

By: Representative Owen

To: Judiciary B

## HOUSE BILL NO. 1311

1 AN ACT TO REENACT AND AMEND SECTION 41-29-176, MISSISSIPPI  
2 CODE OF 1972, WHICH WAS REPEALED BY OPERATION OF LAW ON JULY 1,  
3 2018; TO PROVIDE ADMINISTRATIVE FORFEITURE PROCEDURES FOR CERTAIN  
4 SEIZED PROPERTY UNDER THE UNIFORM CONTROLLED SUBSTANCES LAW THAT  
5 HAS A VALUE OF LESS THAN TWENTY THOUSAND DOLLARS; TO PROVIDE THAT  
6 IF THE VALUE OF FORFEITED PROPERTY DOES NOT EXCEED TEN THOUSAND  
7 DOLLARS, SUBSTITUTE NOTICE OF INTENTION TO ADMINISTRATIVELY  
8 FORFEIT THE PROPERTY MAY BE MADE BY POSTING A NOTICE ON AN  
9 OFFICIAL STATE GOVERNMENT FORFEITURE SITE FOR AT LEAST THIRTY  
10 CONSECUTIVE DAYS; TO PROVIDE THAT SUCH SITE SHALL BE CREATED AND  
11 MAINTAINED BY THE MISSISSIPPI BUREAU OF NARCOTICS; TO AUTHORIZE  
12 THE BUREAU TO CHARGE A REASONABLE FEE IF OTHER SEIZING LAW  
13 ENFORCEMENT AGENCIES CHOOSE TO UTILIZE SUCH SITE FOR INTERNET  
14 PUBLICATION; TO PROVIDE CERTAIN REQUIREMENTS FOR SUCH NOTICE OF  
15 PUBLICATION; TO AUTHORIZE ANY PERSON CLAIMING AN INTEREST IN  
16 PROPERTY WHICH IS THE SUBJECT OF A NOTICE TO FILE A PETITION TO  
17 CONTEST FORFEITURE WITHIN THIRTY DAYS AFTER RECEIPT OF SUCH NOTICE  
18 OR OF THE DATE OF THE FIRST PUBLICATION OF SUCH NOTICE; TO REQUIRE  
19 THE DISTRICT ATTORNEY OR HIS OR HER DESIGNEE TO PREPARE A WRITTEN  
20 DECLARATION OF FORFEITURE OF THE SUBJECT PROPERTY IF NO PETITION  
21 TO CONTEST FORFEITURE IS TIMELY FILED AND A SEIZURE WARRANT WAS  
22 PROPERLY OBTAINED; TO PROVIDE THAT THE FORFEITED PROPERTY SHALL BE  
23 USED, DISTRIBUTED OR DISPOSED OF IF NO PETITION TO CONTEST  
24 FORFEITURE IS TIMELY FILED AND A SEIZURE WARRANT WAS PROPERLY  
25 OBTAINED; AND FOR RELATED PURPOSES.

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

27 **SECTION 1.** Section 41-29-176, Mississippi Code of 1972,  
28 which was repealed by operation of law on July 1, 2018, is  
29 reenacted and amended as follows:



30           41-29-176. (1) Except as otherwise provided in Section  
31   41-29-107.1, when any property other than a controlled substance,  
32   raw material or paraphernalia, the value of which does not exceed  
33   Twenty Thousand Dollars (\$20,000.00), is seized under the Uniform  
34   Controlled Substances Law, the property may be forfeited by the  
35   administrative forfeiture procedures provided for in this section.

36           (2) The attorney for or any representative of the seizing  
37   law enforcement agency shall provide notice of intention to  
38   forfeit the seized property administratively, either by certified  
39   mail, return receipt requested, or by personal delivery, to all  
40   persons who are required to be notified pursuant to Section  
41   41-29-177(2).

42           (3) If notice of intention to forfeit the seized property  
43   administratively cannot be given as provided in subsection (2) of  
44   this section because of refusal, failure to claim, insufficient  
45   address or any other reason, the attorney for or representative of  
46   the seizing law enforcement agency shall provide notice by  
47   publication in a newspaper of general circulation in the county in  
48   which the seizure occurred for once a week for three (3)  
49   consecutive weeks. However, if the value of the property seized  
50   does not exceed Ten Thousand Dollars (\$10,000.00), substitute  
51   notice under this subsection (3) of intention to administratively  
52   forfeit the property may be made by posting a notice on an  
53   official state government forfeiture site for at least thirty (30)  
54   consecutive days. The site shall be created and maintained by the



Mississippi Bureau of Narcotics. Should other seizing law enforcement agencies choose to utilize the site for Internet publication, the bureau may charge a reasonable fee for such usage.

(4) Notice pursuant to subsections (2) and (3) of this section shall include the following information:

(a) A description of the property;  
(b) The approximate value of the property;  
(c) The date and place of the seizure;  
(d) The connection between the property and the violation of the Uniform Controlled Substances Law;  
(e) The instructions for filing a request for judicial review; \* \* \*

(f) The seizing law enforcement agency's mailing address; and

( \* \* \*g) A statement that the property will be forfeited to the seizing law enforcement agency if a request for judicial review is not timely filed.

(5) Any person claiming an interest in property which is the subject of a notice under this section may, within thirty (30) days after receipt of the notice or of the date of the first publication of the notice, \* \* \* may contest the forfeiture of the seized property by sending a written notice of contest to the seizing law enforcement agency at the address listed on the notice



79 of intent to forfeit. The claimant's written notice of contest  
80 shall contain the following information:

81 (a) Identification of any item(s) of property the  
82 claimant seeks to recover;

83 (b) State the contesting interested party's name,  
84 physical address, and phone number;

85 (c) A request for judicial review of the seizure; and

86 (d) signature of the claimant and date of the notice of  
87 contest.

88 (6) Upon receipt of the notice to contest, the seizing law  
89 enforcement agency shall have thirty (30) days to file a petition  
90 to forfeit the seized property in the county court, if a county  
91 court exists, or otherwise in the circuit court, of the county in  
92 which the seizure is made or the county in which the criminal  
93 prosecution is brought. Service of the petition shall be made on  
94 each interested party in accordance with the Mississippi Rules of  
95 Civil Procedure, and the proceedings shall thereafter be governed  
96 by the rules of civil procedure.

97 ( \* \* \*7) If no \* \* \* written notice to contest forfeiture  
98 is timely sent to the seizing law enforcement agency, and if \* \* \*  
99 a seizure warrant was properly obtained, the district attorney or  
100 his or her designee or the attorney for the bureau, as applicable,  
101 shall prepare a written declaration of forfeiture of the subject  
102 property and the forfeited property shall be used, distributed or



103 disposed of in accordance with the provisions of Section  
104 41-29-181.

105       **SECTION 2.** This act shall take effect and be in force from  
106 and after July 1, 2025.

