

By: Representative Horan

To: Accountability,
Efficiency, Transparency

HOUSE BILL NO. 1273

1 AN ACT TO AMEND SECTION 45-3-51, MISSISSIPPI CODE OF 1972, TO
 2 AUTHORIZE A LAW ENFORCEMENT OFFICER RETIRING FROM THE DEPARTMENT
 3 OF PUBLIC SAFETY AND BENEFICIARIES OF AN OFFICER KILLED IN THE
 4 LINE OF DUTY TO RETAIN A SIDEARM ISSUED TO THAT OFFICER; TO AMEND
 5 SECTION 45-9-131, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
 6 PRECEDING PROVISIONS; TO AMEND SECTION 77-7-345, MISSISSIPPI CODE
 7 OF 1972, TO DELETE THE REPEALER ON THE STATUTE AUTHORIZING THE
 8 COMMISSIONER OF PUBLIC SAFETY TO ESTABLISH A VOLUNTARY PROGRAM FOR
 9 THE INSPECTION OF COMMERCIAL MOTOR VEHICLES; TO AMEND SECTION
 10 97-3-54.7, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DEPARTMENT
 11 OF PUBLIC SAFETY TO SEIZE PROPERTY USED IN THE COMMISSION OF
 12 VIOLATIONS OF THE HUMAN TRAFFICKING ACT; TO CREATE THE STATE
 13 MEDICAL EXAMINER TASK FORCE TO REPLACE THE STATE MEDICAL EXAMINER
 14 ADVISORY COUNCIL; TO AMEND SECTION 41-61-55, MISSISSIPPI CODE OF
 15 1972, TO DELETE PROVISIONS RELATING TO THE STATE MEDICAL EXAMINER
 16 ADVISORY COUNCIL; TO AMEND SECTION 45-1-3, MISSISSIPPI CODE OF
 17 1972, TO AUTHORIZE THE COMMISSIONER OF PUBLIC SAFETY, WITH THE
 18 APPROVAL OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF FINANCE
 19 AND ADMINISTRATION, TO LEASE SPACE IN THE DEPARTMENT'S
 20 HEADQUARTERS TO A THIRD PARTY; TO REQUIRE FUNDS GENERATED FROM A
 21 LEASE TO BE DEPOSITED INTO A SPECIAL FUND FOR PUBLIC SAFETY
 22 PURPOSES; AND FOR RELATED PURPOSES.

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

24 **SECTION 1.** Section 45-3-51, Mississippi Code of 1972, is
 25 amended as follows:

26 45-3-51. Each * * * person employed as a law enforcement
 27 officer or agent by the Department of Public Safety who retires
 28 under the Highway Safety Patrol Retirement System or the Public



29 Employees' Retirement System, for superannuation or for reason of
30 disability, or a beneficiary of such * * * law enforcement officer
31 or agent who is killed in the line of duty, shall be allowed to
32 retain, as his personal property, one (1) sidearm which was issued
33 under authority of Section 45-3-19 or 41-29-159. Likewise, a
34 beneficiary of any law enforcement officer killed in the line of
35 duty shall be allowed to retain the officer's sidearm.

36 **SECTION 2.** Section 45-9-131, Mississippi Code of 1972, is
37 amended as follows:

38 45-9-131. (1) Upon approval of the governing authority of
39 the municipality or county, a member of any municipal or county
40 law enforcement agency who retires under any state retirement
41 system may be allowed to purchase, as his or her personal
42 property, one (1) sidearm which was issued to the law enforcement
43 officer by the law enforcement agency from which he or she retired
44 or by whom he or she was employed at the time of death.

45 (2) * * * Except as otherwise provided in subsection (5),
46 upon approval of the director of a state agency, board or
47 commission, a law enforcement officer employed by a state agency,
48 board or commission who retires under any state retirement system
49 may be allowed to purchase, as his or her personal property, one
50 (1) sidearm which was issued to the law enforcement officer by a
51 state agency, board or commission.

52 (3) * * * Except as otherwise provided in subsection (5),
53 the next of kin of a law enforcement officer who is killed in the



54 line of duty is authorized to purchase the sidearm that was issued
55 to the officer. The amount to be paid for any firearm purchased
56 under the authority of this subsection shall be an agreed upon
57 price as determined by the appropriate governmental authority who
58 employed the officer.

59 (4) The amount to be paid for any firearm purchased under
60 the authority of this section, except for any firearm purchased
61 under subsection (3) of this section, shall be the fair market
62 value of the firearm as determined by the appropriate governmental
63 authority who employed the officer.

64 (5) This section does not apply to a law enforcement officer
65 employed by the Department of Public Safety or a beneficiary of a
66 law enforcement officer employed by the Department of Public
67 Safety, who, pursuant to Section 45-3-51, may retain one (1)
68 sidearm upon the officer's retirement or death in the line of
69 duty.

70 **SECTION 3.** Section 77-7-345, Mississippi Code of 1972, is
71 amended as follows:

72 77-7-345. (1) When not otherwise specifically provided, the
73 Commissioner of Public Safety is authorized to make and promulgate
74 reasonable rules and regulations to provide a voluntary program
75 for inspection of commercial motor vehicles.

76 (2) For the purposes of this section, "commercial motor
77 vehicle" has the meaning ascribed in Section 63-1-203.

78 (3) The regulations, if promulgated, will:



79 (a) Create a voluntary program for inspection of any
80 combination of truck, truck tractor, trailer, semi-trailer or pole
81 trailer, including each segment of a combined vehicle, that is
82 used upon the highways or streets as a commercial motor vehicle
83 for compliance with all applicable federal and state motor carrier
84 safety regulations;

85 (b) Require that inspectors have access to the vehicle
86 maintenance log;

87 (c) Prescribe a method of documentation to be displayed
88 on the vehicle that is readily visible to an observer in the form
89 of a decal or sticker, and require that the form of documentation
90 prescribed must be kept on the vehicle;

91 (d) Require that inspection occur on an annual basis
92 for participation in the program;

93 (e) Provide that inspection is not mandatory;

94 (f) Impose a reasonable inspection fee, which shall be
95 deposited to the credit of the operating fund of the Commercial
96 Transportation Enforcement Division of the Mississippi Department
97 of Public Safety; and

98 (g) Specify that officers of the Commercial
99 Transportation Enforcement Division will retain all responsibility
100 and authority to monitor and enforce violations under Section
101 77-7-335.

102 * * *



103 **SECTION 4.** Section 97-3-54.7, Mississippi Code of 1972, is
104 amended as follows:

105 97-3-54.7. (1) In addition to any other civil or criminal
106 penalties provided by law, any property used in the commission of
107 a violation of this act shall be forfeited as provided herein.

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

111 (i) Conveyances, including aircraft, vehicles or
112 vessels;

113 (ii) Books, records, telecommunication equipment,
114 or computers;

115 (iii) Money or weapons;

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

119 (v) Negotiable instruments and securities;

120 (vi) Any property, real or personal, directly or
121 indirectly acquired or received in a violation or as an inducement
122 to violate;

123 (vii) Any property traceable to proceeds from a
124 violation; and

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



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

133 (ii) No property is subject to forfeiture under
134 this section by reason of any act or omission proved by the owner
135 thereof to have been committed or omitted without his knowledge or
136 consent; if the confiscating authority has reason to believe that
137 the property is a leased or rented property, then the confiscating
138 authority shall notify the owner of the property within five (5)
139 days of the confiscation or within five (5) days of forming reason
140 to believe that the property is a leased or rented property;

141 (iii) Forfeiture of a property encumbered by a
142 bona fide security interest is subject to the interest of the
143 secured party if he neither had knowledge of nor consented to the
144 act or omission.

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

149 (3) Seizure without process may be made if the seizure is
150 incident to an arrest or a search under a search warrant or an
151 inspection under an administrative inspection warrant.



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

156 (b) A petition for forfeiture shall be filed by the
157 Attorney General, the Department of Public Safety or a district
158 attorney in the name of the State of Mississippi, the county, or
159 the municipality, and may be filed in the county in which the
160 seizure is made, the county in which the criminal prosecution is
161 brought, or the county in which the owner of the seized property
162 is found. Forfeiture proceedings may be brought in the circuit
163 court or the county court if a county court exists in the county
164 and the value of the seized property is within the jurisdictional
165 limits of the county court as set forth in Section 9-9-21. A copy
166 of the petition shall be served upon the following persons by
167 service of process in the same manner as in civil cases:

168 (i) The owner of the property, if address is
169 known;

170 (ii) Any secured party who has registered his lien
171 or filed a financing statement as provided by law, if the identity
172 of the secured party can be ascertained by the entity filing the
173 petition by making a good faith effort to ascertain the identity
174 of the secured party;

175 (iii) Any other bona fide lienholder or secured
176 party or other person holding an interest in the property in the



177 nature of a security interest of whom the seizing law enforcement
178 agency has actual knowledge; and

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

181 (5) If the property is a motor vehicle susceptible of
182 titling under the Mississippi Motor Vehicle Title Law and if there
183 is any reasonable cause to believe that the vehicle has been
184 titled, inquiry of the Department of Revenue shall be made as to
185 what the records of the Department of Revenue show as to who is
186 the record owner of the vehicle and who, if anyone, holds any lien
187 or security interest that affects the vehicle.

188 (6) If the property is a motor vehicle and is not titled in
189 the State of Mississippi, then an attempt shall be made to
190 ascertain the name and address of the person in whose name the
191 vehicle is licensed, and if the vehicle is licensed in a state
192 which has in effect a certificate of title law, inquiry of the
193 appropriate agency of that state shall be made as to what the
194 records of the agency show as to who is the record owner of the
195 vehicle and who, if anyone, holds any lien, security interest or
196 other instrument in the nature of a security device that affects
197 the vehicle.

198 (7) If the property is of a nature that a financing
199 statement is required by the laws of this state to be filed to
200 perfect a security interest affecting the property and if there is
201 any reasonable cause to believe that a financing statement



202 covering the security interest has been filed under the laws of
203 this state, inquiry of the appropriate office designated in
204 Section 75-9-501, shall be made as to what the records show as to
205 who is the record owner of the property and who, if anyone, has
206 filed a financing statement affecting the property.

207 (8) If the property is an aircraft or part thereof and if
208 there is any reasonable cause to believe that an instrument in the
209 nature of a security device affects the property, inquiry of the
210 Mississippi Department of Transportation shall be made as to what
211 the records of the Federal Aviation Administration show as to who
212 is the record owner of the property and who, if anyone, holds an
213 instrument in the nature of a security device which affects the
214 property.

215 (9) If the answer to an inquiry states that the record owner
216 of the property is any person other than the person who was in
217 possession of it when it was seized, or states that any person
218 holds any lien, encumbrance, security interest, other interest in
219 the nature of a security interest, mortgage or deed of trust that
220 affects the property, the record owner and also any lienholder,
221 secured party, other person who holds an interest in the property
222 in the nature of a security interest, or holder of an encumbrance,
223 mortgage or deed of trust that affects the property is to be named
224 in the petition of forfeiture and is to be served with process in
225 the same manner as in civil cases.



226 (10) If the owner of the property cannot be found and served
227 with a copy of the petition of forfeiture, or if no person was in
228 possession of the property subject to forfeiture at the time that
229 it was seized and the owner of the property is unknown, there
230 shall be filed with the clerk of the court in which the proceeding
231 is pending an affidavit to such effect, whereupon the clerk of the
232 court shall publish notice of the hearing addressed to "the
233 Unknown Owner of _____," filling in the blank space with
234 a reasonably detailed description of the property subject to
235 forfeiture. Service by publication shall contain the other
236 requisites prescribed in Section 11-33-41, and shall be served as
237 provided in Section 11-33-37, for publication of notice for
238 attachments at law.

239 (11) No proceedings instituted pursuant to the provisions of
240 this section shall proceed to hearing unless the judge conducting
241 the hearing is satisfied that this section has been complied with.
242 Any answer received from an inquiry required by this section shall
243 be introduced into evidence at the hearing.

244 (12) (a) An owner of a property that has been seized shall
245 file an answer within thirty (30) days after the completion of
246 service of process. If an answer is not filed, the court shall
247 hear evidence that the property is subject to forfeiture and
248 forfeit the property to the seizing law enforcement agency. If an
249 answer is filed, a time for hearing on forfeiture shall be set
250 within thirty (30) days of filing the answer or at the succeeding



251 term of court if court would not be in session within thirty (30)
252 days after filing the answer. The court may postpone the
253 forfeiture hearing to a date past the time any criminal action is
254 pending against the owner upon request of any party.

255 (b) If the owner of the property has filed an answer
256 denying that the property is subject to forfeiture, then the
257 burden is on the petitioner to prove that the property is subject
258 to forfeiture. However, if an answer has not been filed by the
259 owner of the property, the petition for forfeiture may be
260 introduced into evidence and is prima facie evidence that the
261 property is subject to forfeiture. The burden of proof placed
262 upon the petitioner in regard to property forfeited under the
263 provisions of this chapter shall be by a preponderance of the
264 evidence.

265 (c) At the hearing any claimant of any right, title or
266 interest in the property may prove his lien, encumbrance, security
267 interest, other interest in the nature of a security interest,
268 mortgage or deed of trust to be bona fide and created without
269 knowledge or consent that the property was to be used so as to
270 cause the property to be subject to forfeiture.

271 (d) If it is found that the property is subject to
272 forfeiture, then the judge shall forfeit the property. However,
273 if proof at the hearing discloses that the interest of any bona
274 fide lienholder, secured party, other person holding an interest
275 in the property in the nature of a security interest, or any



276 holder of a bona fide encumbrance, mortgage or deed of trust is
277 greater than or equal to the present value of the property, the
278 court shall order the property released to him. If the interest
279 is less than the present value of the property and if the proof
280 shows that the property is subject to forfeiture, the court shall
281 order the property forfeited.

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

286 (a) If only one (1) law enforcement agency participates
287 in the underlying criminal case out of which the forfeiture
288 arises, fifty percent (50%) of the proceeds shall be forwarded to
289 the State Treasurer and deposited in the Victims of Human
290 Trafficking and Commercial Sexual Exploitation Fund, and fifty
291 percent (50%) shall be deposited and credited to the budget of the
292 participating law enforcement agency.

293 (b) If more than one (1) law enforcement agency
294 participates in the underlying criminal case out of which the
295 forfeiture arises, fifty percent (50%) of the proceeds shall be
296 forwarded to the State Treasurer and deposited in the Victims of
297 Human Trafficking and Commercial Sexual Exploitation Fund,
298 twenty-five percent (25%) of the proceeds shall be deposited and
299 credited to the budget of the law enforcement agency whose
300 officers initiated the criminal case and twenty-five percent (25%)



301 shall be divided equitably between or among the other
302 participating law enforcement agencies, and shall be deposited and
303 credited to the budgets of the participating law enforcement
304 agencies. In the event that the other participating law
305 enforcement agencies cannot agree on the division of their
306 twenty-five percent (25%), a petition shall be filed by any one of
307 them in the court in which the civil forfeiture case is brought
308 and the court shall make an equitable division.

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

312 (15) All real estate forfeited under the provisions of this
313 section shall be sold to the highest and best bidder at a public
314 auction for cash, the auction to be conducted by the chief law
315 enforcement officer of the initiating law enforcement agency, or
316 his designee, at such place, on such notice and in accordance with
317 the same procedure, as far as practicable, as is required in the
318 case of sales of land under execution at law. The proceeds of the
319 sale shall first be applied to the cost and expense in
320 administering and conducting the sale, then to the satisfaction of
321 all mortgages, deeds of trust, liens and encumbrances of record on
322 the property. The remaining proceeds shall be divided, forwarded
323 and deposited in the same manner as provided in subsection (13).

324 (16) (a) Any state, county or municipal law enforcement
325 agency may maintain, repair, use and operate for official purposes



326 all property described in subsection (1)(a)(i) of this section
327 that has been forfeited to the agency if it is free from any
328 interest of a bona fide lienholder, secured party or other party
329 who holds an interest in the property in the nature of a security
330 interest. The state, county or municipal law enforcement agency
331 may purchase the interest of a bona fide lienholder, secured party
332 or other party who holds an interest so that the property can be
333 released for its use. If the property is a motor vehicle
334 susceptible of titling under the Mississippi Motor Vehicle Title
335 Law, the law enforcement agency shall be deemed to be the
336 purchaser, and the certificate of title shall be issued to it as
337 required by subsection (9) of this section.

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

342 (ii) If a vehicle is forfeited to or transferred
343 to a police department, then the police chief may transfer the
344 vehicle to the municipality for official or governmental use as
345 the governing authority of the municipality may direct.

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



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

355 **SECTION 5.** (1) There is established the State Medical
356 Examiner Task Force as a successor entity to the State Medical
357 Examiner Advisory Council created under Section 41-61-55(3). The
358 task force is comprised of the following nine (9) members:

359 (a) The State Health Officer or the officer's designee;

360 (b) The Dean of the University of Mississippi Medical
361 Center School of Medicine or the dean's designee;

362 (c) The Commissioner of Public Safety;

363 (d) The Attorney General or the Attorney General's
364 designee;

365 (e) The President of the Mississippi Coroners and
366 Medical Examiners Association or the president's designee;

367 (f) The President of the Mississippi Prosecutors
368 Association or the president's designee;

369 (g) The President of the Mississippi Public Defenders
370 Association or the president's designee;

371 (h) The President of the Mississippi Association of
372 Chiefs of Police or the president's designee; and

373 (i) The President of the Mississippi Sheriffs'
374 Association or the president's designee.



375 Each member of the task force serves at the pleasure of the
376 head of the member's agency or appointing authority.

377 (2) The members of the task force shall elect a member
378 annually to serve as chair. A member may not serve as chair more
379 than two (2) consecutive years. The chair shall call meetings of
380 the task force and shall cause written notice of the meetings to
381 be furnished to members of the task force at least thirty (30)
382 days before the date of a meeting.

383 (3) Members of the task force must serve without
384 compensation.

385 (4) The task force shall meet at least once annually.

386 (5) The first meeting of the task force must be held before
387 September 30, 2024. Notice of the time and place of the first
388 meeting must be provided to each member of the task force no less
389 than sixty (60) days before the scheduled meeting.

390 (6) Before December 31 of each year, the task force shall
391 prepare and submit an annual report containing recommendations and
392 advice to the Legislature. The report must include, but need not
393 be limited to, the following:

394 (a) Identification of needs and means to improve the
395 investigation of deaths affecting the public interest while using
396 best practices;

397 (b) Identification of state medical examiner resources;
398 and



399 (c) Recommendations to enhance the efficiency of the
400 Mississippi State Medical Examiner's Office.

401 **SECTION 6.** Section 41-61-55, Mississippi Code of 1972, is
402 amended as follows:

403 41-61-55. (1) There is hereby created the position of State
404 Medical Examiner, under the supervision of the Commissioner of
405 Public Safety and within the Office of Forensic Laboratories. The
406 State Medical Examiner shall be appointed by the Commissioner of
407 Public Safety subject to review by the dean of the University of
408 Mississippi Medical Center School of Medicine and the State Health
409 Officer. The State Medical Examiner may be discharged only for
410 good cause by the Commissioner of Public Safety.

411 (2) The State Medical Examiner must obtain a license to
412 practice medicine in Mississippi and be certified in forensic
413 pathology by the American Board of Pathology. The State Medical
414 Examiner may also be designated as the Chief Medical Examiner.

415 * * *

416 **SECTION 7.** Section 45-1-3, Mississippi Code of 1972, is
417 amended as follows:

418 45-1-3. (1) When not otherwise specifically provided, the
419 commissioner is authorized to make and promulgate reasonable rules
420 and regulations to be coordinated, and carry out the general
421 provisions of the Highway Safety Patrol and Driver's License Law
422 of 1938.



423 (2) The commissioner shall have the authority to administer
424 oaths.

425 (3) Notwithstanding any other provision of law, with written
426 approval from the Executive Director of the Department of Finance
427 and Administration, the commissioner may enter into a lease or
428 sublease agreement for space in the Department of Public Safety
429 headquarters building with a third party for the purpose of
430 providing services and assistance to the department and its
431 employees. Any funds generated from a lease or sublease under
432 this subsection must be deposited into a special fund that is
433 managed by the department for general public safety purposes and
434 to offset any costs of the department in operating and maintaining
435 that space. Unexpended funds remaining in the special fund may
436 not lapse into the State General Fund, and any interest earned or
437 investment earnings on amounts in the fund must be deposited into
438 the special fund.

439 **SECTION 8.** This act shall take effect and be in force from
440 and after July 1, 2024, and shall stand repealed June 30, 2024.

