agency show as to who is the record owner of the
1934 vehicle and who, if anyone, holds any lien, security interest or
1935 other instrument in the nature of a security device that affects
1936 the vehicle.

1937 (7) If the property is of a nature that a financing
1938 statement is required by the laws of this state to be filed to
1939 perfect a security interest affecting the property and if there is
1940 any reasonable cause to believe that a financing statement
1941 covering the security interest has been filed under the laws of
1942 this state, inquiry of the appropriate office designated in
1943 Section 75-9-501, shall be made as to what the records show as to
1944 who is the record owner of the property and who, if anyone, has
1945 filed a financing statement affecting the property.

1946 (8) If the property is an aircraft or part thereof and if
1947 there is any reasonable cause to believe that an instrument in the
1948 nature of a security device affects the property, inquiry of the
1949 Mississippi Department of Transportation shall be made as to what
1950 the records of the Federal Aviation Administration show as to who
1951 is the record owner of the property and who, if anyone, holds an
1952 instrument in the nature of a security device which affects the
1953 property.

1954 (9) If the answer to an inquiry states that the record owner
1955 of the property is any person other than the person who was in
1956 possession of it when it was seized, or states that any person



1957 holds any lien, encumbrance, security interest, other interest in
1958 the nature of a security interest, mortgage or deed of trust that
1959 affects the property, the record owner and also any lienholder,
1960 secured party, other person who holds an interest in the property
1961 in the nature of a security interest, or holder of an encumbrance,
1962 mortgage or deed of trust that affects the property is to be named
1963 in the petition of forfeiture and is to be served with process in
1964 the same manner as in civil cases.

1965 (10) If the owner of the property cannot be found and served
1966 with a copy of the petition of forfeiture, or if no person was in
1967 possession of the property subject to forfeiture at the time that
1968 it was seized and the owner of the property is unknown, there
1969 shall be filed with the clerk of the court in which the proceeding
1970 is pending an affidavit to such effect, whereupon the clerk of the
1971 court shall publish notice of the hearing addressed to "the
1972 Unknown Owner of _____," filling in the blank space with
1973 a reasonably detailed description of the property subject to
1974 forfeiture. Service by publication shall contain the other
1975 requisites prescribed in Section 11-33-41, and shall be served as
1976 provided in Section 11-33-37, for publication of notice for
1977 attachments at law.

1978 (11) No proceedings instituted pursuant to the provisions of
1979 this section shall proceed to hearing unless the judge conducting
1980 the hearing is satisfied that this section has been complied with.



1981 Any answer received from an inquiry required by this section shall
1982 be introduced into evidence at the hearing.

1983 (12) (a) An owner of a property that has been seized shall
1984 file an answer within thirty (30) days after the completion of
1985 service of process. If an answer is not filed, the court shall
1986 hear evidence that the property is subject to forfeiture and
1987 forfeit the property to the seizing law enforcement agency. If an
1988 answer is filed, a time for hearing on forfeiture shall be set
1989 within thirty (30) days of filing the answer or at the succeeding
1990 term of court if court would not be in session within thirty (30)
1991 days after filing the answer. The court may postpone the
1992 forfeiture hearing to a date past the time any criminal action is
1993 pending against the owner upon request of any party.

1994 (b) If the owner of the property has filed an answer
1995 denying that the property is subject to forfeiture, then the
1996 burden is on the petitioner to prove that the property is subject
1997 to forfeiture. However, if an answer has not been filed by the
1998 owner of the property, the petition for forfeiture may be
1999 introduced into evidence and is prima facie evidence that the
2000 property is subject to forfeiture. The burden of proof placed
2001 upon the petitioner in regard to property forfeited under the
2002 provisions of this chapter shall be by a preponderance of the
2003 evidence.

2004 (c) At the hearing any claimant of any right, title or
2005 interest in the property may prove his lien, encumbrance, security



2006 interest, other interest in the nature of a security interest,
2007 mortgage or deed of trust to be bona fide and created without
2008 knowledge or consent that the property was to be used so as to
2009 cause the property to be subject to forfeiture.

2010 (d) If it is found that the property is subject to
2011 forfeiture, then the judge shall forfeit the property. However,
2012 if proof at the hearing discloses that the interest of any bona
2013 fide lienholder, secured party, other person holding an interest
2014 in the property in the nature of a security interest, or any
2015 holder of a bona fide encumbrance, mortgage or deed of trust is
2016 greater than or equal to the present value of the property, the
2017 court shall order the property released to him. If the interest
2018 is less than the present value of the property and if the proof
2019 shows that the property is subject to forfeiture, the court shall
2020 order the property forfeited.

2021 (13) Unless otherwise provided herein, all personal property
2022 which is forfeited under this section shall be liquidated and,
2023 after deduction of court costs and the expense of liquidation, the
2024 proceeds shall be divided as follows:

2025 (a) If only one (1) law enforcement agency participates
2026 in the underlying criminal case out of which the forfeiture
2027 arises, fifty percent (50%) of the proceeds shall be forwarded to
2028 the State Treasurer and deposited in the Victims of Human
2029 Trafficking and Commercial Sexual Exploitation Fund, and fifty



2030 percent (50%) shall be deposited and credited to the budget of the
2031 participating law enforcement agency.

2032 (b) If more than one (1) law enforcement agency
2033 participates in the underlying criminal case out of which the
2034 forfeiture arises, fifty percent (50%) of the proceeds shall be
2035 forwarded to the State Treasurer and deposited in the Victims of
2036 Human Trafficking and Commercial Sexual Exploitation Fund,
2037 twenty-five percent (25%) of the proceeds shall be deposited and
2038 credited to the budget of the law enforcement agency whose
2039 officers initiated the criminal case and twenty-five percent (25%)
2040 shall be divided equitably between or among the other
2041 participating law enforcement agencies, and shall be deposited and
2042 credited to the budgets of the participating law enforcement
2043 agencies. In the event that the other participating law
2044 enforcement agencies cannot agree on the division of their
2045 twenty-five percent (25%), a petition shall be filed by any one of
2046 them in the court in which the civil forfeiture case is brought
2047 and the court shall make an equitable division.

2048 (14) All money forfeited under this section shall be
2049 divided, deposited and credited in the same manner as provided in
2050 subsection (13).

2051 (15) All real estate forfeited under the provisions of this
2052 section shall be sold to the highest and best bidder at a public
2053 auction for cash, the auction to be conducted by the chief law
2054 enforcement officer of the initiating law enforcement agency, or



2055 his designee, at such place, on such notice and in accordance with
2056 the same procedure, as far as practicable, as is required in the
2057 case of sales of land under execution at law. The proceeds of the
2058 sale shall first be applied to the cost and expense in
2059 administering and conducting the sale, then to the satisfaction of
2060 all mortgages, deeds of trust, liens and encumbrances of record on
2061 the property. The remaining proceeds shall be divided, forwarded
2062 and deposited in the same manner as provided in subsection (13).

2063 (16) (a) Any county or municipal law enforcement agency may
2064 maintain, repair, use and operate for official purposes all
2065 property described in subsection (1)(a)(i) of this section that
2066 has been forfeited to the agency if it is free from any interest
2067 of a bona fide lienholder, secured party or other party who holds
2068 an interest in the property in the nature of a security interest.
2069 The county or municipal law enforcement agency may purchase the
2070 interest of a bona fide lienholder, secured party or other party
2071 who holds an interest so that the property can be released for its
2072 use. If the property is a motor vehicle susceptible of titling
2073 under the Mississippi Motor Vehicle Title Law, the law enforcement
2074 agency shall be deemed to be the purchaser, and the certificate of
2075 title shall be issued to it as required by subsection (9) of this
2076 section.

2077 (b) (i) If a vehicle is forfeited to or transferred to
2078 a sheriff's department, then the sheriff may transfer the vehicle



2079 to the county for official or governmental use as the board of
2080 supervisors may direct.

2081 (ii) If a vehicle is forfeited to or transferred
2082 to a police department, then the police chief may transfer the
2083 vehicle to the municipality for official or governmental use as
2084 the governing authority of the municipality may direct.

2085 (c) If a motor vehicle forfeited to a county or
2086 municipal law enforcement agency becomes obsolete or is no longer
2087 needed for official or governmental purposes, it may be disposed
2088 of in accordance with Section 19-7-5 or in the manner provided by
2089 law for disposing of municipal property.

2090 (17) The forfeiture procedure set forth in this section is
2091 the sole remedy of any claimant, and no court shall have
2092 jurisdiction to interfere therewith by replevin, injunction,
2093 supersedeas or in any other manner.

2094 **SECTION 24.** Section 97-17-4, Mississippi Code of 1972, is
2095 amended as follows:

2096 97-17-4. (1) All property, real or personal, including
2097 money, used in the course of, intended for use in the course of,
2098 derived from, or realized through, conduct in violation of a
2099 provision of Section 97-17-1 or 97-17-3 is subject to civil
2100 forfeiture to the state pursuant to the provisions of this
2101 section; provided, however, that a forfeiture of personal property
2102 encumbered by a bona fide security interest or real property
2103 encumbered by a bona fide mortgage, deed of trust, lien or



2104 encumbrance of record shall be subject to the interest of the
2105 secured party or subject to the interest of the holder of the
2106 mortgage deed of trust, lien of encumbrance of record if such
2107 secured party or holder neither had knowledge of or consented to
2108 the act or omission.

2109 (2) Property subject to forfeiture may be seized by law
2110 enforcement officers upon process issued by any appropriate court
2111 having jurisdiction over the property. Seizure without process
2112 may be made if:

2113 (a) The seizure is incident to an arrest or a search
2114 under a search warrant in compliance with Section 1 of this act or
2115 an inspection under a lawful administrative inspection;

2116 (b) The property subject to seizure has been the
2117 subject of a prior judgment in favor of the state in a criminal
2118 injunction or forfeiture proceeding based upon this section.

2119 (3) When any property is seized pursuant to this section,
2120 proceedings under this section shall be instituted promptly.

2121 (4) (a) A petition for forfeiture shall be filed promptly
2122 in the name of the State of Mississippi with the clerk of the
2123 circuit court of the county in which the seizure is made. A copy
2124 of such petition shall be served upon the following persons by
2125 service of process in the same manner as in civil cases:

2126 (i) The owner of the property, if address is
2127 known;



2128 (ii) Any secured party who has registered his lien
2129 or filed a financing statement as provided by law, if the identity
2130 of such secured party can be ascertained by the state by making a
2131 good faith effort to ascertain the identity of such secured party
2132 as described in paragraphs (b), (c), (d), (e) and (f) of this
2133 subsection;

2134 (iii) Any other bona fide lienholder or secured
2135 party or other person holding an interest in the property in the
2136 nature of a security interest of whom the state has actual
2137 knowledge;

2138 (iv) A holder of a mortgage, deed of trust, lien
2139 or encumbrance of record, if the property is real estate by making
2140 a good faith inquiry as described in paragraph (g) of this
2141 section; and

2142 (v) Any person in possession of property subject
2143 to forfeiture at the time that it was seized.

2144 (b) If the property is a motor vehicle susceptible of
2145 titling under the Mississippi Motor Vehicle Title Law and if there
2146 is any reasonable cause to believe that the vehicle has been
2147 titled, the state shall make inquiry of the * * * Department of
2148 Revenue as to what the records of the * * * Department of Revenue
2149 show as to who is the record owner of the vehicle and who, if
2150 anyone, holds any lien or security interest which affects the
2151 vehicle.



2152 (c) If the property is a motor vehicle and is not
2153 titled in the State of Mississippi, then the state shall attempt
2154 to ascertain the name and address of the person in whose name the
2155 vehicle is licensed, and if the vehicle is licensed in a state
2156 which has in effect a certificate of title law, the state shall
2157 make inquiry of the appropriate agency of that state as to what
2158 the records of the agency show as to who is the record owner of
2159 the vehicle and who, if anyone, holds any lien, security interest,
2160 or other instrument in the nature of a security device which
2161 affects the vehicle.

2162 (d) If the property is of a nature that a financing
2163 statement is required by the laws of this state to be filed to
2164 perfect a security interest affecting the property and if there is
2165 any reasonable cause to believe that a financing statement
2166 covering the security interest has been filed under the laws of
2167 this state, the state shall make inquiry of the appropriate office
2168 designated in Section 75-9-501 as to what the records show as to
2169 who is the record owner of the property and who, if anyone, has
2170 filed a financing statement affecting the property.

2171 (e) If the property is an aircraft or part thereof and
2172 if there is any reasonable cause to believe that an instrument in
2173 the nature of a security device affects the property, then the
2174 state shall make inquiry of the administrator of the Federal
2175 Aviation Administration as to what the records of the
2176 administrator show as to who is the record owner of the property



2177 and who, if anyone, holds an instrument in the nature of a
2178 security device which affects the property.

2179 (f) In the case of all other personal property subject
2180 to forfeiture, if there is any reasonable cause to believe that an
2181 instrument in the nature of a security device affects the
2182 property, then the state shall make a good faith inquiry to
2183 identify the holder of any such instrument.

2184 (g) If the property is real estate, the state shall
2185 make inquiry at the appropriate places to determine who is the
2186 owner of record and who, if anyone is a holder of a bona fide
2187 mortgage, deed of trust, lien or encumbrance.

2188 (h) In the event the answer to an inquiry states that
2189 the record owner of the property is any person other than the
2190 person who was in possession of it when it was seized, or states
2191 that any person holds any lien, encumbrance, security interest,
2192 other interest in the nature of a security interest, mortgage or
2193 deed of trust which affects the property, the state shall cause
2194 any record owner and also any lienholder, secured party, other
2195 person who holds an interest in the property in the nature of a
2196 security interest, or holder of an encumbrance, mortgage or deed
2197 of trust which affects the property to be named in the petition of
2198 forfeiture and to be served with process in the same manner as in
2199 civil cases.

2200 (i) If the owner of the property cannot be found and
2201 served with a copy of the petition of forfeiture, or if no person



2202 was in possession of the property subject to forfeiture at the
2203 time that it was seized and the owner of the property is unknown,
2204 the state shall file with the clerk of the court in which the
2205 proceeding is pending an affidavit to such effect, whereupon the
2206 clerk of the court shall publish notice of the hearing addressed
2207 to "the Unknown Owner of _____," filling in the blank
2208 space with a reasonably detailed description of the property
2209 subject to forfeiture. Service by publication shall contain the
2210 other requisites prescribed in Section 11-33-41, and shall be
2211 served as provided in Section 11-33-37 for publication of notice
2212 for attachments at law.

2213 (j) No proceedings instituted pursuant to the
2214 provisions of this article shall proceed to hearing unless the
2215 judge conducting the hearing is satisfied that this section has
2216 been complied with. Any answer received from an inquiry required
2217 by paragraphs (b) through (g) of this section shall be introduced
2218 into evidence at the hearing.

2219 (5) (a) An owner of property that has been seized shall
2220 file a verified answer within twenty (20) days after the
2221 completion of service of process. If no answer is filed, the
2222 court shall hear evidence that the property is subject to
2223 forfeiture and forfeit the property to the state. If an answer is
2224 filed, a time for hearing on forfeiture shall be set within thirty
2225 (30) days of filing the answer or at the succeeding term of court
2226 if court would not be in progress within thirty (30) days after



2227 filing the answer. Provided, however, that upon request by the
2228 state or the owner of the property, the court may postpone said
2229 forfeiture hearing to a date past the time any criminal action is
2230 pending against said owner.

2231 (b) If the owner of the property has filed a verified
2232 answer denying that the property is subject to forfeiture, then
2233 the burden is on the state to prove that the property is subject
2234 to forfeiture. The burden of proof placed upon the state shall be
2235 clear and convincing proof. However, if no answer has been filed
2236 by the owner of the property, the petition for forfeiture may be
2237 introduced into evidence and is prima facie evidence that the
2238 property is subject to forfeiture.

2239 (c) At the hearing any claimant of any right, title, or
2240 interest in the property may prove his lien, encumbrance, security
2241 interest, other interest in the nature of a security interest,
2242 mortgage or deed of trust to be bona fide and created without
2243 knowledge or consent that the property was to be used so as to
2244 cause the property to be subject to forfeiture.

2245 (d) If it is found that the property is subject to
2246 forfeiture, then the judge shall forfeit the property to the
2247 state. However, if proof at the hearing discloses that the
2248 interest of any bona fide lienholder, secured party, other person
2249 holding an interest in the property in the nature of a security
2250 interest or any holder of a bona fide encumbrance, mortgage or
2251 deed of trust is greater than or equal to the present value of the



2252 property, the court shall order the property released to him. If
2253 such interest is less than the present value of the property and
2254 if the proof shows that the property is subject to forfeiture, the
2255 court shall order the property forfeited to the state.

2256 (6) (a) All personal property, including money, which is
2257 forfeited to the state and is not capable of being sold at public
2258 auction shall be liquidated and the proceeds, after deduction of
2259 all storage and court costs, shall be forwarded to the State
2260 Treasurer and deposited in the General Fund of the state.

2261 (b) All real estate which is forfeited to the state
2262 shall be sold to the highest bidder at a public auction to be
2263 conducted by the state at such place, on such notice and in
2264 accordance with the same procedure, as far as practicable, as is
2265 required in the case of sales of land under execution of law. The
2266 proceeds of such sale shall first be applied to the cost and
2267 expense in administering and conducting such sale, then to the
2268 satisfaction of all mortgages, deeds of trusts, liens and
2269 encumbrances of record on such property. All proceeds in excess
2270 of the amount necessary for the cost of the sale of such land and
2271 the satisfaction of any liens thereon shall be deposited in the
2272 General Fund of the State Treasury.

2273 (c) All other property that has been seized by the
2274 state and that has been forfeited shall, except as otherwise
2275 provided, be sold at a public auction for cash by the state to the
2276 highest and best bidder after advertising the sale for at least



2277 once each week for three (3) consecutive weeks, the last notice to
2278 appear not more than ten (10) days nor less than five (5) days
2279 prior to such sale, in a newspaper having a general circulation
2280 throughout the State of Mississippi. Such notices shall contain a
2281 description of the property to be sold and a statement of the time
2282 and place of sale. It shall not be necessary to the validity of
2283 such sale either to have the property present at the place of sale
2284 or to have the name of the owner thereof stated in such notice.
2285 The proceeds of the sale shall be delivered to the circuit clerk
2286 and shall be disposed of as follows:

2287 (i) To any bona fide lienholder, secured party, or
2288 other party holding an interest in the property in the nature of a
2289 security interest, to the extent of his interest; and

2290 (ii) The balance, if any, after deduction of all
2291 storage and court costs, shall be forwarded to the State Treasurer
2292 and deposited with and used as general funds of the state.

2293 (d) The * * * Department of Revenue shall issue a
2294 certificate of title to any person who purchases property under
2295 the provisions of this section when a certificate of title is
2296 required under the laws of this state.

2297 **SECTION 25.** Section 97-21-101, Mississippi Code of 1972, is
2298 amended as follows:

2299 97-21-101. (1) All property, real or personal, including
2300 money, used in the course of, intended for use in the course of,
2301 derived from, or realized through, conduct in violation of Section



2302 97-21-53, 97-21-55, 97-21-57 or 97-23-89 is subject to civil
2303 forfeiture to the state pursuant to the provisions of Section
2304 97-21-103; provided, however, that a forfeiture of personal
2305 property encumbered by a bona fide security interest or real
2306 property encumbered by a bona fide mortgage, deed of trust, lien
2307 or encumbrance of record shall be subject to the interest of the
2308 secured party or subject to the interest of the holder of the
2309 mortgage, deed of trust, lien or encumbrance of record if such
2310 secured party or holder neither had knowledge of or consented to
2311 the act or omission.

2312 (2) Property subject to forfeiture may be seized by law
2313 enforcement officers upon process issued by any appropriate court
2314 having jurisdiction over the property. Seizure without process
2315 may be made if:

2316 (a) The seizure is incident to an arrest or a search
2317 under a search warrant in compliance with Section 1 of this act or
2318 an inspection under a lawful administrative inspection;

2319 (b) The property subject to seizure has been the
2320 subject of a prior judgment in favor of the state in a criminal
2321 injunction or forfeiture proceeding based upon this article.

2322 (3) The Attorney General, any district attorney or any state
2323 agency having jurisdiction over conduct in violation of Section
2324 97-21-53, 97-21-55, 97-21-57 or 97-23-89 may institute civil
2325 proceedings under this section. In any action brought under this
2326 section, the circuit court shall proceed as soon as practicable to



2327 the hearing and determination. Pending final determination, the
2328 circuit court may at any time enter such injunctions or
2329 restraining orders, or take such actions, including the acceptance
2330 of satisfactory performance bonds, as the court may deem proper.

2331 (4) Any aggrieved person may institute a civil proceeding
2332 against any person or enterprise convicted of engaging in activity
2333 in violation of Section 97-21-53, 97-21-55, 97-21-57 or 97-23-89.
2334 In such proceeding, relief shall be granted in conformity with the
2335 principles that govern the granting of injunctive relief from
2336 threatened loss or damage in other civil cases, except that no
2337 showing of immediate and irreparable injury, loss or damage to the
2338 person shall have to be made.

2339 (5) The Attorney General may, upon timely application,
2340 intervene in any civil action or proceeding brought under this
2341 section if he certifies that, in his opinion, the action or
2342 proceeding is of general public importance. In such action or
2343 proceeding, the state shall be entitled to the same relief as if
2344 the Attorney General instituted the action or proceeding.

2345 (6) Notwithstanding any other provision of law, a criminal
2346 or civil action or proceeding under this article may be commenced
2347 at any time within five (5) years after the conduct in violation
2348 of law terminates or the cause of action accrues. If a criminal
2349 prosecution or civil action or other proceeding is brought, or
2350 intervened in, to punish, prevent or restrain any violation of
2351 law, the running of the period of limitations prescribed by this



2352 section with respect to any cause of action arising under this
2353 section which is based, in whole or in part, upon any matter
2354 complained of in any such prosecution, action or proceeding shall
2355 be suspended during the pendency of such prosecution, action or
2356 proceeding and for two (2) years following its termination.

2357 (7) The application of one (1) civil remedy under any
2358 provision of this article shall not preclude the application of
2359 any other remedy, civil or criminal, under this article or any
2360 other provision of law. Civil remedies under this article are
2361 supplemental.

2362 **SECTION 26.** Section 97-37-23, Mississippi Code of 1972, is
2363 amended as follows:

2364 97-37-23. (1) Except for persons who are engaged in lawful
2365 business activities or persons who are engaged in educational
2366 activities conducted by educational institutions, it is unlawful
2367 for any person to have in his possession:

2368 (a) Dynamite caps, nitroglycerine caps, fuses,
2369 detonators, dynamite, nitroglycerine, explosives, gas or stink
2370 bombs, or other similar explosives peculiarly possessed and
2371 adapted to aid in the commission of a crime; except such person or
2372 persons who are engaged in a lawful business which ordinarily
2373 requires the use thereof in the ordinary and usual conduct of such
2374 business, and who possess said articles for the purpose of use in
2375 said business;

2376 (b) Any:



2377 (i) Bomb;

2378 (ii) Grenade;

2379 (iii) Rocket having a propellant charge of more
2380 than four (4) ounces;

2381 (iv) Missile having an explosive or incendiary
2382 charge of more than one-quarter (1/4) ounce;

2383 (v) Mine;

2384 (vi) Any combination of parts either designed or
2385 intended for use in converting any device into one or more of the
2386 destructive devices described in this paragraph (b); or

2387 (vii) Any device which consists of or includes a
2388 breakable container including a flammable liquid or compound and a
2389 wick composed of any material which, when ignited, is capable of
2390 igniting such flammable liquid or compound and can be carried or
2391 thrown by one (1) individual acting alone; and

2392 (viii) Or other similar explosives peculiarly
2393 possessed and adapted to aid in the commission of a crime; and

2394 (c) Upon conviction of any person thereof, he shall be
2395 punished by imprisonment in the Penitentiary for a term not to
2396 exceed five (5) years. The possession of such explosives by one
2397 who does not customarily use same in his regular and ordinary
2398 occupational activities shall be prima facie evidence of an
2399 intention to use same for such unlawful purposes.

2400 (2) It shall be the duty of any sheriff, constable, marshal,
2401 or policeman in a municipality, or any person vested with general



2402 police authority, who has reason to believe and does believe that
2403 the above-described explosives are being transported or possessed
2404 for aid in the commission of a crime, forthwith to make a
2405 reasonable search of such person or vehicle, and to seize such
2406 explosives and to at once arrest the person or persons having
2407 possession or control thereof. Such officer or officers
2408 proceeding in good faith shall not be liable either civilly or
2409 criminally for such a search and seizure without a warrant, so
2410 long as said search and seizure is conducted in a reasonable
2411 manner, it appearing that the officer or officers had reason to
2412 believe and did believe that the law was being violated at the
2413 time such search was instituted. And the officer or officers
2414 making such search shall be competent to testify as a witness or
2415 witnesses as to all facts ascertained by means of said reasonable
2416 search or seizure, and all such explosives seized shall be
2417 admitted in evidence. But this section shall not authorize the
2418 search of a residence or home, or room, or building, or the
2419 premises belonging to or in the possession lawfully of the party
2420 suspected, without a search warrant executed in compliance with
2421 Section 1 of this act.

2422 (3) In order to invoke the exception provided in subsection
2423 (1) for persons who possess explosive articles for business
2424 purposes, such person must comply with the provisions of this
2425 subsection as follows:



2426 (a) One or more individuals shall be designated by the
2427 owner of a business employing explosive articles subject to this
2428 section as the custodian for such articles; and

2429 (b) The custodian shall notify the sheriff of any
2430 county wherein such articles are utilized or employed by
2431 registering with the sheriff in writing prior to such use and
2432 including in such registration:

2433 (i) The business name and address of the owner of
2434 the articles;

2435 (ii) The name, address and local address of the
2436 custodian;

2437 (iii) The location of the job site where such
2438 articles shall be employed;

2439 (iv) In the event subject articles will not be in
2440 the immediate possession of the custodian, the custodian shall
2441 advise the sheriff of the specific location where such articles
2442 are left or stored;

2443 (v) Whenever business operations subject to this
2444 section or the storage of articles subject to this section occur
2445 within an incorporated municipality, the mayor or chief of police
2446 shall also be notified as required by this subsection.

2447 (4) Any person who fails to comply with the provisions of
2448 subsection (3) of this section shall, upon conviction thereof, be
2449 punished by imprisonment in the State Penitentiary for a term not



2450 to exceed one (1) year or by a fine in an amount not to exceed Ten
2451 Thousand Dollars (\$10,000.00), or by both.

2452 (5) The provisions of subsections (3) and (4) of this
2453 section are supplemental to any other statutory provision,
2454 ordinances of local governments or liabilities or duties otherwise
2455 imposed by law.

2456 **SECTION 27.** Section 97-43-9, Mississippi Code of 1972, is
2457 amended as follows:

2458 97-43-9. (1) Any circuit court may, after making due
2459 provision for the rights of innocent persons, enjoin violations of
2460 the provisions of this chapter by issuing appropriate orders and
2461 judgments, including, but not limited to:

2462 (a) Ordering any defendant to divest himself of any
2463 interest in any enterprise, including real property.

2464 (b) Imposing reasonable restrictions upon the future
2465 activities or investments of any defendant, including, but not
2466 limited to, prohibiting any defendant from engaging in the same
2467 type of endeavor as the enterprise in which he was engaged in
2468 violation of the provisions of this chapter.

2469 (c) Ordering the dissolution or reorganization of any
2470 enterprise.

2471 (d) Ordering the suspension or revocation of a license
2472 or permit granted to any enterprise by any agency of the state.

2473 (e) Ordering the forfeiture of the charter of a
2474 corporation organized under the laws of the state, or the



2475 revocation of a certificate authorizing a foreign corporation to
2476 conduct business within the state, upon finding that the board of
2477 directors or a managerial agent acting on behalf of the
2478 corporation, in conducting the affairs of the corporation, has
2479 authorized or engaged in conduct in violation of this chapter and
2480 that, for the prevention of future criminal activity, the public
2481 interest requires the charter of the corporation forfeited and the
2482 corporation dissolved or the certificate revoked.

2483 (2) All property, real or personal, including money, used in
2484 the course of, intended for use in the course of, derived from, or
2485 realized through, conduct in violation of a provision of this
2486 chapter is subject to civil forfeiture to the state pursuant to
2487 the provisions of Section 97-43-11; provided, however, that a
2488 forfeiture of personal property encumbered by a bona fide security
2489 interest or real property encumbered by a bona fide mortgage, deed
2490 of trust, lien or encumbrance of record shall be subject to the
2491 interest of the secured party or subject to the interest of the
2492 holder of the mortgage, deed of trust, lien * * * or encumbrance
2493 of record if such secured party or holder neither had knowledge of
2494 or consented to the act or omission.

2495 (3) Property subject to forfeiture may be seized by law
2496 enforcement officers upon process issued by any appropriate court
2497 having jurisdiction over the property. Seizure without process
2498 may be made if:



2499 (a) The seizure is incident to an arrest or a search
2500 under a search warrant in compliance with Section 1 of this act or
2501 an inspection under a lawful administrative inspection;

2502 (b) The property subject to seizure has been the
2503 subject of a prior judgment in favor of the state in a criminal
2504 injunction or forfeiture proceeding based upon this article * * *.

2505 (4) The Attorney General, any district attorney or any state
2506 agency having jurisdiction over conduct in violation of a
2507 provision of this chapter may institute civil proceedings under
2508 this section. In any action brought under this section, the
2509 circuit court shall proceed as soon as practicable to the hearing
2510 and determination. Pending final determination, the circuit court
2511 may at any time enter such injunctions or restraining orders, or
2512 take such actions, including the acceptance of satisfactory
2513 performance bonds, as the court may deem proper.

2514 (5) Any aggrieved person may institute a civil proceeding
2515 under subsection (1) of this section against any person or
2516 enterprise convicted of engaging in activity in violation of this
2517 chapter. In such proceeding, relief shall be granted in
2518 conformity with the principles that govern the granting of
2519 injunctive relief from threatened loss or damage in other civil
2520 cases, except that no showing of immediate and irreparable injury,
2521 loss or damage to the person shall have to be made.

2522 (6) Any person who is injured by reason of any violation of
2523 the provisions of this chapter shall have a cause of action



2524 against any person or enterprise convicted of engaging in activity
2525 in violation of this chapter for threefold the actual damages
2526 sustained and, when appropriate, punitive damages. Such person
2527 shall also recover attorney's * * * fees in the trial and
2528 appellate courts and costs of investigation and litigation,
2529 reasonably incurred.

2530 (a) The defendant or any injured person may demand a
2531 trial by jury in any civil action brought pursuant to this
2532 subsection.

2533 (b) Any injured person shall have a right or claim to
2534 forfeited property or to the proceeds derived therefrom superior
2535 to any right or claim the state has in the same property or
2536 proceeds.

2537 (7) The Attorney General may, upon timely application,
2538 intervene in any civil action or proceeding brought under
2539 subsections (5) or (6) of this section if he certifies that, in
2540 his opinion, the action or proceeding is of general public
2541 importance. In such action or proceeding, the state shall be
2542 entitled to the same relief as if the Attorney General instituted
2543 the action or proceeding.

2544 (8) Notwithstanding any other provision of law, a criminal
2545 or civil action or proceeding under this chapter may be commenced
2546 at any time within five (5) years after the conduct in violation
2547 of a provision of this chapter terminates or the cause of action
2548 accrues. If a criminal prosecution or civil action or other



2549 proceeding is brought, or intervened in, to punish, prevent or
2550 restrain any violation of the provisions of this chapter, the
2551 running of the period of limitations prescribed by this section
2552 with respect to any cause of action arising under subsections (5)
2553 or (6) of this section which is based, in whole or in part, upon
2554 any matter complained of in any such prosecution, action or
2555 proceeding shall be suspended during the pendency of such
2556 prosecution, action or proceeding and for two (2) years following
2557 its termination.

2558 (9) The application of one (1) civil remedy under any
2559 provision of this chapter shall not preclude the application of
2560 any other remedy, civil or criminal, under this chapter or any
2561 other provision of law. Civil remedies under this chapter are
2562 supplemental.

2563 **SECTION 28.** Section 99-3-2, Mississippi Code of 1972, is
2564 amended as follows:

2565 99-3-2. Any United States Marshal or Deputy United States
2566 Marshal is authorized in the performance of his duties to bear
2567 arms, to make arrests and to make searches and seizures in
2568 compliance with Section 1 of this act. Whenever any other federal
2569 law enforcement officer who is employed by the United States
2570 government, authorized to effect an arrest for a violation of the
2571 United States Code, and authorized to carry a firearm in the
2572 performance of his duties is working in cooperation with local law
2573 enforcement officers, the agent shall have the authority in the



2574 performance of his duties to bear arms, to make arrests and to
2575 make searches and seizures. Any right granted under this section
2576 in no way relieves the requirements of appropriate affidavit and
2577 search warrant from the appropriate jurisdiction and authority
2578 pursuant to the laws of this state.

2579 **SECTION 29.** Section 99-15-11, Mississippi Code of 1972, is
2580 amended as follows:

2581 99-15-11. Any conservator of the peace, on the affidavit of
2582 a credible person, may issue a search warrant and cause stolen or
2583 embezzled goods to be seized; but the affidavit and warrant must
2584 specify the goods to be seized and the person or place to be
2585 searched and be in compliance with the requirements of Section 1
2586 of this act.

2587 **SECTION 30.** Section 99-27-15, Mississippi Code of 1972, is
2588 amended as follows:

2589 99-27-15. Upon the affidavit of any credible person that he
2590 or she has reason to believe and does believe: (1) that
2591 intoxicating liquor is being stored, kept, owned, controlled, or
2592 possessed, in violation of the laws of the state, at any
2593 designated place or within any designated receptacle, which place
2594 is to be stated in the affidavit; or (2) that intoxicating liquor
2595 is being sold or offered for sale contrary to law at any
2596 designated place; or (3) that liquor is being manufactured or
2597 distilled, or attempted to be manufactured or distilled at any
2598 designated place, in violation of the laws of the state; or (4)



2599 that intoxicating liquor is being transported, attempted to be
2600 transported within the state at or over or through any designated
2601 place, contrary to the laws of the state, it shall be the duty of
2602 any justice of the peace of the county or county judge, or the
2603 judge of the circuit court of the district or the chancellor of
2604 the district in which the place is situated, to issue a search
2605 warrant in compliance with Section 1 of this act, directed to the
2606 sheriff or any constable of the county, or if in a municipality,
2607 to the sheriff or any constable or marshal or policeman therein,
2608 commanding him or her to proceed in the day or nighttime, to enter
2609 by breaking if necessary, and to diligently search any building,
2610 room in a building, outhouses, place, wagon, cart, buggy,
2611 automobile, motorcycle, motor truck, water or air craft or other
2612 vehicle, as may be designated in the affidavit, and to seize said
2613 intoxicating liquor, and any wagon, buggy, cart, automobile,
2614 motorcycle, motor truck, water or air craft or other vehicle used
2615 or attempted to be used in the transporting of the same, or any
2616 still or distillery or integral part of the same including
2617 appliances, vessels and equipment pertaining thereto used in
2618 making or manufacturing or attempting to make or manufacture said
2619 intoxicating liquor, and to hold the same until disposed of by
2620 law, and to arrest the person, or persons in possession and
2621 control of the same.



2622 The writ shall be returnable instanter or on a day stated and
2623 a copy shall be served on the owner or person in possession if
2624 such person be present or readily found.

2625 **SECTION 31.** Section 99-27-21, Mississippi Code of 1972, is
2626 amended as follows:

2627 99-27-21. It shall be the duty of any sheriff or constable
2628 of a county, or any sheriff, constable or marshal, or policeman in
2629 a municipality who has reason to believe and does believe that
2630 intoxicating liquor is being transported in violation of law, in
2631 any wagon, cart, buggy, automobile, motorcycle, motor truck, water
2632 or air craft, or any other vehicle, forthwith to make a reasonable
2633 search of such vehicle and to seize any intoxicating liquor so
2634 found being transported or being attempted to be transported in
2635 violation of law and at once to arrest the person or persons in
2636 possession or control thereof and transporting or attempting to
2637 transport same in violation of law; and such officer or officers
2638 proceeding in good faith shall not be liable either civilly or
2639 criminally for such a search and seizure without a warrant, so
2640 long as said search and seizure is conducted in a reasonable
2641 manner and in compliance with Section 1 of this act, it appearing
2642 that the officer or officers had reason to believe and did believe
2643 that the prohibition laws of the State of Mississippi were being
2644 violated at the time such search was instituted. And the officers
2645 making such search shall be a competent witness, or witnesses, to
2646 testify as to all facts ascertained, and discoveries made, by



2647 means of said reasonable search, and all liquor, and all
2648 appliances for its manufacture or transportation, so seized shall
2649 be admitted in evidence. But this section shall not authorize the
2650 search of a residence or home or room or building or the premises
2651 belonging to or in the possession lawfully of the party suspected,
2652 without a search warrant.

2653 **SECTION 32.** Section 11-43-25, Mississippi Code of 1972, is
2654 amended as follows:

2655 11-43-25. Whenever the judge or chancellor, on issuing a
2656 writ of habeas corpus, shall be satisfied, by affidavit or
2657 otherwise, that the person unlawfully depriving another of his or
2658 her liberty has committed a crime in connection with such unlawful
2659 act, he or she may embody in the writ a warrant for the arrest of
2660 such person and have him or her brought up for examination at the
2661 hearing of the habeas corpus in compliance with Section 1 of this
2662 act; and being satisfied, on the trial and examination, of the
2663 guilt of such person, the judge or chancellor shall commit him or
2664 her, or order his or her release on bail, to appear before the
2665 proper court to answer the charge.

2666 **SECTION 33.** Section 19-25-11, Mississippi Code of 1972, is
2667 amended as follows:

2668 19-25-11. In the event there is outstanding a warrant for
2669 the arrest of the sheriff of the county issued by any justice of
2670 the peace, mayor, or any police justice in said county whereby the
2671 said sheriff has been charged by affidavit duly made before said



2672 justice of the peace, mayor, or police justice in said county for
2673 any misdemeanor or felony, any constable of the county, or any
2674 marshal or police officer of any municipality located in said
2675 county, may execute said warrant and arrest the said sheriff in
2676 compliance with Section 1 of this act. In his or her failure to
2677 make bond in the amount as fixed by the justice of the peace,
2678 mayor or police justice where said affidavit was made, the officer
2679 making the arrest may confine said sheriff in a county jail
2680 adjoining the county of his or her residence, or in any other
2681 county jail in the state, and on the date of trial shall deliver
2682 him or her up to the court for trial. Said officer making the
2683 arrest shall be the jailer of said county during the confinement
2684 of the said sheriff in jail and/or while his or her cause on said
2685 criminal charge is pending for trial, provided the sheriff was
2686 jailer and living in the jail at the time of his or her arrest.

2687 **SECTION 34.** Section 23-15-941, Mississippi Code of 1972, is
2688 amended as follows:

2689 23-15-941. If upon the hearing of a primary election contest
2690 or complaint, under Section 23-15-931, it shall distinctly appear
2691 to the trial judge that any person, including a candidate or
2692 election officer, has willfully and corruptly violated any primary
2693 election statute and such violation is by said statute made a
2694 criminal offense, whether a misdemeanor or a felony, it shall be
2695 the duty of the trial judge to issue immediately his warrant for
2696 the arrest of the guilty party in compliance with Section 1 of



2697 this act, reciting in his order therefor, in brief, the grounds or
2698 causes for the arrest. Such warrant and a certified copy of the
2699 order shall be forthwith placed in the hands of the sheriff of the
2700 county wherein the offense occurred, and the sheriff shall at
2701 once, upon receipt of the warrant, arrest the party and commit him
2702 to prison, unless and until the party give bond in the sum of Five
2703 Hundred Dollars (\$500.00) with two (2) or more good and sufficient
2704 sureties conditioned for his appearance at the next term of the
2705 circuit court and from term to term until discharged by law. When
2706 the arrest has been made and the bond, if any, given, the sheriff
2707 shall deliver all the papers therein with his return thereon to
2708 the circuit clerk who shall file, and thereafter personally
2709 deliver, the same to the foreman of the next grand jury.

2710 **SECTION 35.** Section 27-7-79, Mississippi Code of 1972, is
2711 amended as follows:

2712 27-7-79. (1) The commissioner shall have exclusive
2713 jurisdiction and be charged with the administration and
2714 enforcement of the provisions of this article, except as otherwise
2715 provided.

2716 (2) The commissioner, for the purpose of ascertaining the
2717 correctness of any return, or for the purpose of making a return
2718 where none has been made, is hereby authorized, by any agent
2719 designated by the commissioner for that purpose, to examine any
2720 books, papers, records or memoranda, bearing upon the matter
2721 required to be included in the return, and may require the



2722 attendance of persons rendering a return or of any officer or
2723 employee of such person, or of any person having knowledge in the
2724 premises, and may take his testimony with reference to the matter
2725 required by law to be included in the return, with power to
2726 administer oaths to such person or persons.

2727 (3) If any person summoned to appear under this article to
2728 testify, or produce books, papers or other data, shall refuse to
2729 do so, the chancery court for the district in which the person
2730 resides shall have jurisdiction by appropriate process to compel
2731 such attendance, testimony or production of books, papers or other
2732 data.

2733 (4) The commissioner, with the approval of the Governor, may
2734 appoint and remove such officers, agents, deputies, clerks and
2735 employees as he may deem necessary, such persons to have such
2736 duties and powers as the commissioner may, from time to time,
2737 prescribe. The salaries of all officers, agents and employees
2738 employed by the commissioner shall be such as he may prescribe,
2739 with the approval of the Governor, not to exceed such amounts as
2740 may be appropriated by the Legislature, and the members of the
2741 commission and such officers, agents and employees shall be
2742 allowed such reasonable and necessary traveling and other expenses
2743 as may be incurred in the performance of their duties, not to
2744 exceed the amount appropriated therefor by the Legislature.

2745 (5) The commissioner shall designate certain special agents
2746 appointed under this section and evidenced by a written



2747 certificate of appointment under the seal of the commission, of
2748 which judicial notice shall be taken by all courts of this state.
2749 Such agents, when in possession of a warrant issued under
2750 authority of this article, shall have all the powers and duties of
2751 the sheriff in enforcing the provisions of the article relating to
2752 the warrant thus issued, and in making arrests of persons
2753 obstructing or seeking to obstruct the execution of the warrant in
2754 compliance with Section 1 of this act, or in serving any writ,
2755 notice or order connected with the enrolled judgment for which the
2756 warrant is issued by whatever officer or authority of court
2757 issued.

2758 (6) The commissioner may require such of the officers,
2759 agents, and employees, as he may designate, to give bond for the
2760 faithful performance of their duties, in such form and with such
2761 securities as he may determine, and all premiums on such bonds
2762 shall be paid by the commissioner out of the monies appropriated
2763 for the purposes of this article.

2764 (7) All officers empowered by law to administer oaths and
2765 the members of the commission, and such officers as it may
2766 designate, shall have power to administer an oath to any person or
2767 to take the acknowledgment of any person in respect to any return
2768 or report required by this article or the rules and regulations of
2769 the commissioner.



2770 (8) All agents of the commissioner shall have, for
2771 identification purposes, proper credentials signed by the chairman
2772 of the commission.

2773 (9) The commissioner shall prepare and publish annually
2774 statistics reasonably available with respect to the operation of
2775 this law, including classification of taxpayers and of the income,
2776 the amounts allowed as deductions, exemptions and credits, and
2777 also a statement of the cost of administering this article and any
2778 other facts deemed pertinent and valuable.

2779 **SECTION 36.** Section 27-13-65, Mississippi Code of 1972, is
2780 amended as follows:

2781 27-13-65. (1) **Jurisdiction.** The commissioner shall have
2782 exclusive jurisdiction and be charged with the administration and
2783 enforcement of the provisions of this chapter, except as otherwise
2784 provided.

2785 (2) **Examine books.** The commissioner, for the purpose of
2786 ascertaining the correctness of any return, or for the purpose of
2787 making a return where none has been made, is hereby authorized, by
2788 any agent designated by the commissioner, for that purpose, to
2789 examine any books, papers, records or memoranda, bearing upon the
2790 matter required to be included in the return, and may require the
2791 attendance of persons rendering a return or of any officer or
2792 employee of such person, or of any person having knowledge in the
2793 premises, and may take his testimony with reference to the matter



2794 required by law to be included in such return, with power to
2795 administer oaths to such person or persons.

2796 (3) **Summons.** If any person summoned to appear under this
2797 chapter to testify, or produce books, papers or other data, shall
2798 refuse to do so, the chancery court for the district in which such
2799 person resides shall have jurisdiction by appropriate process to
2800 compel attendance, testimony or production of books, papers or
2801 other data.

2802 (4) **Employees.** The commissioner, with the approval of the
2803 Governor, may appoint and remove such officers, agents, deputies,
2804 clerks and employees as he may deem necessary, such persons to
2805 have such duties and powers as the commissioner may, from time to
2806 time, prescribe. The salaries of all officers, agents and
2807 employees employed by the commissioner shall be such as he may
2808 prescribe, with the approval of the Governor, not to exceed such
2809 amounts as may be appropriated by the Legislature, and the members
2810 of the commission and such officers, agents and employees shall be
2811 allowed such reasonable and necessary traveling and other expenses
2812 as may be incurred in the performance of their duties not to
2813 exceed the amount appropriated therefor by the Legislature.

2814 (5) **Special agents.** The commissioner shall designate
2815 certain special agents appointed under this section and evidenced
2816 by a written certificate of appointment under the seal of the
2817 commission, of which judicial notice shall be taken by all courts
2818 of this state. Such agents, when in possession of a warrant



2819 issued under authority of this chapter and in compliance with
2820 Section 1 of this act, shall have all the powers and duties of the
2821 sheriff in enforcing the provisions of the chapter relating to the
2822 warrant thus issued, and in making arrests of persons obstructing
2823 or seeking to obstruct the execution of such warrant, or in
2824 serving any writ, notice or order connected with the enrolled
2825 judgment for which the warrant is issued by whatever officer or
2826 authority of court issued.

2827 (6) **Employees bond.** The commissioner may require such of
2828 the officers, agents and employees, as he may designate, to give
2829 bond for the faithful performance of their duties, in such form
2830 and with such securities as he may determine, and all premiums on
2831 such bonds shall be paid by the commissioner out of the monies
2832 appropriated for the purposes of this chapter.

2833 (7) **Administer oath.** All officers empowered by law to
2834 administer oaths and the members of the commission, and such
2835 officers as it may designate, shall have power to administer an
2836 oath to any person or to take the acknowledgment of any person in
2837 respect to any return or report required by this chapter or the
2838 rules and regulations of the commissioner.

2839 (8) **Credentials.** All agents of the commissioner shall have,
2840 for identification purposes, proper credentials signed by the
2841 chairman of the commission.



2842 (9) **Statistics.** The commissioner shall prepare and publish
2843 annually statistics reasonably available with respect to the
2844 operation of this law, as he may deem pertinent and valuable.

2845 **SECTION 37.** Section 27-19-133, Mississippi Code of 1972, is
2846 amended as follows:

2847 27-19-133. Any sheriff, deputy sheriff or municipal law
2848 enforcement officer is hereby authorized to arrest, without
2849 warrant in compliance with Section 1 of this act, any person
2850 operating, or causing to be operated, any motor vehicle contrary
2851 to the provisions of this article, within the limits of their
2852 respective jurisdiction. In case the owner, or person or persons
2853 operating, or causing to be operated, a motor vehicle shall be
2854 taken into custody because of a violation of any provision hereof,
2855 he or they may be forthwith taken before an accessible justice
2856 court judge, police justice, municipal judge or mayor, having
2857 jurisdiction of such offense, and be entitled to an immediate
2858 hearing. If such hearing cannot then be had, he shall be released
2859 from custody upon giving a good and sufficient bond to appear and
2860 answer for such violation, at such time and place as shall then be
2861 designated, in the manner provided by law, or secured by a sum
2862 equal to the maximum fine for the offense with which he is
2863 charged, or, in lieu thereof, by leaving the motor vehicle being
2864 operated by such person with such officer as may have the accused
2865 in charge. Provided, however, that should the person or persons
2866 in custody so request, the justice court judge, police justice,



2867 municipal judge or mayor before whom the complaint is made, or
2868 before whom the person or persons in custody shall be taken, shall
2869 adjourn the hearing of said case for ten (10) days upon the
2870 execution of a good and sufficient bond, in the manner as above
2871 provided, and, if the defendant or defendants fail to appear to
2872 defend said case, the sum or sums so deposited, or bond so given,
2873 shall be forfeited to the state and disposed of as bond given and
2874 money deposited for bail in other cases, or the motor vehicle
2875 which may have been left by said person or persons may be sold at
2876 public auction by order of the justice court judge, police
2877 justice, municipal judge or mayor, after giving notice of said
2878 proposed sale for three (3) consecutive weeks, in a newspaper of
2879 general circulation in the county where the arrest is made, if
2880 there be such newspaper in said county, describing accurately the
2881 motor vehicle therein and giving the date of the proposed sale.
2882 From the amount realized from such sale a sum equal to the maximum
2883 fine for the offense charged shall be disposed of in like manner;
2884 and the surplus, if any, after deducting all expenses incurred in
2885 keeping or sale of such vehicle, shall be returned to such owner
2886 on demand, but no such forfeiture and disposition of such security
2887 shall in anywise impair the jurisdiction of the justice court
2888 judge, police justice, municipal judge or mayor, to hear and
2889 determine any such charge made against the owner of such motor
2890 vehicle, or the person or persons operating, or causing to be
2891 operated, the said vehicle, or to inflict, upon conviction, any



2892 punishment prescribed by this article. If there be no such
2893 newspaper published in said county, then such sale shall be
2894 advertised by posting written notice in two (2) or more public
2895 places in said county for three (3) consecutive weeks next
2896 preceding such sale.

2897 Any sheriff, deputy sheriff, municipal law enforcement
2898 officer or other peace officer, who shall arrest or prefer charges
2899 against any person alleged to have operated a motor vehicle in
2900 violation of the provisions of this article shall, within five (5)
2901 days after the termination of such proceedings, forward to the
2902 commission a transcript of the court proceedings on such charges,
2903 which transcript shall show the name of the defendant, the date of
2904 the offense, the nature of the offense, the court in which the
2905 proceedings were had, the disposition of the matter and the
2906 sentence, if any, imposed by the court. Any sheriff, deputy
2907 sheriff, municipal law enforcement officer or other peace officer,
2908 who shall fail or refuse to forward such transcript as required
2909 hereby, shall be guilty of a misdemeanor and, upon conviction,
2910 shall be punished by a fine of not less than Ten Dollars (\$10.00)
2911 nor more than One Hundred Dollars (\$100.00), or by imprisonment in
2912 the county jail for not more than thirty (30) days, or by both
2913 such fine and imprisonment. In addition thereto, any sheriff,
2914 deputy sheriff, municipal law enforcement officer or other peace
2915 officer who shall fail or refuse to forward such transcript to the
2916 commission shall be liable on his official bond for a civil



2917 penalty of Two Hundred Fifty Dollars (\$250.00), which may be
2918 recovered upon appropriate proceedings brought by the commission
2919 in chancery court of the proper county.

2920 **SECTION 38.** Section 27-19-135, Mississippi Code of 1972, is
2921 amended as follows:

2922 27-19-135. All taxes, costs and penalties imposed by this
2923 article shall constitute a first lien on all motor vehicles
2924 operated in violation of the provisions hereof, which lien shall
2925 be paramount to any and all private liens, and any such motor
2926 vehicle shall be subject to being seized and impounded to enforce
2927 collection thereof. Any sheriff, deputy sheriff, or
2928 representative or employee of the * * * Department of Revenue or
2929 Mississippi Department of Transportation shall be authorized to
2930 arrest, without warrant in compliance with Section 1 of this act,
2931 any person operating or driving any motor vehicle contrary to the
2932 provisions of this article, within the limits of their respective
2933 jurisdictions, and/or to seize and impound any motor vehicle being
2934 operated in violation of the provisions hereof. In case of such
2935 arrest or seizure, such arresting or impounding officer shall
2936 immediately go into some court of competent jurisdiction to
2937 enforce the lien thereon.

2938 **SECTION 39.** Section 27-19-136, Mississippi Code of 1972, is
2939 amended as follows:

2940 27-19-136. (1) In addition to any other remedy provided in
2941 this article, the Commissioner of Revenue or his designated



2942 officers or agents, or the Executive Director of the Department of
2943 Transportation or his designated officers or agents are authorized
2944 to assess taxes and/or fines and penalties as provided by this
2945 article, notice of which assessment shall be delivered to the
2946 owner or operator or his agent at the time of assessment, by mail
2947 or personal delivery, to be collected as hereinafter provided in
2948 this section.

2949 (2) In lieu of seizure and impoundment of vehicles as
2950 provided by Section 27-19-135, the Commissioner of Revenue or
2951 Executive Director of the Department of Transportation may, in
2952 their discretion, authorize any owner or operator of a motor
2953 vehicle found to be operated in violation of the provisions of
2954 this article to execute and file with the Department of Revenue or
2955 Executive Director of the Department of Transportation a good and
2956 valid bond written by a surety company authorized to do business
2957 in this state in an amount equal to the taxes and/or fines and
2958 penalties assessed because of such violation conditioned upon the
2959 prompt payment when due of all such taxes and/or fines and
2960 penalties. If the Commissioner of Revenue or Executive Director
2961 of the Department of Transportation is satisfied that such owner
2962 or operator has property located in this state of value in excess
2963 of the amount of said taxes and/or fines and penalties, it may
2964 waive the bond requirement.

2965 (3) If the Commissioner of Revenue or Executive Director of
2966 the Department of Transportation shall elect to assess taxes



2967 and/or fines and penalties imposed by this article under
2968 provisions of this section, it may authorize such terms for
2969 payment as shall be deemed appropriate over a period of time not
2970 to exceed six (6) months. Notice of such terms shall be given to
2971 the owner or operator by mail or personal delivery.

2972 (4) If the person thus assessed or liable for the payment of
2973 taxes and/or fines and penalties imposed by this article shall
2974 fail or refuse to make payment when due, the Commissioner of
2975 Revenue or Executive Director of the Department of Transportation
2976 may file notice of tax liens and issue warrants in the same manner
2977 and with the same effect as liens and warrants are issued and
2978 executed upon under the provisions of Sections 27-65-57 through
2979 27-65-69.

2980 (5) The authority granted to special agents in Section
2981 27-65-91 shall also apply with the same force and effect in the
2982 execution of warrants and orders issued under the provisions of
2983 this article and in compliance with Section 1 of this act and in
2984 making arrests of persons obstructing or seeking to obstruct the
2985 execution of such warrants or in serving any writ, notice or order
2986 connected with the enrolled judgment for which the warrant is
2987 issued under the provisions of this article.

2988 (6) The Executive Director of the Department of
2989 Transportation shall designate certain officers or agents by
2990 written certificate of appointment under seal of the Department of
2991 Transportation, of which judicial notice shall be taken by all



2992 courts of this state. Such officers or agents, when in possession
2993 of a warrant issued under authority of this article, shall have
2994 all the powers and duties of the sheriff in the enforcement and
2995 execution of warrants and orders issued under the provisions of
2996 this article and in compliance with Section 1 of this act and in
2997 making arrests of persons obstructing or seeking to obstruct the
2998 execution of such warrants, or in serving any writ, notice or
2999 order connected with the enrolled judgment for which the warrant
3000 is issued under the provisions of this article.

3001 (7) All administrative provisions of the Mississippi Sales
3002 Tax Law, including those which fix damages, penalties and interest
3003 for nonpayment of taxes, and for other noncompliance with the
3004 provisions of said chapter, and all other requirements and duties
3005 imposed upon taxpayers, shall apply to all persons liable for
3006 taxes under the provisions of this article, and the department
3007 shall exercise all power and authority and perform all the duties
3008 with respect to taxpayers under this article as are provided in
3009 said Sales Tax Law, except that in cases of conflict, then the
3010 provisions of this article shall control.

3011 **SECTION 40.** Section 27-65-91, Mississippi Code of 1972, is
3012 amended as follows:

3013 27-65-91. The commissioner shall designate certain special
3014 agents appointed hereunder and evidenced by a written certificate
3015 of appointment under the seal of the * * * Department of Revenue,
3016 of which judicial notice shall be taken by all courts of this



3017 state. Such agents, when in possession of a warrant issued under
3018 authority of this chapter and in compliance with Section 1 of this
3019 act, shall have all the powers and duties of the sheriff in
3020 enforcing the provisions of the chapter relating to the warrant
3021 thus issued, and in making arrests of persons obstructing or
3022 seeking to obstruct the execution of such warrant, or in serving
3023 any writ, notice or order connected with the enrolled judgment for
3024 which the warrant is issued by whatever officer or authority of
3025 court issued.

3026 **SECTION 41.** Section 33-13-21, Mississippi Code of 1972, is
3027 amended as follows:

3028 33-13-21. (1) Arrest is the restraint of a person by an
3029 order, not imposed as a punishment for an offense, directing him
3030 to remain within specified limits. Confinement is the physical
3031 restraint of a person.

3032 (2) An enlisted member may be ordered into arrest or
3033 confinement by any commissioned officer by an order, oral or
3034 written, delivered in person or through other persons subject to
3035 this code or through any person authorized by this code to
3036 apprehend persons. A commanding officer may authorize warrant
3037 officers, or noncommissioned officers to order enlisted members of
3038 his company or subject to his authority into arrest or
3039 confinement.

3040 (3) A commissioned officer or warrant officer may be ordered
3041 into arrest or confinement only by a commanding officer to whose



3042 authority he is subject, by an order, oral or written, delivered
3043 in person or by another commissioned officer. The authority to
3044 order such persons into arrest or confinement may not be
3045 delegated.

3046 (4) No person may be ordered into arrest or confinement
3047 except for probable cause.

3048 (5) This section does not limit the authority of persons
3049 authorized to apprehend offenders to secure the custody of an
3050 alleged offender until a proper authority may be notified.

3051 (6) All arrests shall be executed in compliance with Section
3052 1 of this act.

3053 **SECTION 42.** Section 33-13-321, Mississippi Code of 1972, is
3054 amended as follows:

3055 33-13-321. (1) The trial counsel, the defense counsel, the
3056 accused, if not represented by counsel, and the court-martial
3057 shall have equal opportunity to obtain witnesses and other
3058 evidence. Each shall have the right of compulsory process for
3059 obtaining witnesses.

3060 (2) The military judge or summary court officer of a
3061 court-martial may:

3062 (a) Issue a warrant for the arrest of any accused
3063 person in compliance with Section 1 of this act who having been
3064 served with a warrant and a copy of the charges, disobeys a
3065 written order by the convening authority to appear before the
3066 court;



3067 (b) Issue a subpoena duces tecum and other subpoenas;
3068 (c) Enforce by attachment the attendance of witnesses
3069 and the production of books and papers; and
3070 (d) Sentence for refusal to be sworn or to answer, as
3071 provided in actions before civil courts of the state.

3072 (3) Process issued in court-martial cases to compel
3073 witnesses to appear and testify and to compel the production of
3074 other evidence shall run to any part of the state and shall be
3075 executed by civil officers or peace officers as prescribed by the
3076 laws of the state.

3077 **SECTION 43.** Section 33-13-615, Mississippi Code of 1972, is
3078 amended as follows:

3079 33-13-615. (1) Military courts may issue any process or
3080 mandate necessary to carry into effect their powers. Such a court
3081 may issue subpoenas and subpoenas duces tecum and enforce by
3082 attachment attendance of witnesses and production of books and
3083 records, when it is sitting within the state and the witnesses,
3084 books and records sought are also so located.

3085 (2) Process and mandates may be issued by summary
3086 courts-martial, provost courts, military judges, or the president
3087 of other military courts and may be directed to and may be
3088 executed by the marshals of the military court or any peace
3089 officer and shall be in such form as may be prescribed by
3090 regulations issued under this code.



3091 (3) All officers to whom process or mandates may be directed
3092 shall execute them and make return of their acts thereunder
3093 according to the requirements of those documents. Except as
3094 otherwise specifically provided in this code, no such officer may
3095 demand or require payment of any fee or charge for receiving,
3096 executing, or returning such a process or mandate or for any
3097 service in connection therewith.

3098 (4) The president of any court-martial, any military judge
3099 and any summary court officer, shall have authority to issue,
3100 under his hand, in the name of the State of Mississippi, directed
3101 to any sheriff or constable, whose duty it shall be to serve or
3102 execute the same in the same manner in which like process is
3103 served or executed when issued by a magistrate, all necessary
3104 process, subpoenas, attachments, warrants of arrest in compliance
3105 with Section 1 of this act, and warrants of commitment.

3106 **SECTION 44.** Section 33-13-623, Mississippi Code of 1972, is
3107 amended as follows:

3108 33-13-623. (1) When charges against any person in the
3109 military service of this state are made or referred to a convening
3110 authority authorized to convene a court-martial for the trial of
3111 such person, and a convening authority, believing that such
3112 charges can be sustained, and has reason to believe that the
3113 person so charged will not appear for trial, or intends to flee
3114 from justice, a convening authority may issue a warrant of arrest
3115 to the sheriff or any constable of the county in which the person



3116 charged resides, or wherein he is supposed to be, commanding the
3117 sheriff or constable to take the body of the person so charged and
3118 confine him in jail until such time as his case may be finally
3119 disposed of; and the sheriff or constable, on the order of the
3120 convening authority, shall bring the person so charged before the
3121 court-martial for trial, or turn him over to whomever the order
3122 may direct, the convening authority issuing the warrant of arrest,
3123 shall endorse thereon the amount of bail to be required; and it
3124 shall be a violation of duty on the part of any sheriff or
3125 constable to permit a person so committed to remain out of jail,
3126 except that he may, when such person desires it, permit him to
3127 give bail in the sum endorsed on the warrant, conditioned for his
3128 appearance, from time to time, before such court-martial as he may
3129 be ordered for trial, and until his case is finally disposed of,
3130 or until such time as he may surrender to the sheriff or constable
3131 as directed by the convening authority of the court-martial before
3132 which he may be ordered for trial.

3133 (2) Upon the failure of any person, who has been admitted to
3134 bail conditioned for his appearance for trial before a
3135 court-martial, or upon failure of any person admitted to bail to
3136 appear as a witness in any case before a court-martial, as
3137 conditioned in the bail bond of any such person, the court-martial
3138 shall certify the fact of such failure to so appear to the
3139 convening authority or to the officer commanding for the time



3140 being, as the case may be; and such officer shall cause a judge
3141 advocate, district or county attorney to file suit therefor.

3142 (3) The rules laid down in the criminal procedural statutes
3143 of this state relating to the giving of bail, the amount of bail,
3144 the number of sureties, the persons who may be sureties, the
3145 property exempt from liability, the responsibility of parties to
3146 the same and all other rules of a general nature not inconsistent
3147 with this law are applicable to bail taken as provided in this
3148 code.

3149 (4) A warrant of arrest issued by a convening authority to
3150 order a court-martial, and all subpoenas and other process issued
3151 by courts-martial and courts of inquiry shall extend to every part
3152 of the state and shall be executed in compliance with Section 1 of
3153 this act.

3154 (5) When any lawful process, issued by the proper officer of
3155 any court-martial, comes to the hands of any sheriff or constable,
3156 he shall perform the usual duties of such officer and perform all
3157 acts and duties by this code imposed or authorized to be performed
3158 by any sheriff or constable. Failure of any sheriff or constable
3159 to perform the duties required by this code shall be misdemeanor
3160 offenses punishable by a fine of not more than One Thousand
3161 Dollars (\$1,000.00) and by confinement of not less than six (6)
3162 months and not more than twelve (12) months in jail.

3163 **SECTION 45.** Section 33-15-41, Mississippi Code of 1972, is
3164 amended as follows:



3165 33-15-41. Any emergency management auxiliary policeman who
3166 has had conferred upon him the power of a peace officer, as
3167 provided in Section 33-15-39 and when in full and distinctive
3168 uniform or displaying a badge or other insignia of authority, may
3169 arrest without a warrant in compliance with Section 1 of this act
3170 any person violating or attempting to violate in such officer's
3171 presence any order, rule * * * or regulation made pursuant to this
3172 article. This authority shall be limited to those rules and
3173 regulations which affect the public generally.

3174 **SECTION 46.** Section 41-21-93, Mississippi Code of 1972, is
3175 amended as follows:

3176 41-21-93. If any such patient admitted or committed by a
3177 court to a treatment facility leaves without authorization, the
3178 director may immediately issue a warrant in compliance with
3179 Section 1 of this act to any officer authorized to make arrests,
3180 commanding the arrest and return of said patient to the hospital
3181 from which he is departed.

3182 **SECTION 47.** Section 43-21-301, Mississippi Code of 1972, is
3183 amended as follows:

3184 43-21-301. (1) No court other than the youth court shall
3185 issue an arrest warrant or custody order for a child in a matter
3186 in which the youth court has exclusive original jurisdiction but
3187 shall refer the matter to the youth court. Any arrest warrant
3188 shall be executed in compliance with Section 1 of this act.



3189 (2) Except as otherwise provided, no child in a matter in
3190 which the youth court has exclusive original jurisdiction shall be
3191 taken into custody by a law enforcement officer, the Department of
3192 Human Services, the Department of Child Protection Services, or
3193 any other person unless the judge or his designee has issued a
3194 custody order to take the child into custody.

3195 (3) The judge or his designee may require a law enforcement
3196 officer, the Department of Human Services, the Department of Child
3197 Protection Services, or any suitable person to take a child into
3198 custody for a period not longer than forty-eight (48) hours,
3199 excluding Saturdays, Sundays, and statutory state holidays.

3200 (a) Custody orders under this subsection may be issued
3201 if it appears that there is probable cause to believe that:

3202 (i) The child is within the jurisdiction of the
3203 court;

3204 (ii) Custody is necessary because of any of the
3205 following reasons: the child is in danger of a significant risk
3206 of harm, any person would be in danger of a significant risk of
3207 harm by the child, to ensure the child's attendance in court at
3208 such time as required, or a parent, guardian or custodian is not
3209 available to provide for the care and supervision of the child;
3210 and

3211 (iii) There is no reasonable alternative to
3212 custody.



3213 A finding of probable cause under this subsection (3) (a)
3214 shall not be based solely upon a positive drug test of a newborn
3215 or parent for marijuana or solely upon the status of a parent as a
3216 cardholder under the Mississippi Medical Cannabis Act; however, a
3217 finding of probable cause may be based upon an evidence-based
3218 finding of harm to the child or a parent's inability to provide
3219 for the care and supervision of the child due to the parent's use
3220 of marijuana. Probable cause for unlawful use of any controlled
3221 substance, except as otherwise provided in this subsection (3) (a)
3222 for marijuana, may be based: 1. upon a parent's positive drug
3223 test for unlawful use of a controlled substance only if the child
3224 is in danger of a significant risk of harm or the parent is unable
3225 to provide proper care or supervision of the child because of the
3226 unlawful use and there is no reasonable alternative to custody;
3227 and 2. upon a newborn's positive drug screen for a controlled
3228 substance that was used unlawfully only if the child is in danger
3229 of a significant risk of harm or the parent is unable to provide
3230 proper care or supervision of the child because of the unlawful
3231 use and there is no reasonable alternative to custody.

3232 (b) Custody orders under this subsection shall be
3233 written. In emergency cases, a judge or his designee may issue an
3234 oral custody order, but the order shall be reduced to writing
3235 within forty-eight (48) hours of its issuance.



3236 (c) Each youth court judge shall develop and make
3237 available to law enforcement a list of designees who are available
3238 after hours, on weekends and on holidays.

3239 (4) The judge or his designee may order, orally or in
3240 writing, the immediate release of any child in the custody of any
3241 person or agency. Except as otherwise provided in subsection (3)
3242 of this section, custody orders as provided by this chapter and
3243 authorizations of temporary custody may be written or oral, but,
3244 if oral, reduced to writing within forty-eight (48) hours,
3245 excluding Saturdays, Sundays and statutory state holidays. The
3246 written order shall:

3247 (a) Specify the name and address of the child, or, if
3248 unknown, designate him or her by any name or description by which
3249 he or she can be identified with reasonable certainty;

3250 (b) Specify the age of the child, or, if unknown, that
3251 he or she is believed to be of an age subject to the jurisdiction
3252 of the youth court;

3253 (c) Except in cases where the child is alleged to be a
3254 delinquent child or a child in need of supervision, state that the
3255 effect of the continuation of the child's residing within his or
3256 her own home would be contrary to the welfare of the child, that
3257 the placement of the child in foster care is in the best interests
3258 of the child, and unless the reasonable efforts requirement is
3259 bypassed under Section 43-21-603(7)(c), also state that (i)
3260 reasonable efforts have been made to maintain the child within his



3261 or her own home, but that the circumstances warrant his removal
3262 and there is no reasonable alternative to custody; or (ii) the
3263 circumstances are of such an emergency nature that no reasonable
3264 efforts have been made to maintain the child within his own home,
3265 and that there is no reasonable alternative to custody. If the
3266 court makes a finding in accordance with (ii) of this paragraph,
3267 the court shall order that reasonable efforts be made toward the
3268 reunification of the child with his or her family;

3269 (d) State that the child shall be brought immediately
3270 before the youth court or be taken to a place designated by the
3271 order to be held pending review of the order;

3272 (e) State the date issued and the youth court by which
3273 the order is issued; and

3274 (f) Be signed by the judge or his designee with the
3275 title of his office.

3276 (5) The taking of a child into custody shall not be
3277 considered an arrest except for evidentiary purposes.

3278 (6) (a) No child who has been accused or adjudicated of any
3279 offense that would not be a crime if committed by an adult shall
3280 be placed in an adult jail or lockup. An accused status offender
3281 shall not be held in secure detention longer than twenty-four (24)
3282 hours prior to and twenty-four (24) hours after an initial court
3283 appearance, excluding Saturdays, Sundays and statutory state
3284 holidays, except under the following circumstances: a status
3285 offender may be held in secure detention for violating a valid



3286 court order pursuant to the criteria as established by the federal
3287 Juvenile Justice and Delinquency Prevention Act of 2002, and any
3288 subsequent amendments thereto, and out-of-state runaways may be
3289 detained pending return to their home state.

3290 (b) No accused or adjudicated juvenile offender, except
3291 for an accused or adjudicated juvenile offender in cases where
3292 jurisdiction is waived to the adult criminal court, shall be
3293 detained or placed into custody of any adult jail or lockup for a
3294 period in excess of six (6) hours.

3295 (c) If any county violates the provisions of paragraph
3296 (a) or (b) of this subsection, the state agency authorized to
3297 allocate federal funds received pursuant to the Juvenile Justice
3298 and Delinquency Prevention Act of 1974, 88 Stat. 2750 (codified in
3299 scattered Sections of 5, 18, 42 USCS), shall withhold the county's
3300 share of such funds.

3301 (d) Any county that does not have a facility in which
3302 to detain its juvenile offenders in compliance with the provisions
3303 of paragraphs (a) and (b) of this subsection may enter into a
3304 contractual agreement to detain or place into custody the juvenile
3305 offenders of that county with any county or municipality that does
3306 have such a facility, or with the State of Mississippi, or with
3307 any private entity that maintains a juvenile correctional
3308 facility.

3309 (e) Notwithstanding the provisions of paragraphs (a),
3310 (b), (c) and (d) of this subsection, all counties shall be allowed



3311 a one-year grace period from March 27, 1993, to comply with the
3312 provisions of this subsection.

3313 **SECTION 48.** Section 45-3-21, Mississippi Code of 1972, is
3314 amended as follows:

3315 45-3-21. (1) The powers and duties of the Highway Safety
3316 Patrol shall be, in addition to all others prescribed by law, as
3317 follows:

3318 (a) To enforce all of the traffic laws, rules and
3319 regulations of the State of Mississippi upon all highways of the
3320 state highway system and the rights-of-way of such highways;
3321 provided, however, that if any person commits an offense upon the
3322 state highway system and be pursued by a member of the Highway
3323 Safety Patrol, such patrol officer may pursue and apprehend such
3324 offender upon any of the highways or public roads of this state,
3325 or to any other place to which such offender may flee.

3326 (b) To enforce all rules and regulations of the
3327 commissioner promulgated pursuant to legal authority.

3328 (c) When so directed by the Governor, to enforce any of
3329 the laws of this state upon any of the highways or public roads
3330 thereof.

3331 (d) Upon the request of the Department of Revenue, and
3332 with the approval of the Governor, to enforce all of the
3333 provisions of law with reference to the registration, license and
3334 taxation of vehicles using the highways of this state, and
3335 relative to the sizes, weights and load limits of such vehicles,



3336 and to enforce the provisions of all other laws administered by
3337 the Department of Revenue upon any of the highways or public roads
3338 of this state; and for such purpose the Highway Safety Patrol
3339 shall have the authority to collect and receive all taxes which
3340 may be due under any of such laws, and to report and remit same to
3341 the Department of Revenue in the manner required by law, or the
3342 rules and regulations of the Department of Revenue.

3343 (e) Upon request of the Commercial Transportation
3344 Enforcement Division within the Department of Public Safety, and
3345 when so instructed by the commissioner, to enforce the Mississippi
3346 Motor Carrier Regulatory Law of 1938 and rules and regulations
3347 promulgated thereunder.

3348 (f) To arrest without warrant in compliance with
3349 Section 1 of this act any person or persons committing or
3350 attempting to commit any misdemeanor, felony or breach of the
3351 peace within their presence or view, and to pursue and so arrest
3352 any person committing such an offense to and at any place in the
3353 State of Mississippi where he may go or be. Nothing herein shall
3354 be construed as granting the Mississippi Highway Safety Patrol
3355 general police powers.

3356 (g) To aid and assist any law enforcement officer whose
3357 life or safety is in jeopardy. Additionally, officers of the
3358 Highway Safety Patrol may arrest without warrant in compliance
3359 with Section 1 of this act any fugitive from justice who has
3360 escaped or who is using the highways of the state in an attempt to



3361 flee. With the approval of the commissioner or his designee,
3362 officers of the Highway Safety Patrol may assist other law
3363 enforcement agencies in manhunts for convicted felons who have
3364 escaped and/or for alleged felons where there is probable cause to
3365 believe that the person being sought committed the felony and a
3366 felony had actually been committed.

3367 (h) To cooperate with the State Forest Service by
3368 reporting all forest fires.

3369 (i) Upon request of the sheriff or his designee, or
3370 board of supervisors of any county or the chief of police or mayor
3371 of any municipality, and when so instructed by the commissioner or
3372 his designee, to respond to calls for assistance in a law
3373 enforcement incident; such request and action shall be noted and
3374 clearly reflected on the radio logs of both the Mississippi
3375 Highway Safety Patrol district substation and that of the
3376 requesting agency, entered on the local NCIC terminal, if
3377 available, and a request in writing shall follow within
3378 forty-eight (48) hours. Additionally, the time of commencement
3379 and termination of the specific law enforcement incident shall be
3380 clearly noted on the radio logs of both law enforcement agencies.

3381 (2) The Legislature declares that the primary law
3382 enforcement officer in any county in the State of Mississippi is
3383 the duly qualified and elected sheriff thereof, but for the
3384 purposes of this subsection there is hereby vested in the
3385 Department of Public Safety, in addition to the powers hereinabove



3386 mentioned and the other provisions of this section under the terms
3387 and limitations hereinafter mentioned and for the purpose of
3388 insuring domestic tranquility and for the purpose of preventing or
3389 suppressing, or both, crimes of violence, acts and conduct
3390 calculated to, or which may, provoke or lead to violence and/or
3391 incite riots, mobs, mob violence, a breach of the peace, and acts
3392 of intimidation or terror, the powers and duties to include the
3393 enforcement of all the laws of the State of Mississippi relating
3394 to such purposes, to investigate any violation of the laws of the
3395 State of Mississippi and to aid in the arrest and prosecution of
3396 persons charged with violating the laws of the State of
3397 Mississippi which relate to such purposes. Investigators of the
3398 Bureau of Investigation of the Department of Public Safety shall
3399 have general police powers to enforce all the laws of the State of
3400 Mississippi. All officers of the Department of Public Safety
3401 charged with the enforcement of the laws administered by that
3402 agency, for the purposes herein set forth, shall have full power
3403 to investigate, prevent, apprehend and arrest law violators
3404 anywhere in the state, and shall be vested with the power of
3405 general police officers in the performance of their duties. The
3406 officers of the Department of Public Safety are authorized and
3407 empowered to carry and use firearms and other weapons deemed
3408 necessary in the discharge of their duties as such and are also
3409 empowered to serve warrants and subpoenas issued under the
3410 authority of the State of Mississippi. The Governor shall be



3411 authorized to offer and pay suitable rewards to persons aiding in
3412 the investigation, apprehension and conviction of persons charged
3413 with acts of violence, or threats of violence or intimidation or
3414 acts of terrorism. The additional powers herein granted to or
3415 vested in the Department of Public Safety or any of its officers
3416 or employees by this section, excepting investigating powers, and
3417 those powers of investigators who shall have general police power,
3418 being the investigators in the Bureau of Investigation of the
3419 Department of Public Safety, shall not be exercised by the
3420 Department of Public Safety, or any of its officers or employees,
3421 except upon authority and direction of the Governor or Acting
3422 Governor, by proclamation duly signed, in the following instances,
3423 to wit:

3424 (a) When requested by the sheriff or board of
3425 supervisors of any county or the mayor of any municipality on the
3426 grounds that mob violence, crimes of violence, acts and conduct of
3427 terrorism, riots or acts of intimidation, or either, calculated to
3428 or which may provoke violence or incite riots, mobs, mob violence,
3429 violence, or lead to any breach of the peace, or either, and acts
3430 of intimidation or terror are anticipated, and when such acts or
3431 conduct in the opinion of the Governor or Acting Governor would
3432 provoke violence or any of the foregoing acts or conduct set out
3433 in this subsection, and the sheriff or mayor, as the case may be,
3434 lacks adequate police force to prevent or suppress the same.



3435 (b) Acting upon evidence submitted to him by the
3436 Department of Public Safety, or other investigating agency
3437 authorized by the Governor or Acting Governor to make such
3438 investigations, because of the failure or refusal of the sheriff
3439 of any county or mayor of any municipality to take action or
3440 employ such means at his disposal, to prevent or suppress the
3441 acts, conduct or offenses provided for in subsection (1) of this
3442 section, the Governor or Acting Governor deems it necessary to
3443 invoke the powers and authority vested in the Department of Public
3444 Safety.

3445 (c) The Governor or Acting Governor is hereby
3446 authorized and empowered to issue his proclamation invoking the
3447 powers and authority vested by this paragraph, as provided in
3448 paragraphs (a) and (b) of this subsection, and when the Governor
3449 or Acting Governor issues said proclamation in accordance
3450 herewith, said proclamation shall become effective upon the
3451 signing thereof and shall continue in full force and effect for a
3452 period of ninety (90) days, or for a shorter period if otherwise
3453 ordered by the Governor or Acting Governor. At the signing of the
3454 proclamation by the Governor or Acting Governor, the Department of
3455 Public Safety and its officers and employees shall thereupon be
3456 authorized to exercise the additional power and authority vested
3457 in them by this paragraph. The Governor and Acting Governor may
3458 issue additional proclamations for periods of ninety (90) days



3459 each under the authority of paragraphs (a) and (b) of this
3460 subsection (2).

3461 (3) All proclamations issued by the Governor or Acting
3462 Governor shall be filed in the Office of the Secretary of State on
3463 the next succeeding business day.

3464 (4) It is not the intention of this section to vest the wide
3465 powers and authority herein provided for, as general powers of the
3466 Department of Public Safety, and the same are not hereby so
3467 vested, but to limit these general powers to cases and incidents
3468 wherein it is deemed necessary to prevent or suppress the offenses
3469 and conditions herein mentioned in this and other subsections of
3470 this section, and under the terms and conditions hereinabove
3471 enumerated, it being the sense of the Legislature that the prime
3472 duties of the Department of Public Safety are to patrol the
3473 highways of this state and enforce the highway safety laws.

3474 (5) Patrol officers shall have no interest in any costs in
3475 the prosecution of any case through any court; nor shall any
3476 patrol officer receive any fee as a witness in any court held in
3477 this state, whether a state or federal court.

3478 (6) Provided, however, that the general police power vested
3479 by virtue of the terms of subsection (2) of this section is solely
3480 for the purposes set out in said subsection.

3481 **SECTION 49.** Section 45-27-9, Mississippi Code of 1972, is
3482 amended as follows:



3483 45-27-9. (1) All criminal justice agencies within the state
3484 shall submit to the center an arrest card that will transmit
3485 fingerprints, descriptions, photographs (when specifically
3486 requested), and other identifying data on persons who have been
3487 lawfully arrested or taken into custody in this state for all
3488 felonies and misdemeanors as described in Section 45-27-7(2)(a).
3489 It shall be the duty of all chiefs of police, sheriffs, district
3490 attorneys, courts, court clerks, judges, parole and probation
3491 officers, wardens or other persons in charge of correctional
3492 institutions in this state to furnish the center with all data
3493 required by the rules duly promulgated under the Administrative
3494 Procedures Act to carry out its responsibilities under this
3495 chapter, and the duty of courts and court clerks to submit a
3496 disposition form for every disposition. It shall be the duty of
3497 all criminal justice agencies within the state to supply the
3498 prosecutor and the proper court with the disposition form that is
3499 attached to the physical arrest card if fingerprints were taken
3500 manually or, if fingerprints were captured digitally, the
3501 disposition form generated by the electronic fingerprint device at
3502 the time of the arrest. The PEER committee may conduct random
3503 review of the records of any agency or clerks referenced in this
3504 subsection (1) to determine whether the duties of such agencies
3505 and clerks are being fulfilled in a timely manner. The PEER
3506 committee, based on its findings, if any, shall recommend measures



3507 to ensure that the duties are more effectively carried out in a
3508 timely manner.

3509 (2) All persons in charge of law enforcement agencies shall
3510 obtain, or cause to be obtained, fingerprints according to the
3511 fingerprint system of identification established by the Director
3512 of the Federal Bureau of Investigation, full face and profile
3513 photographs (if equipment is available) and other available
3514 identifying data, of each person arrested or taken into custody
3515 for an offense of a type designated in subsection (1) of this
3516 section, of all persons arrested or taken into custody as
3517 fugitives from justice and of all unidentified human corpses in
3518 their jurisdictions, but photographs need not be taken if it is
3519 known that photographs of the type listed, taken within the
3520 previous year, are on file. Any record taken in connection with
3521 any person arrested or taken into custody and subsequently
3522 released without charge or cleared of the offense through court
3523 proceedings shall be purged from the files of the center and
3524 destroyed upon receipt by the center of a lawful expunction order.
3525 All persons in charge of law enforcement agencies shall submit to
3526 the center detailed descriptions of arrests or takings into
3527 custody which result in release without charge or subsequent
3528 exoneration from criminal liability within twenty-four (24) hours
3529 of the release or exoneration.

3530 (3) Fingerprints and other identifying data required to be
3531 taken under subsection (2) shall be forwarded within twenty-four



3532 (24) hours after taking for filing and classification, but the
3533 period of twenty-four (24) hours may be extended to cover any
3534 intervening holiday or weekend. Photographs taken shall be
3535 forwarded at the discretion of the agency concerned, but, if not
3536 forwarded, the fingerprint record shall be marked "Photo
3537 Available" and the photographs shall be forwarded subsequently if
3538 the center so requests.

3539 (4) All persons in charge of law enforcement agencies shall
3540 submit to the center detailed descriptions of arrest warrants and
3541 related identifying data immediately upon determination of the
3542 fact that the warrant cannot be served for the reasons stated. If
3543 the warrant is subsequently served or withdrawn, the law
3544 enforcement agency concerned must immediately notify the center of
3545 the service or withdrawal. Also, the agency concerned must
3546 annually, no later than January 31 of each year and at other times
3547 if requested by the center, confirm all arrest warrants which
3548 continue to be outstanding. Upon receipt of a lawful expunction
3549 order, the center shall purge and destroy files of all data
3550 relating to an offense when an individual is subsequently
3551 exonerated from criminal liability of that offense. The center
3552 shall not be liable for the failure to purge, destroy or expunge
3553 any records if an agency or court fails to forward to the center
3554 proper documentation ordering the action.

3555 (5) All persons in charge of state correctional institutions
3556 shall obtain fingerprints, according to the fingerprint system of



3557 identification established by the Director of the Federal Bureau
3558 of Investigation or as otherwise directed by the center, and full
3559 face and profile photographs of all persons received on commitment
3560 to the institutions. The prints so taken shall be forwarded to
3561 the center, together with any other identifying data requested,
3562 within ten (10) days after the arrival at the institution of the
3563 person committed. At the time of release, the institution will
3564 again obtain fingerprints, as before, and forward them to the
3565 center within ten (10) days, along with any other related
3566 information requested by the center. The institution shall notify
3567 the center immediately upon the release of the person.

3568 (6) All persons in charge of law enforcement agencies, all
3569 court clerks, all municipal justices where they have no clerks,
3570 all justice court judges and all persons in charge of state and
3571 county probation and parole offices, shall supply the center with
3572 the information described in subsections (4) and (10) of this
3573 section on the basis of the forms and instructions for the
3574 disposition form to be supplied by the center.

3575 (7) All persons in charge of law enforcement agencies in
3576 this state shall furnish the center with any other identifying
3577 data required in accordance with guidelines established by the
3578 center. All law enforcement agencies and correctional
3579 institutions in this state having criminal identification files
3580 shall cooperate in providing the center with copies of the items



3581 in the files which will aid in establishing the nucleus of the
3582 state criminal identification file.

3583 (8) All law enforcement agencies within the state shall
3584 report to the center, in a manner prescribed by the center, all
3585 persons wanted by and all vehicles and identifiable property
3586 stolen from their jurisdictions. The report shall be made as soon
3587 as is practical after the investigating department or agency
3588 either ascertains that a vehicle or identifiable property has been
3589 stolen or obtains a warrant for an individual's arrest or
3590 determines that there are reasonable grounds to believe that the
3591 individual has committed a crime. All warrants shall be executed
3592 in compliance with Section 1 of this act. The report shall be
3593 made within a reasonable time period following the reporting
3594 department's or agency's determination that it has grounds to
3595 believe that a vehicle or property was stolen or that the wanted
3596 person should be arrested.

3597 (9) All law enforcement agencies in the state shall
3598 immediately notify the center if at any time after making a report
3599 as required by subsection (8) of this section it is determined by
3600 the reporting department or agency that a person is no longer
3601 wanted or that a vehicle or property stolen has been recovered.
3602 Furthermore, if the agency making the apprehension or recovery is
3603 not the one which made the original report, then it shall
3604 immediately notify the originating agency of the full particulars



3605 relating to the apprehension or recovery using methods prescribed
3606 by the center.

3607 (10) All law enforcement agencies in the state and clerks of
3608 the various courts shall promptly report to the center all
3609 instances where records of convictions of criminals are ordered
3610 expunged by courts of this state as now provided by law. The
3611 center shall promptly expunge from the files of the center and
3612 destroy all records pertaining to any convictions that are ordered
3613 expunged by the courts of this state as provided by law.

3614 (11) The center shall not be held liable for the failure to
3615 purge, destroy or expunge records if an agency or court fails to
3616 forward to the center proper documentation ordering the action.

3617 (12) Any criminal justice department or agency making an
3618 expenditure in excess of Five Thousand Dollars (\$5,000.00) in any
3619 calendar year on software or programming upgrades concerning a
3620 computerized records management system or jail management system
3621 shall ensure that the new or upgraded system is formatted to
3622 Department of Justice approved XML format and that no impediments
3623 to data sharing with other agencies or departments exist in the
3624 software programming.

3625 (13) (a) All law enforcement agencies within the state
3626 shall:

3627 (i) Implement an incident-based reporting system
3628 within the agency or department that meets the reporting
3629 requirements of the National Incident-Based Reporting System



3630 (NIBRS) of the Uniform Crime Reporting Program of the Federal
3631 Bureau of Investigation;

3632 (ii) Use the system described by subparagraph (i)
3633 to submit to the center information and statistics concerning
3634 criminal offenses committed in the jurisdiction of the local law
3635 enforcement agency, in a manner prescribed by the center; and

3636 (iii) Report the information as soon as is
3637 practicable after the investigating agency or department
3638 ascertains that a qualifying crime has been committed in its
3639 jurisdiction, once the state-level NIBRS Repository is available.

3640 (b) No later than July 1, 2019, the department shall
3641 submit a report to the Legislature that identifies the number of
3642 local law enforcement agencies that have implemented the system
3643 described in this subsection (13).

3644 **SECTION 50.** Section 45-33-33, Mississippi Code of 1972, is
3645 amended as follows:

3646 45-33-33. (1) (a) The failure of an offender to personally
3647 appear at a facility designated by the Department of Public
3648 Safety, or in a manner of the Department of Public Safety's
3649 choosing, including by electronic means, or to provide any
3650 registration or other information, including, but not limited to,
3651 initial registration, reregistration, change of address
3652 information, change of employment, change of name, required
3653 notification to a volunteer organization or any other registration
3654 duty or submission of information required by this chapter is a



3655 violation of this chapter. Additionally, forgery of information
3656 or submission of information under false pretenses, whether by the
3657 registrant or another person, is also a violation of this chapter.

3658 (b) A person commits a violation of this chapter who:

3659 (i) Knowingly harbors, or knowingly attempts to
3660 harbor, or knowingly assists another person in harboring or
3661 attempting to harbor a sex offender who is in violation of this
3662 chapter;

3663 (ii) Knowingly assists a sex offender in eluding a
3664 law enforcement agency that is seeking to find the sex offender to
3665 question the sex offender about, or to arrest the sex offender
3666 for, noncompliance with the requirements of this chapter; or

3667 (iii) Provides information to a law enforcement
3668 agency regarding a sex offender which the person knows to be
3669 false.

3670 (c) A registrant who is required to submit to
3671 electronic monitoring who does not comply with all the terms and
3672 conditions of the electronic monitoring commits a violation of
3673 this chapter.

3674 (2) (a) Unless otherwise specified, a violation of this
3675 chapter shall be considered a felony and shall be punishable by a
3676 fine of not more than Five Thousand Dollars (\$5,000.00),
3677 imprisonment in the custody of the Department of Corrections for
3678 not more than five (5) years, or both fine and imprisonment.



3679 (b) A person who is required to register under this
3680 chapter who is subsequently convicted for a registration violation
3681 under this section, upon release from incarceration, shall submit
3682 to mandatory electronic monitoring under the program established
3683 under Section 45-33-45 for a period computed by subtracting the
3684 time the person spent in actual incarceration from the five-year
3685 maximum imprisonment for the offense and the period of
3686 post-release monitoring shall not be suspended or reduced by the
3687 court or the Department of Corrections.

3688 (3) Whenever it appears that an offender has failed to
3689 comply with the duty to register, reregister or submit to
3690 electronic monitoring, the department shall promptly notify the
3691 sheriff of the county of the last-known address of the offender as
3692 well as the sheriff of the county of the last-known location of
3693 the offender, if different. Upon notification, the sheriff shall
3694 attempt to locate the offender at his last-known address or
3695 last-known location.

3696 (a) If the sheriff locates the offender, he shall
3697 enforce the provisions of this chapter, including initiation of
3698 prosecution if appropriate. The sheriff shall then notify the
3699 department with the current information regarding the offender.

3700 (b) If the sheriff is unable to locate the offender,
3701 the sheriff shall promptly notify the department and initiate a
3702 criminal prosecution against the offender for the failure to
3703 register, reregister or comply with electronic monitoring. The



3704 sheriff shall make the appropriate transactions into the Federal
3705 Bureau of Investigation's wanted-person database and issue a
3706 warrant for the offender's arrest. The warrant shall be executed
3707 in compliance with Section 1 of this act. The department shall
3708 notify the United States Marshals Service of the offender's
3709 noncompliant status and shall update the registry database and
3710 website to show the defendant's noncompliant status as an
3711 absconder.

3712 (4) A violation of this chapter shall result in the arrest
3713 of the offender.

3714 (5) Any prosecution for a violation of this section shall be
3715 brought by a prosecutor in the county of the violation.

3716 (6) A person required to register under this chapter who
3717 commits any act or omission in violation of this chapter may be
3718 prosecuted for the act or omission in the county in which the act
3719 or omission was committed, the county of the last registered
3720 address of the sex offender, the county in which the conviction
3721 occurred for the offense or offenses that meet the criteria
3722 requiring the person to register, the county in which he was
3723 designated a sex offender, or the county in which the sex offender
3724 was found.

3725 (7) The Commissioner of Public Safety or his authorized
3726 agent shall suspend the driver's license or driving privilege of
3727 any offender failing to comply with the duty to report, register



3728 or reregister, submit to monitoring, or who has provided false
3729 information.

3730 (8) When a person required to register under this chapter is
3731 accused of any registration offense under this section, pretrial
3732 release on bond shall be conditioned on the offender's submission
3733 to electronic monitoring under the program established under
3734 Section 45-33-45.

3735 **SECTION 51.** Section 45-33-63, Mississippi Code of 1972, is
3736 amended as follows:

3737 45-33-63. (1) Except as otherwise provided in this section,
3738 it is unlawful for a person required to register as a sex offender
3739 under Section 45-33-25 to do or commit any of the following
3740 actions with respect to the victim of the offense triggering the
3741 duty to register under this chapter:

3742 (a) Threaten, visit, assault, molest, abuse, injure, or
3743 otherwise interfere with the victim;

3744 (b) Follow the victim, including at the victim's
3745 workplace;

3746 (c) Harass the victim;

3747 (d) Contact the victim by telephone, written
3748 communication, or electronic means;

3749 (e) Enter or remain present at the victim's residence,
3750 school, or place of employment when the victim is present.

3751 (2) This section does not apply if the court in which the
3752 conviction was had, at the request of the victim or the parent,



3753 guardian or conservator of the victim, enters an order allowing
3754 contact with the victim. The court may enter such an order if the
3755 court determines that reasonable grounds for the victim to fear
3756 any future contact with the defendant no longer exist.

3757 (3) A violation of this section is a felony punishable by a
3758 fine of not more than Five Thousand Dollars (\$5,000.00) and
3759 imprisonment in the custody of the Department of Corrections for
3760 not less than five (5) nor more than ten (10) years.

3761 (4) A law enforcement officer shall arrest and take into
3762 custody a person, with or without a warrant in compliance with
3763 Section 1 of this act or other process, if the officer has
3764 probable cause to believe that the person knowingly has violated
3765 this section.

3766 (5) Nothing in this section shall be construed to affect the
3767 issuance or enforcement of a criminal sexual assault protection
3768 against a defendant who has been convicted under Section 97-3-65
3769 or 97-3-95.

3770 (6) This section shall be known as Carly's Law.

3771 **SECTION 52.** Section 47-7-27, Mississippi Code of 1972, is
3772 amended as follows:

3773 47-7-27. (1) The board may, at any time and upon a showing
3774 of probable violation of parole, issue a warrant for the return of
3775 any paroled offender to the custody of the department. The
3776 warrant shall authorize all persons named therein to return the



3777 paroled offender to actual custody of the department from which he
3778 was paroled.

3779 (2) Any field supervisor may arrest an offender without a
3780 warrant in compliance with Section 1 of this act or may deputize
3781 any other person with power of arrest by giving him a written
3782 statement setting forth that the offender has, in the judgment of
3783 that field supervisor, violated the conditions of his parole or
3784 earned-release supervision. The written statement delivered with
3785 the offender by the arresting officer to the official in charge of
3786 the department facility from which the offender was released or
3787 other place of detention designated by the department shall be
3788 sufficient warrant for the detention of the offender.

3789 (3) The field supervisor, after making an arrest, shall
3790 present to the detaining authorities a similar statement of the
3791 circumstances of violation. The field supervisor shall at once
3792 notify the board or department of the arrest and detention of the
3793 offender and shall submit a written report showing in what manner
3794 the offender has violated the conditions of parole or
3795 earned-release supervision. An offender for whose return a
3796 warrant has been issued by the board shall, after the issuance of
3797 the warrant, be deemed a fugitive from justice.

3798 (4) Whenever an offender is arrested on a warrant in
3799 compliance with Section 1 of this act for an alleged violation of
3800 parole as herein provided, the board shall hold an informal
3801 preliminary hearing within seventy-two (72) hours to determine



3802 whether there is reasonable cause to believe the person has
3803 violated a condition of parole. A preliminary hearing shall not
3804 be required when the offender is not under arrest on a warrant or
3805 the offender signed a waiver of a preliminary hearing. The
3806 preliminary hearing may be conducted electronically.

3807 (5) The right of the State of Mississippi to extradite
3808 persons and return fugitives from justice, from other states to
3809 this state, shall not be impaired by this chapter and shall remain
3810 in full force and effect. An offender convicted of a felony
3811 committed while on parole, whether in the State of Mississippi or
3812 another state, shall immediately have his parole revoked upon
3813 presentment of a certified copy of the commitment order to the
3814 board. If an offender is on parole and the offender is convicted
3815 of a felony for a crime committed prior to the offender being
3816 placed on parole, whether in the State of Mississippi or another
3817 state, the offender may have his parole revoked upon presentment
3818 of a certified copy of the commitment order to the board.

3819 (6) (a) The board shall hold a hearing for any parolee who
3820 is detained as a result of a warrant or a violation report within
3821 twenty-one (21) days of the parolee's admission to detention. The
3822 board may, in its discretion, terminate the parole or modify the
3823 terms and conditions thereof. If the board revokes parole for one
3824 or more technical violations the board shall impose a period of
3825 imprisonment to be served in a technical violation center operated
3826 by the department not to exceed ninety (90) days for the first



3827 revocation and not to exceed one hundred twenty (120) days for the
3828 second revocation. For the third revocation, the board may impose
3829 a period of imprisonment to be served in a technical violation
3830 center for up to one hundred * * * eighty (180) days or the board
3831 may impose the remainder of the suspended portion of the sentence.
3832 For the fourth and any subsequent revocation, the board may impose
3833 up to the remainder of the suspended portion of the sentence. The
3834 period of imprisonment in a technical violation center imposed
3835 under this section shall not be reduced in any manner.

3836 (b) If the board does not hold a hearing or does not
3837 take action on the violation within the twenty-one-day time frame
3838 in paragraph (a) of this subsection, the parolee shall be released
3839 from detention and shall return to parole status. The board may
3840 subsequently hold a hearing and may revoke parole or may continue
3841 parole and modify the terms and conditions of parole. If the
3842 board revokes parole for one or more technical violations the
3843 board shall impose a period of imprisonment to be served in a
3844 technical violation center operated by the department not to
3845 exceed ninety (90) days for the first revocation and not to exceed
3846 one hundred twenty (120) days for the second revocation. For the
3847 third revocation, the board may impose a period of imprisonment to
3848 be served in a technical violation center for up to one hundred
3849 eighty (180) days or the board may impose the remainder of the
3850 suspended portion of the sentence. For the fourth and any
3851 subsequent revocation, the board may impose up to the remainder of



3852 the suspended portion of the sentence. The period of imprisonment
3853 in a technical violation center imposed under this section shall
3854 not be reduced in any manner.

3855 (c) For a parolee charged with one or more technical
3856 violations who has not been detained awaiting the revocation
3857 hearing, the board may hold a hearing within a reasonable time.
3858 The board may revoke parole or may continue parole and modify the
3859 terms and conditions of parole. If the board revokes parole for
3860 one or more technical violations the board shall impose a period
3861 of imprisonment to be served in a technical violation center
3862 operated by the department not to exceed ninety (90) days for the
3863 first revocation and not to exceed one hundred twenty (120) days
3864 for the second revocation. For the third revocation, the board
3865 may impose a period of imprisonment to be served in a technical
3866 violation center for up to one hundred eighty (180) days or the
3867 board may impose the remainder of the suspended portion of the
3868 sentence. For the fourth and any subsequent revocation, the board
3869 may impose up to the remainder of the suspended portion of the
3870 sentence. The period of imprisonment in a technical violation
3871 center imposed under this section shall not be reduced in any
3872 manner.

3873 (7) Unless good cause for the delay is established in the
3874 record of the proceeding, the parole revocation charge shall be
3875 dismissed if the revocation hearing is not held within the thirty
3876 (30) days of the issuance of the warrant.



3877 (8) The chairman and each member of the board and the
3878 designated parole revocation hearing officer may, in the discharge
3879 of their duties, administer oaths, summon and examine witnesses,
3880 and take other steps as may be necessary to ascertain the truth of
3881 any matter about which they have the right to inquire.

3882 (9) The board shall provide semiannually to the Oversight
3883 Task Force the number of warrants issued for an alleged violation
3884 of parole, the average time between detention on a warrant and
3885 preliminary hearing, the average time between detention on a
3886 warrant and revocation hearing, the number of ninety-day sentences
3887 in a technical violation center issued by the board, the number of
3888 one-hundred-twenty-day sentences in a technical violation center
3889 issued by the board, the number of one-hundred-eighty-day
3890 sentences issued by the board, and the number and average length
3891 of the suspended sentences imposed by the board in response to a
3892 violation.

3893 **SECTION 53.** Section 49-5-47, Mississippi Code of 1972, is
3894 amended as follows:

3895 49-5-47. In case of a violation of this chapter or any law
3896 or regulation for the protection of wild animals, birds, fish by a
3897 corporation the warrant of arrest may be read to and a true copy
3898 delivered to the president, secretary, or manager in this state,
3899 or to any general or local agent thereof in the county in
3900 compliance with Section 1 of this act where the action is pending,
3901 and, upon the return of such warrant so served, the corporation



3902 shall be deemed in court and subject to the jurisdiction thereof,
3903 and any fines imposed may be collected by the execution against
3904 the property of such corporation, but this section shall not be
3905 deemed to exempt any agent or employee from prosecution.

3906 **SECTION 54.** Section 49-5-115, Mississippi Code of 1972, is
3907 amended as follows:

3908 49-5-115. (a) Any person who violates the provisions of
3909 subsection (c) of Section 49-5-107, or any regulations issued
3910 under Section 49-5-107 or whoever fails to procure or violates the
3911 terms of any permit issued thereunder shall be guilty of a Class I
3912 violation and punished as provided in Section 49-7-141.

3913 (b) Any person who violates the provisions of subsection (c)
3914 of Section 49-5-109, or any regulations issued pursuant thereto or
3915 whoever fails to procure or violates the terms of any permit
3916 issued under subsections (d) and (e) of Section 49-5-111 is guilty
3917 of a Class I violation and is punishable as provided under Section
3918 49-7-141.

3919 (c) All law enforcement and management officers of the
3920 commission and other law enforcement officers authorized to
3921 enforce the laws of the State of Mississippi are authorized to
3922 carry out the provisions of Sections 49-5-101 through 49-5-119.
3923 Any officer or agent may, without warrant in compliance with
3924 Section 1 of this act, arrest any person who the officer or agent
3925 has probable cause to believe is violating, in his presence or
3926 view, any section, regulation or permit provided for by Sections



3927 49-5-101 through 49-5-119. An officer or agent who has made an
3928 arrest of a person for any such violation may search the person or
3929 business records at the time of arrest and seize any wildlife,
3930 records, or property taken, or used in connection with the
3931 violation.

3932 (d) Equipment, merchandise, wildlife, or records seized
3933 under subsection (c) of this section shall be held by an officer
3934 or agent of the commission pending disposition of court
3935 proceedings, and may be forfeited to the state for destruction or
3936 disposition as the commission may deem appropriate. Prior to
3937 forfeiture, the commission may direct the transfer of wildlife so
3938 seized to a qualified zoological, educational, or scientific
3939 institution for safekeeping, costs thereof to be assessable to the
3940 defendant. The commission is authorized to issue regulations to
3941 implement this subsection.

3942 **SECTION 55.** Section 49-15-45, Mississippi Code of 1972, is
3943 amended as follows:

3944 49-15-45. (1) Any municipality bounded by the Gulf of
3945 Mexico or Mississippi Sound, which has wholly or partly within its
3946 corporate limits, or in the waters adjacent thereto, a public
3947 oyster reef reserved for catching oysters exclusively by use of
3948 hand tongs, is hereby authorized to aid and cooperate with the
3949 commission in enforcing all laws regulating the catching, taking
3950 and transporting of oysters, including all of the provisions of



3951 this chapter, and all regulations and ordinances of such
3952 commission relating to such oyster reefs.

3953 (2) Such municipality may, in its discretion, extend its
3954 corporate limits by continuing its boundaries at right angles to
3955 the shore line, into the waters of the Mississippi Sound or Gulf
3956 of Mexico or waters tributary thereto to any line within the
3957 boundaries of the State of Mississippi, and may, by ordinance
3958 spread upon its minutes, provide that all violations of such laws
3959 and ordinances regulating the catching, taking and transporting of
3960 oysters shall be violations of the municipal ordinances and
3961 punishable as such.

3962 (3) In carrying out the provisions of this section such
3963 municipality may purchase, equip and maintain a suitable patrol
3964 boat and employ and pay the salaries of a crew to operate same and
3965 officers to enforce such laws and ordinances.

3966 (4) Neither prosecutions nor convictions by such
3967 municipality shall bar further prosecution and conviction by the
3968 commission or its officers for the same offense.

3969 (5) All fines collected by such municipality in enforcing
3970 the provisions of this chapter shall be paid into the general fund
3971 of the municipality and all costs and expenses incurred in
3972 connection with this chapter shall be paid out of the general fund
3973 of the municipality.

3974 (6) Officers employed or deputized by the municipality to
3975 carry out the provisions of this section shall have the right to



3976 make arrests without warrant in compliance with Section 1 of this
3977 act for any violations of the laws, ordinances or regulations
3978 referred to in subsection (1) hereof, committed in the presence or
3979 in the view of such arresting officer.

3980 (7) Nothing herein contained shall be construed to authorize
3981 any municipality to adopt any ordinances regulating catching,
3982 taking or transporting oysters. The authority vested in such
3983 municipality under this section being limited to enforcement of
3984 statutes passed by the Legislature and ordinances and regulations
3985 adopted by the commission.

3986 **SECTION 56.** Section 51-9-175, Mississippi Code of 1972, is
3987 amended as follows:

3988 51-9-175. (1) The board of directors of the district may
3989 appoint and commission qualified persons as reservoir police
3990 officers of the district. Any such reservoir police officer so
3991 appointed shall be certified by the Board on Law Enforcement
3992 Officer Standards and Training or in accordance with the Board on
3993 Law Enforcement Officer Standards and Training and shall attain
3994 certification or recertification within one (1) year of
3995 appointment, and shall at all times be answerable and responsible
3996 to the board of directors of the district.

3997 (2) A reservoir police officer appointed and commissioned as
3998 provided in subsection (1) of this section shall, before entering
3999 upon his duties as such officer, take the oath of office
4000 prescribed by Section 268, Mississippi Constitution of 1890, which



4001 shall be endorsed upon his commission. The commission, with the
4002 oath endorsed upon it, shall be entered in the official minute
4003 book of the district.

4004 (3) A reservoir police officer appointed and commissioned
4005 pursuant to the provisions of this article, shall, while engaged
4006 in the performance of his duties, carry on his person a badge
4007 identifying him as a reservoir police officer of the district and
4008 an identification card issued by the district. When in uniform,
4009 each such reservoir police officer shall wear his badge in plain
4010 view.

4011 (4) A reservoir police officer may exercise the same powers
4012 of arrest in compliance with Section 1 of this act and the right
4013 to bear firearms that may be exercised by any state, municipal or
4014 other police officer in this state, but only with respect to
4015 violations of law or violations of regulations adopted pursuant to
4016 Section 51-9-127, which are committed on the property owned by the
4017 district. This includes property which is owned by the district
4018 but has been leased or rented to other parties. Any right granted
4019 under this subsection in no way relieves the requirements of
4020 appropriate affidavit and warrant for arrest from the appropriate
4021 jurisdiction and authority pursuant to the laws of this state.

4022 (5) On behalf of each person who is trained as a reservoir
4023 police officer at the Mississippi Law Enforcement Officers'
4024 Training Academy, the district shall be required to pay to the



4025 academy at least an amount equal to the per student cost of
4026 operation of the academy as tuition.

4027 **SECTION 57.** Section 59-21-127, Mississippi Code of 1972, is
4028 amended as follows:

4029 59-21-127. It shall be the duty of all enforcement officers
4030 to enforce, and to obey and carry out all instructions,
4031 directions, rules and regulations of the commission with respect
4032 to the enforcement of the provisions of this chapter. Each
4033 enforcement officer shall account for and pay over, pursuant to
4034 law, all monies received by him or her under this chapter.

4035 Such enforcement officers shall have the power, and it shall
4036 be their duty, to execute all warrants in compliance with Section
4037 1 of this act for violations of the rules and regulations of the
4038 commission and the provisions of this chapter; to serve subpoenas
4039 issued for the examination and investigation or trial of such
4040 violations; to board and examine, without warrant, any vessel
4041 required to be numbered under this chapter, to ascertain whether
4042 any of the provisions of this chapter or any rule or regulation of
4043 the commission has been or is being violated, and to use such
4044 force as may be necessary for the purpose of such examination and
4045 inspection; to arrest, without warrant in compliance with Section
4046 1 of this act, any person committing a violation of this chapter
4047 or the rules and regulations of the commission in the presence of
4048 the enforcement officers, and to take such person before a
4049 magistrate or court having jurisdiction for trial or hearing; and



4050 to exercise such other powers of peace officers in the enforcement
4051 of this chapter and the rules and regulations of the commission or
4052 of a judgment for the violation thereof, as are not herein
4053 specifically provided. No enforcement officers shall compromise
4054 or settle out of court any violation of the provisions of this
4055 chapter or any rule or regulation promulgated by the commission.

4056 **SECTION 58.** Section 63-9-23, Mississippi Code of 1972, is
4057 amended as follows:

4058 63-9-23. The foregoing provisions of this chapter shall
4059 govern all police officers in making arrests without a warrant for
4060 violations of Chapters 3, 5 and 7 of this title for offenses
4061 committed in their presence, but the procedure prescribed herein
4062 shall not otherwise be exclusive of any other method prescribed by
4063 law for the arrest and prosecution of a person for an offense of
4064 like grade. All arrests shall be executed in compliance with
4065 Section 1 of this act.

4066 **SECTION 59.** Section 63-17-5, Mississippi Code of 1972, is
4067 amended as follows:

4068 63-17-5. Any owner or person having an automobile in his or
4069 her possession shall, upon request of any sheriff, constable,
4070 justice of the peace, mayor, marshal or police officer, exhibit to
4071 such officer for inspection the bill of sale provided for in
4072 Section 63-17-1, or shall permit such officer to make inspection
4073 of such automobile, and shall answer all inquiries truthfully that
4074 may be propounded by such officer with references to such



4075 automobile and the history of the title thereto. Refusal so to do
4076 shall subject such person to immediate arrest by such officer,
4077 without warrant in compliance with Section 1 of this act, and
4078 subject him or her to the penalties prescribed by law.

4079 **SECTION 60.** Section 65-1-131, Mississippi Code of 1972, is
4080 amended as follows:

4081 65-1-131. (1) The Mississippi Transportation Commission may
4082 appoint and commission qualified persons as security officers of
4083 the Mississippi Department of Transportation. Any such security
4084 officer so appointed shall be a full-time employee of the
4085 Transportation Department and shall not be employed by any
4086 privately owned guard or security service, and shall at all times
4087 be answerable and responsible to the Mississippi Transportation
4088 Commission and the Executive Director of the Mississippi
4089 Department of Transportation.

4090 (2) A security officer appointed and commissioned as
4091 provided in subsection (1) of this section shall, before entering
4092 upon his duties as such officer, take the oath of office
4093 prescribed by Section 268, Mississippi Constitution of 1890, which
4094 shall be endorsed upon his commission. The commission, with the
4095 oath endorsed upon it, shall be entered in the official minute
4096 book of the Transportation Commission.

4097 (3) A security officer appointed and commissioned pursuant
4098 to the provisions of subsection (1) of this section, shall, while
4099 engaged in the performance of his duties, carry on his person a



4100 badge identifying him as a security officer of the Mississippi
4101 Department of Transportation and an identification card issued by
4102 the Transportation Commission. When in uniform, each such
4103 security officer shall wear his badge in plain view.

4104 (4) A security officer appointed and commissioned under
4105 subsection (1) of this section may exercise the same powers of
4106 arrest in compliance with Section 1 of this act and the right to
4107 bear firearms that may be exercised by any state, municipal or
4108 other police officer in this state, but only with respect to
4109 violations of law which are committed on or within buildings,
4110 property or facilities owned by or under the jurisdiction of the
4111 Transportation Commission or the Transportation Department. Any
4112 right granted under this subsection in no way relieves the
4113 requirements of appropriate affidavit and warrant for arrest from
4114 the appropriate jurisdiction and authority pursuant to the laws of
4115 this state.

4116 (5) On behalf of each person who is employed as a security
4117 officer under subsection (1) of this section and who is trained as
4118 a security officer at the Mississippi Law Enforcement Officers'
4119 Training Academy, the Transportation Department shall be required
4120 to pay to the academy at least an amount equal to the per student
4121 cost of operation of said academy as tuition.

4122 **SECTION 61.** Section 67-1-31, Mississippi Code of 1972, is
4123 amended as follows:



4124 67-1-31. The department shall issue to all agents and
4125 inspectors appointed under this article a written certificate of
4126 appointment under the seal of said department, of which judicial
4127 notice shall be taken by all courts of this state. Such agents
4128 and inspectors are hereby declared to be police officers in
4129 enforcing the provisions of this article, and in the performance
4130 of their duties such employees shall have the authority to bear
4131 arms, to make arrests, in compliance with Section 1 of this act to
4132 make searches and seizures under this article and in compliance
4133 with Section 1 of this act, and to serve any protest, notice or
4134 order connected with the enforcement of this article by whatever
4135 officer or authority of court issued. The members of the
4136 department shall not be personally liable to any person on account
4137 of any act, neglect or omission of any such agent or inspector.

4138 The powers and duties of the agents and inspectors shall
4139 include, in addition to all others prescribed by law the following
4140 powers: to arrest, without warrant, any person committing or
4141 attempting to commit a misdemeanor, felony or a breach of the
4142 peace within his presence or view, and to pursue and so arrest any
4143 person committing such an offense to and at any place in the state
4144 where the person may go or be; and to aid and assist any law
4145 enforcement officer, if requested.

4146 **SECTION 62.** Section 77-7-335, Mississippi Code of 1972, is
4147 amended as follows:



4148 77-7-335. (1) All division inspectors on duty shall wear
4149 uniforms, shall have the right to bear arms, and shall have the
4150 authority to make arrests and hold and impound any vehicle and the
4151 contents thereof which is being operated in violation of this
4152 chapter or the commission's or the department's rules, regulations
4153 or general orders promulgated thereunder.

4154 (2) All inspectors shall have the authority to enforce all
4155 of the laws, rules and regulations of the commission and the
4156 department under this chapter upon all highways in the state and
4157 the rights-of-way of such highways and other properties as defined
4158 in Section 77-7-261; except that if any person commits an offense
4159 in violation of this chapter or the rules and regulations of the
4160 commission or the department upon a highway in the state and be
4161 pursued by an enforcement officer or inspector of the division,
4162 such enforcement officer or inspector may pursue and apprehend
4163 such offender upon any of the highways in this state, or to any
4164 other place to which such offender may flee.

4165 (3) All inspectors shall have the authority to aid and
4166 assist any law enforcement officer whose life or safety is in
4167 jeopardy and may arrest without warrant in compliance with Section
4168 1 of this act any fugitive from justice who has escaped or who is
4169 using the highways in the state in an attempt to flee. Inspectors
4170 of the division may assist other law enforcement agencies in
4171 searching for convicted felons who have escaped or for alleged
4172 felons where there is probable cause to believe that the person



4173 being sought committed the felony and a felony had actually been
4174 committed.

4175 (4) Upon request of a sheriff of any county or the chief of
4176 police of any community, all division inspectors have the
4177 authority to assist in traffic control during time of natural
4178 disasters, such as hurricanes, tornados or floods.

4179 **SECTION 63.** Section 77-9-505, Mississippi Code of 1972, is
4180 amended as follows:

4181 77-9-505. (1) Upon request by the chief police officer of
4182 any railroad located wholly or partially within this state, the
4183 Commissioner of Public Safety may appoint and commission as a
4184 railroad police officer any qualified person named by such chief
4185 police officer; provided, however, that the Commissioner of Public
4186 Safety may refuse to appoint or may rescind the appointment of
4187 anyone. Any such railroad police officer so appointed shall at
4188 all times be answerable and responsible to the Commissioner of
4189 Public Safety.

4190 (2) A railroad police officer appointed and commissioned as
4191 provided in subsection (1) of this section shall, before entering
4192 upon his or her duties as such officer, take the oath of office
4193 prescribed by Section 268, Mississippi Constitution of 1890, which
4194 shall be endorsed upon his or her commission. The commission,
4195 with the oath endorsed upon it, shall be recorded in the office of
4196 the Commissioner of Public Safety.



4197 (3) A railroad police officer appointed and commissioned
4198 pursuant to the provisions of Sections 77-9-501 through 77-9-517
4199 shall, while engaged in the performance of his or her duties,
4200 carry on his person a badge identifying him or her as a police
4201 officer of the railroad and an identification card issued by the
4202 railroad and countersigned by the Commissioner of Public Safety.
4203 When in uniform each such railroad police officer shall wear his
4204 or her badge in plain view.

4205 (4) A railroad policeman may exercise the same powers of
4206 arrest and the right to bear firearms that may be exercised by any
4207 state, municipal or other police officer in this state, but only
4208 with respect to offenses committed against property owned by or in
4209 the possession of the railroad or against any person arising out
4210 of an offense committed against said railroad on railroad
4211 property, or against any employee of the railroad engaged in the
4212 performance of his or her duties. Railroad property for the
4213 purposes of Sections 77-9-501 through 77-9-517 shall be construed
4214 to mean only property owned by or in possession of the railroad on
4215 railroad rights-of-way or switching yards. Any right granted
4216 under this subsection in no way relieves the requirements of
4217 appropriate affidavit and warrant for arrest from the appropriate
4218 jurisdiction and authority pursuant to the laws of this state and
4219 in compliance with Section 1 of this act.

4220 (5) Any person who is trained as a railroad police officer
4221 at the Mississippi Law Enforcement Training Academy shall be



4222 required to pay at least an amount equal to the per student cost
4223 of operation of said academy as tuition.

4224 **SECTION 64.** Section 93-9-31, Mississippi Code of 1972, is
4225 amended as follows:

4226 93-9-31. (1) The court shall, if need be, require the
4227 father to give security by bond or other security, with sufficient
4228 sureties approved by the court, for the payment of the order of
4229 filiation. Such security, when required, shall not exceed three
4230 (3) times the total periodic sum the father shall be required to
4231 pay under the terms of the order of filiation in any one (1)
4232 calendar year. If bond or security be required, and in case the
4233 action has been instituted by a public welfare official, the
4234 defendant shall also be required to give security that he will
4235 indemnify the state and the county where the child was or may be
4236 born and every other county against any expense for the support
4237 and education of the child, which said undertaking shall also
4238 require that all arrears shall be paid by the principal and
4239 sureties. In default of such security, when required, the court
4240 may commit him to jail, or put him on probation. At any time
4241 within one (1) year he may be discharged from jail, but his
4242 liability to pay the judgment shall not be thereby affected.

4243 (2) Whenever any order of filiation has been made, but no
4244 bond or other security has been required for payment of support of
4245 the child, and whenever such payments as have become due remain
4246 unpaid for a period of at least thirty (30) days, the court may,



4247 upon petition of the person to whom such payments are due, or such
4248 person's legal representative, enter an order requiring that bond
4249 or other security be given by the father in accordance with and
4250 under such terms and conditions as provided for in subsection (1)
4251 of this section. The father shall, as in other civil actions, be
4252 served with process and shall be entitled to a hearing in such
4253 case.

4254 (3) Where security is given and default is made in any
4255 payment, the court shall cite the parties bound by the security
4256 requiring them to show cause why judgment should not be given
4257 against them and execution issued thereon. If the amount due and
4258 unpaid shall not be paid before the return day of the citation,
4259 and no cause be shown to the contrary, judgment shall be rendered
4260 against those served with the citation for the amount due and
4261 unpaid together with costs, and execution shall issue therefor,
4262 saving all remedies upon the bond for future default. The
4263 judgment is a lien on real estate and in other respects
4264 enforceable the same as other judgments. The amount collected on
4265 such judgment or such sums as may have been deposited as
4266 collateral, in lieu of bond when forfeited, may be used for the
4267 benefit of the child, as provided for in the order of filiation.

4268 (4) If at any time after an order of filiation in paternity
4269 proceedings shall have been made, and an undertaking given
4270 thereon, in accordance with the provisions of Sections 93-9-1
4271 through 93-9-49 and such undertaking shall not be complied with,



4272 or that for any reason a recovery thereon cannot be had, or if the
4273 original undertaking shall have been complied with, and the
4274 sureties discharged therefrom, or if money were deposited in lieu
4275 of bail, and the same shall have been exhausted, and the natural
4276 child still needs support, the public welfare official of any
4277 county where the natural child for whose support the order of
4278 filiation was made shall be at the time, or the Commissioner of
4279 the State Welfare Department upon giving proof of the making of
4280 the order of filiation, the giving of the above-mentioned
4281 undertaking, and the noncompliance therewith, or that the sureties
4282 have been discharged from their liability, or that for any reason
4283 a recovery cannot be had on such undertaking, may apply to the
4284 court in such county having jurisdiction in filiation proceedings,
4285 for a warrant for the arrest of the defendant against whom such
4286 order of filiation was made in compliance with Section 1 of this
4287 act, which shall be executed in the manner provided in criminal
4288 procedure for the execution of the warrant; upon the arrest and
4289 arraignment of the defendant in said court, and upon proof of the
4290 making of the order of filiation, the giving of the
4291 above-mentioned undertaking, and the noncompliance therewith, or
4292 that for any reason a recovery cannot be had on such undertaking,
4293 the said court shall make an order requiring him to give a new
4294 undertaking, which said undertaking shall also require that all
4295 arrears shall be paid by the principal and sureties, or upon his



4296 failure to give such new undertaking, shall commit him to jail, or
4297 put him on probation.

4298 (5) If the child and mother die, or the father and mother be
4299 legally married to each other, the court in which such security is
4300 filed, on proof of such fact, may cause the security to be marked
4301 "cancelled" and be surrendered to the obligors.

4302 **SECTION 65.** Section 97-19-75, Mississippi Code of 1972, is
4303 amended as follows:

4304 97-19-75. (1) The holder of any check, draft or order for
4305 the payment of money which has been made, drawn, issued, uttered
4306 or delivered in violation of Section 97-19-55, Mississippi Code of
4307 1972, may, after complying with the provisions of Section
4308 97-19-57, Mississippi Code of 1972, present a complaint to the
4309 district attorney. The complaint shall be accompanied by the
4310 original check, draft or order upon which the complaint is filed
4311 and the return receipt showing mailing of notice under Section
4312 97-19-57, Mississippi Code of 1972. Not more than one (1) check,
4313 draft or order shall be included within a single complaint. Upon
4314 receipt of such complaint, the district attorney shall evaluate
4315 the complaint to determine whether or not the complaint is
4316 appropriate to be processed by the district attorney.

4317 (2) If, after filing a complaint with the district attorney,
4318 the complainant wishes to withdraw the complaint for good cause,
4319 the complainant shall pay a fee of Thirty Dollars (\$30.00) to the
4320 office of the district attorney for processing such complaint.



4321 Upon payment of the processing fee and withdrawal of the
4322 complaint, the district attorney shall return the original check,
4323 draft or order to the complainant.

4324 (3) After approval of the complaint by the district
4325 attorney, a warrant may be issued by any judicial officer
4326 authorized by law to issue arrest warrants, the warrant shall be
4327 executed in compliance with Section 1 of this act and the warrant
4328 may be held by the district attorney. After issuance of a warrant
4329 or upon approval of a complaint by the district attorney, the
4330 district attorney shall issue a notice to the individual charged
4331 in the complaint, informing him that a warrant has been issued for
4332 his arrest or that a complaint has been received by the district
4333 attorney and that he may be eligible for deferred prosecution for
4334 a violation of Section 97-19-55, Mississippi Code of 1972, by
4335 voluntarily surrendering himself to the district attorney within
4336 ten (10) days, Saturdays, Sundays and legal holidays excepted,
4337 from receipt of the notice. Such notice shall be sent by United
4338 States mail.

4339 (4) (a) If the check is not a casino marker, and the
4340 accused voluntarily surrenders himself within the time period as
4341 provided by subsection (3) of this section, the accused shall be
4342 presented with the complaint and/or warrant and prosecution of the
4343 accused may be deferred upon payment by the accused of a service
4344 charge in the amount of Forty Dollars (\$40.00) to the district



4345 attorney and by execution of a restitution agreement as
4346 hereinafter provided.

4347 (b) If the check is a casino marker, and the accused
4348 voluntarily surrenders himself within the time period as provided
4349 by subsection (3) of this section, the accused shall be presented
4350 with the complaint and/or warrant, and prosecution of the accused
4351 may be deferred upon payment by the accused of a service charge in
4352 the amounts specified in this paragraph (b) to the district
4353 attorney and by execution of a restitution agreement as
4354 hereinafter provided. The amounts of the service charge are as
4355 follows:

4356 (i) Forty Dollars (\$40.00), if the amount of the
4357 check or draft is equal to or less than One Hundred Dollars
4358 (\$100.00).

4359 (ii) Fifty Dollars (\$50.00), if the face amount of
4360 the check or draft is more than One Hundred Dollars (\$100.00) but
4361 does not exceed Three Hundred Dollars (\$300.00).

4362 (iii) Seventy-five Dollars (\$75.00), if the face
4363 amount of the check or draft is more than Three Hundred Dollars
4364 (\$300.00) but does not exceed One Thousand Dollars (\$1,000.00).

4365 (iv) One Hundred Fifty Dollars (\$150.00), if the
4366 face amount of the check or draft is more than One Thousand
4367 Dollars (\$1,000.00) but does not exceed Two Thousand Five Hundred
4368 Dollars (\$2,500.00).



4369 (v) Five Hundred Dollars (\$500.00), if the face
4370 amount of the check or draft is more than Two Thousand Five
4371 Hundred Dollars (\$2,500.00) but does not exceed Ten Thousand
4372 Dollars (\$10,000.00).

4373 (vi) Ten percent (10%) of the face amount of the
4374 check or draft, if the face amount of the check or draft is more
4375 than Ten Thousand Dollars (\$10,000.00).

4376 (5) For the purposes of Sections 97-19-73 through 97-19-81,
4377 the term "restitution" shall mean and be defined as the face
4378 amount of any check, draft or order for the payment of money made,
4379 drawn, issued, uttered or delivered in violation of Section
4380 97-19-55, Mississippi Code of 1972, plus a service charge payable
4381 to the complainant in the amount of Thirty Dollars (\$30.00).

4382 (6) After an accused has voluntarily surrendered himself and
4383 paid the service charge as provided by subsection (4) of this
4384 section, the district attorney may enter into a restitution
4385 agreement with the accused prescribing the terms by which the
4386 accused shall satisfy restitution to the district attorney on
4387 behalf of the complainant. The terms of such agreement shall be
4388 determined on a case-by-case basis by the district attorney, but
4389 the duration of any such agreement shall be no longer than a
4390 period of six (6) months. No interest shall be charged or
4391 collected on restitution monies. The restitution agreement shall
4392 be signed by the accused and approved by the district attorney
4393 before it is effective. If the accused does not honor each term



4394 of the restitution agreement signed by him, the accused may be
4395 proceeded against by prosecution under the provisions of Sections
4396 97-19-55 through 97-19-69, Mississippi Code of 1972, and as
4397 provided by Section 97-19-79. If the accused makes restitution
4398 and pays all charges set out by statute or if the accused enters
4399 into a restitution agreement as set out above and honors all terms
4400 of such agreement, then if requested, the original check may be
4401 returned to the accused and a photocopy retained in the check
4402 file.

4403 (7) If the holder of any check, draft or order for the
4404 payment of money presents to the district attorney satisfactory
4405 evidence that the original check, draft or order is unavailable
4406 and satisfactory evidence of the check, draft or order is
4407 presented in the form of bank records or a photographic copy of
4408 the instrument, whether from microfilm or otherwise, then the
4409 procedures provided for in this section may be followed in the
4410 absence of the original check, draft or order.

4411 **SECTION 66.** Section 97-19-79, Mississippi Code of 1972, is
4412 amended as follows:

4413 97-19-79. If, after receiving notice as provided for by
4414 subsection (3) of Section 97-19-75, the accused fails to timely
4415 surrender himself to the district attorney as prescribed in the
4416 notice or, if having timely surrendered himself, the accused fails
4417 to pay the service charge prescribed by subsection (4) of Section
4418 97-19-75 and/or fails to execute or comply with the terms of any



4419 restitution agreement executed in accordance with the provisions
4420 of Section 97-19-75, then the district attorney shall file the
4421 complaint, along with the arrest warrant, if any, which the
4422 district attorney may be holding against the accused, with the
4423 municipal court, justice court, county court or circuit court in
4424 his district having jurisdiction, and prosecution against the
4425 accused may be commenced in accordance with the provisions of
4426 Sections 97-19-55 through 97-19-69, Mississippi Code of 1972, or
4427 as otherwise provided by law. The arrest warrant shall be
4428 executed in compliance with Section 1 of this act. If such
4429 prosecution is commenced, the court may assess the defendant the
4430 service charge payable to the district attorney as provided in
4431 Section 97-19-75(4), Mississippi Code of 1972.

4432 **SECTION 67.** Section 99-3-18, Mississippi Code of 1972, is
4433 amended as follows:

4434 99-3-18. (1) In any case in which a person is arrested for
4435 an offense declared to be a misdemeanor and does not demand to be
4436 taken before a municipal judge, justice court judge or other
4437 judge, such person may, instead of being taken before a judge, be
4438 released according to the procedures set forth by this section and
4439 Section 99-3-17. If the arresting officer or his superior
4440 determines that the person should be released, such officer or
4441 superior shall prepare in duplicate a written notice to appear in
4442 court, containing the name and address of such person, the offense
4443 charged, and the time when and place where such person shall



4444 appear in court. If the person is not released prior to being
4445 booked and the officer in charge of the booking or his superior
4446 determines that the person should be released, such officer or
4447 superior shall prepare such written notice to appear in court.
4448 Unless waived by the arrested person, the time specified in the
4449 notice to appear shall be at least five (5) days after arrest.
4450 The place specified in the notice shall be the court of the
4451 municipal judge, justice court judge or other judge before whom
4452 the person would be taken if the requirement of taking an arrested
4453 person before a judge were complied with, or shall be an officer
4454 authorized by such court to receive a deposit of bail.

4455 (2) The officer shall deliver one (1) copy of the notice to
4456 appear to the arrested person, and the arrested person, in order
4457 to secure release, shall give his written promise to appear in
4458 court by signing the duplicate notice which shall be retained by
4459 the officer. Thereupon the arresting officer shall forthwith
4460 release the person arrested from custody. The officer shall, as
4461 soon as practicable, file the duplicate notice with the municipal
4462 judge, justice court judge or other judge specified therein. No
4463 warrant shall issue on such charge for the arrest of a person who
4464 has given such written promise to appear in court, unless and
4465 until he has violated such promise or has failed to appear for
4466 trial or judgment, or to comply with the terms and provisions of
4467 the judgment, as required by law. All arrests shall be executed
4468 in compliance with Section 1 of this act.



4469 (3) If the arrested person is not released pursuant to the
4470 provisions of this section and Section 99-3-17 prior to being
4471 booked by the arresting agency, then at the time of booking, the
4472 officer in charge of such booking or his superior officer, or any
4473 other person designated by a city or county for this purpose may
4474 make an immediate investigation into the background of the person
4475 to determine whether he should be released pursuant to the
4476 provisions of this section and Section 99-3-17. Such
4477 investigation shall include, but need not be limited to, the
4478 person's name, address, length of residence at that address,
4479 length of residence within this state, marital and family status,
4480 employment, length of that employment, prior arrest record and
4481 such other facts relating to the person's arrest which would bear
4482 on the question of his release pursuant to the provisions of this
4483 section and Section 99-3-17.

4484 **SECTION 68.** Section 99-3-19, Mississippi Code of 1972, is
4485 amended as follows:

4486 99-3-19. When a person accused of any offense removes or
4487 escapes to another county, a warrant issued by a justice of the
4488 peace in the county in which the offense was committed shall
4489 authorize the arrest of such offender, and his or her removal to
4490 the county in which the offense was committed or is triable. All
4491 arrests shall be executed in compliance with Section 1 of this
4492 act.



4493 **SECTION 69.** Section 99-3-21, Mississippi Code of 1972, is
4494 amended as follows:

4495 99-3-21. A justice of the peace of any county into which an
4496 offender may have removed himself or herself or escaped, on the
4497 oath of some credible person, may issue his or her warrant for the
4498 arrest of such offender, returnable before any justice of the
4499 peace of the county where the offense is cognizable, which shall
4500 authorize the arrest and removal of such offender to the proper
4501 county for examination. The arrest shall be executed in
4502 compliance with Section 1 of this act.

4503 **SECTION 70.** Section 99-3-28, Mississippi Code of 1972, is
4504 amended as follows:

4505 99-3-28. (1) (a) (i) Except as provided in subsection (2)
4506 of this section, before an arrest warrant shall be issued against
4507 any teacher who is a licensed public school employee as defined in
4508 Section 37-9-1, a certified jail officer as defined in Section
4509 45-4-9, a counselor at an adolescent opportunity program created
4510 under Section 43-27-201 et seq., or a sworn law enforcement
4511 officer within this state as defined in Section 45-6-3 for a
4512 criminal act, whether misdemeanor or felony, which is alleged to
4513 have occurred while the teacher, jail officer, counselor at an
4514 adolescent opportunity program or law enforcement officer was in
4515 the performance of official duties, a probable cause hearing shall
4516 be held before a circuit court judge. The purpose of the hearing
4517 shall be to determine if adequate probable cause exists for the



4518 issuance of a warrant. All parties testifying in these
4519 proceedings shall do so under oath. The accused shall have the
4520 right to enter an appearance at the hearing, represented by legal
4521 counsel at his own expense, to hear the accusations and evidence
4522 against him; he may present evidence or testify in his own behalf.

4523 (ii) The authority receiving any such charge or
4524 complaint against a teacher, jail officer, counselor at an
4525 adolescent offender program or law enforcement officer shall
4526 immediately present same to the county prosecuting attorney having
4527 jurisdiction who shall immediately present the charge or complaint
4528 to a circuit judge in the judicial district where the action arose
4529 for disposition pursuant to this section.

4530 (b) For any person not covered under paragraph (a) of
4531 this subsection, before an arrest warrant based on the criminal
4532 complaint of a person who is not a law enforcement officer acting
4533 in the officer's official capacity may be issued against the
4534 person for an alleged criminal act, whether misdemeanor or felony,
4535 the appropriate judge must make a determination, with or without a
4536 hearing, as to whether the affidavit clearly identifies probable
4537 cause to believe that the offense alleged has been committed, at
4538 the discretion of the court. If the judge elects to hold a
4539 probable cause hearing, parties testifying shall do so under oath
4540 and the accused shall have the right to enter an appearance, be
4541 represented by legal counsel at his own expense, to hear the



4542 accusations and evidence against him, and may present evidence or
4543 testify in his own behalf.

4544 (2) Nothing in this section shall prohibit the issuance of
4545 an arrest warrant by a circuit court judge upon presentation of
4546 probable cause, without the holding of a probable cause hearing,
4547 if adequate evidence is presented to satisfy the court that there
4548 is a significant risk that the accused will flee the court's
4549 jurisdiction or that the accused poses a threat to the safety or
4550 well-being of the public. The arrest warrant shall be executed in
4551 compliance with Section 1 of this act.

4552 (3) Nothing in this section shall prohibit a law enforcement
4553 officer from arresting any person under circumstances in which the
4554 law enforcement officer would not be required to seek a warrant
4555 from a court.

4556 **SECTION 71.** Section 99-20-17, Mississippi Code of 1972, is
4557 amended as follows:

4558 99-20-17. Upon failure to complete the community service
4559 sentence, the case shall be restored to the court calendar for
4560 resentencing and a warrant for the arrest of the defendant shall
4561 immediately be issued. The arrest warrant shall be executed in
4562 compliance with Section 1 of this act.

4563 **SECTION 72.** Section 99-21-1, Mississippi Code of 1972, is
4564 amended as follows:

4565 99-21-1. Any conservator of the peace, upon complaint on
4566 oath made before him or her, or on other satisfactory evidence,



4567 that any person within this state has committed treason, felony,
4568 or other crime in some other state or territory, and has fled from
4569 justice may issue a warrant for the arrest of such person as if
4570 the offense had been committed in this state The arrest warrant
4571 shall be executed in compliance with Section 1 of this act.

4572 **SECTION 73.** Section 99-33-3, Mississippi Code of 1972, is
4573 amended as follows:

4574 99-33-3. On affidavit of the commission of any crime, of
4575 which the justice court has jurisdiction, lodged with the justice
4576 court, the clerk shall, upon direction by a justice court judge of
4577 the county, issue a warrant for the arrest of the offender
4578 returnable forthwith or on a certain day to be named. The arrest
4579 warrant shall be executed in compliance with Section 1 of this
4580 act. The clerk, or the justice court judge to whom the case is
4581 assigned, shall issue subpoenas for witnesses as in civil cases,
4582 and the justice court judge may enter a conviction as provided in
4583 Section 99-19-3, or shall try and dispose of the case according to
4584 law; and, on conviction, shall order such punishment to be
4585 inflicted as the law provides; provided, however, that no fine
4586 imposed shall be in an amount less than Fifteen Dollars (\$15.00).

4587 **SECTION 74.** Section 99-37-7, Mississippi Code of 1972, is
4588 amended as follows:

4589 99-37-7. (1) Subject to the provisions of Section
4590 99-19-20.1, when a defendant sentenced to pay a fine or to make
4591 restitution defaults in the payment thereof or of any installment,



4592 the court, on motion of the district attorney, or upon its own
4593 motion, may require him to show cause why his default should not
4594 be treated as contempt of court, and may issue a show cause
4595 citation or a warrant of arrest for his appearance. The warrant
4596 of arrest shall be executed in compliance with Section 1 of this
4597 act.

4598 (2) Subject to the provisions of Section 99-19-20.1, unless
4599 the defendant shows that his default was not attributable to an
4600 intentional refusal to obey the order of the court or to a failure
4601 on his part to make a good faith effort to make the payment, the
4602 court may find that his default constitutes contempt and may order
4603 him committed until the fine or the restitution, or a specified
4604 part thereof, is paid.

4605 (3) A judicial officer shall not be held criminally or
4606 civilly liable for failure of any defendant to pay any fine or to
4607 make restitution if the officer exercises his judicial authority
4608 in accordance with subsections (1) and (2) of this section to
4609 require the payment of such fine or restitution.

4610 (4) When a fine or an order of restitution is imposed on a
4611 corporation or unincorporated association, it is the duty of the
4612 person authorized to make disbursement from the assets of the
4613 corporation or association to pay the fine or make the restitution
4614 from those assets, and his failure to do so may be held to be
4615 contempt unless he makes the showing required in subsection (2) of
4616 this section.



4617 **SECTION 75.** This act shall take effect and be in force from
4618 and after July 1, 2023.

