

By: Representative Horan

To: Judiciary B

## HOUSE BILL NO. 1506

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2 CODE OF 1972, WHICH WAS REPEALED BY OPERATION OF LAW ON JULY 1,  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 BRING FORWARD  
6 SECTIONS 41-29-154, 41-29-155, 41-29-157, 41-29-159, 41-29-160,  
7 41-29-161, 41-29-163, 41-29-165, 41-29-167, 41-29-168, 41-29-169,  
8 41-29-171, 41-29-173, 41-29-175, 41-29-176.1, 41-29-177,  
9 41-29-179, 41-29-181, 41-29-183, 41-29-185, 41-29-187 AND  
10 41-29-189, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR FORFEITURE  
11 OF DRUG PARAPHERNALIA AND PERSONAL PROPERTY AS RESULT OF CRIMES  
12 RELATED TO CONTROLLED SUBSTANCES, FOR PURPOSES OF AMENDMENT; AND  
13 FOR RELATED PURPOSES.

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

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16 which was repealed by operation of law on July 1, 2018, is  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

18 41-29-176. (1) Except as otherwise provided in Section  
19 41-29-107.1, when any property other than a controlled substance,  
20 raw material or paraphernalia, the value of which does not exceed  
21 Twenty Thousand Dollars (\$20,000.00), is seized under the Uniform  
22 Controlled Substances Law, the property may be forfeited by the  
23 administrative forfeiture procedures provided for in this section.



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

30           (3) If notice of intention to forfeit the seized property  
31 administratively cannot be given as provided in subsection (2) of  
32 this section because of refusal, failure to claim, insufficient  
33 address or any other reason, the attorney for or representative of  
34 the seizing law enforcement agency shall provide notice by  
35 publication in a newspaper of general circulation in the county in  
36 which the seizure occurred for once a week for three (3)  
37 consecutive weeks. However, if the value of the property seized  
38 does not exceed Ten Thousand Dollars (\$10,000.00), substitute  
39 notice under this subsection (3) of intention to administratively  
40 forfeit the property may be made by posting a notice on an  
41 official state government forfeiture site for at least thirty (30)  
42 consecutive days. The site shall be created and maintained by the  
43 Mississippi Bureau of Narcotics. Should other seizing law  
44 enforcement agencies choose to utilize the site for Internet  
45 publication, the bureau may charge a reasonable fee for such  
46 usage.

47           (4) Notice pursuant to subsections (2) and (3) of this  
48 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 of intent to forfeit. The claimant's written notice of contest shall contain the following information:

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

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

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



74            (d) signature of the claimant and date of the notice of  
75 contest.

76            (6) Upon receipt of the notice to contest, the seizing law  
77 enforcement agency shall have thirty (30) days to file a petition  
78 to forfeit the seized property in the county court, if a county  
79 court exists, or otherwise in the circuit court, of the county in  
80 which the seizure is made or the county in which the criminal  
81 prosecution is brought. Service of the petition shall be made on  
82 each interested party in accordance with the Mississippi Rules of  
83 Civil Procedure, and the proceedings shall thereafter be governed  
84 by the rules of civil procedure.

85            ( \* \* \*7) If no \* \* \* written notice to contest forfeiture  
86 is timely sent to the seizing law enforcement agency, and if \* \* \*  
87 a seizure warrant was properly obtained, the district attorney or  
88 his or her designee or the attorney for the bureau, as applicable,  
89 shall prepare a written declaration of forfeiture of the subject  
90 property and the forfeited property shall be used, distributed or  
91 disposed of in accordance with the provisions of Section  
92 41-29-181.

93            **SECTION 2.** Section 41-29-154, Mississippi Code of 1972, is  
94 brought forward as follows:

95            41-29-154. Any controlled substance or paraphernalia seized  
96 under the authority of this article or any other law of  
97 Mississippi or of the United States, shall be destroyed,  
98 adulterated and disposed of or otherwise rendered harmless and



99 disposed of, upon written authorization of the director,  
100 Commissioner of the Mississippi Department of Revenue or the State  
101 Health Officer of the Mississippi Department of Health, as  
102 applicable, after such substance or paraphernalia has served its  
103 usefulness as evidence or after such substance or paraphernalia is  
104 no longer useful for training or demonstration purposes.

105 A record of the disposition of such substances and  
106 paraphernalia and the method of destruction or adulteration  
107 employed along with the names of witnesses to such destruction or  
108 adulteration shall be retained by the director.

109 No substance or paraphernalia shall be disposed of, destroyed  
110 or rendered harmless under the authority of this section without  
111 an order from the director, Commissioner of the Mississippi  
112 Department of Revenue or the State Health Officer of the  
113 Mississippi Department of Health, as applicable, and without at  
114 least two (2) officers or agents of the bureau present as  
115 witnesses.

116 **SECTION 3.** Section 41-29-155, Mississippi Code of 1972, is  
117 brought forward as follows:

118 41-29-155. The trial courts of this state shall have  
119 jurisdiction to restrain or enjoin violations of this article.

120 The defendant may demand trial by jury for an alleged  
121 violation of an injunction or restraining order under this  
122 section.



123           **SECTION 4.** Section 41-29-157, Mississippi Code of 1972, is  
124 brought forward as follows:

125           41-29-157. (a) Except as otherwise provided in Section  
126 41-29-107.1, issuance and execution of administrative inspection  
127 warrants and search warrants shall be as follows, except as  
128 provided in subsection (c) of this section:

129           (1) A judge of any state court of record, or any  
130 justice court judge within his jurisdiction, and upon proper oath  
131 or affirmation showing probable cause, may issue warrants for the  
132 purpose of conducting administrative inspections authorized by  
133 this article or rules thereunder, and seizures of property  
134 appropriate to the inspections. For purposes of the issuance of  
135 administrative inspection warrants, probable cause exists upon  
136 showing a valid public interest in the effective enforcement of  
137 this article or rules thereunder, sufficient to justify  
138 administrative inspection of the area, premises, building or  
139 conveyance in the circumstances specified in the application for  
140 the warrant. All such warrants shall be served during normal  
141 business hours;

142           (2) A search warrant shall issue only upon an affidavit  
143 of a person having knowledge or information of the facts alleged,  
144 sworn to before the judge or justice court judge and establishing  
145 the grounds for issuing the warrant. If the judge or justice  
146 court judge is satisfied that grounds for the application exist or  
147 that there is probable cause to believe they exist, he shall issue



148 a warrant identifying the area, premises, building or conveyance  
149 to be searched, the purpose of the search, and, if appropriate,  
150 the type of property to be searched, if any. The warrant shall:

151 (A) State the grounds for its issuance and the  
152 name of each person whose affidavit has been taken in support  
153 thereof;

154 (B) Be directed to a person authorized by Section  
155 41-29-159 to execute it;

156 (C) Command the person to whom it is directed to  
157 inspect the area, premises, building or conveyance identified for  
158 the purpose specified, and if appropriate, direct the seizure of  
159 the property specified;

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

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

164 (3) A warrant issued pursuant to this section must be  
165 executed and returned within ten (10) days of its date unless,  
166 upon a showing of a need for additional time, the court orders  
167 otherwise. If property is seized pursuant to a warrant, a copy  
168 shall be given to the person from whom or from whose premises the  
169 property is taken, together with a receipt for the property taken.  
170 The return of the warrant shall be made promptly, accompanied by a  
171 written inventory of any property taken. The inventory shall be  
172 made in the presence of the person executing the warrant and of



the person from whose possession or premises the property was taken, if present, or in the presence of at least one (1) credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant;

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

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

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

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

(B) Places including factories, warehouses, establishments and conveyances in which persons registered or exempted from registration requirements under this article are





permitted to hold, manufacture, compound, process, sell, deliver,  
or otherwise dispose of any controlled substance.

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

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

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

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



222 (C) Inventory any stock of any controlled  
223 substance therein and obtain samples thereof.

224 (4) This section does not prevent the inspection  
225 without a warrant of books and records pursuant to an  
226 administrative subpoena, nor does it prevent entries and  
227 administrative inspections, including seizures of property,  
228 without a warrant:

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

231 (B) In situations presenting imminent danger to  
232 health or safety;

233 (C) In situations involving inspection of  
234 conveyances if there is reasonable cause to believe that the  
235 mobility of the conveyance makes it impracticable to obtain a  
236 warrant;

237 (D) In any other exceptional or emergency  
238 circumstance where time or opportunity to apply for a warrant is  
239 lacking; or

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

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



(c) Any agent of the bureau authorized to execute a search warrant involving controlled substances, the penalty for which is imprisonment for more than one (1) year, may, without notice of his authority and purpose, break open an outer door or inner door, or window of a building, or any part of the building, if the judge issuing the warrant:

(1) Is satisfied that there is probable cause to believe that:

(A) The property sought may, and, if such notice is given, will be easily and quickly destroyed or disposed of; or

(B) The giving of such notice will immediately endanger the life or safety of the executing officer or another person; and

(2) Has included in the warrant a direction that the officer executing the warrant shall not be required to give such notice.

Any officer acting under such warrant shall, as soon as practical, after entering the premises, identify himself and give the reasons and authority for his entrance upon the premises.

Search warrants which include the instruction that the executing officer shall not be required to give notice of authority and purpose as authorized by this subsection shall be issued only by the county court or county judge in vacation, chancery court or by the chancellor in vacation, by the circuit



court or circuit judge in vacation, or by a justice of the  
Mississippi Supreme Court.

This subsection shall expire and stand repealed from and  
after July 1, 1974, except that the repeal shall not affect the  
validity or legality of any search authorized under this  
subsection and conducted prior to July 1, 1974.

**SECTION 5.** Section 41-29-159, Mississippi Code of 1972, is  
brought forward as follows:

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

- (1) Carry firearms;
- (2) Execute and serve search warrants, arrest warrants,  
subpoenas, and summonses issued under the authority of this state;
- (3) Make arrests without warrant for any offense under  
this article committed in his presence, or if he has probable  
cause to believe that the person to be arrested has committed or  
is committing a crime; and



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

296 (b) As divided among the Mississippi Bureau of Narcotics,  
297 the State Board of Pharmacy, the State Board of Medical Licensure,  
298 the State Board of Dental Examiners, the Mississippi Board of  
299 Nursing and the State Board of Optometry, the primary  
300 responsibility of the illicit street traffic or other illicit  
301 traffic of drugs is delegated to agents of the Mississippi Bureau  
302 of Narcotics. The State Board of Pharmacy is delegated the  
303 responsibility of regulating and checking the legitimate drug  
304 traffic among pharmacists, pharmacies, hospitals, nursing homes,  
305 drug manufacturers, and any other related professions and  
306 facilities with the exception of the medical, dental, nursing,  
307 optometric and veterinary professions. The State Board of Medical  
308 Licensure is responsible for regulating and checking the  
309 legitimate drug traffic among physicians, podiatrists and  
310 veterinarians. The Mississippi Board of Dental Examiners is  
311 responsible for regulating and checking the legitimate drug  
312 traffic among dentists and dental hygienists. The Mississippi  
313 Board of Nursing is responsible for regulating and checking the  
314 legitimate drug traffic among nurses. The State Board of  
315 Optometry is responsible for regulating and checking the  
316 legitimate drug traffic among optometrists.

317 (c) The provisions of this section shall not be construed to  
318 limit or preclude the detection or arrest of persons in violation



of Section 41-29-139 by any local law enforcement officer,  
sheriff, deputy sheriff or peace officer.

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

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

**SECTION 6.** Section 41-29-160, Mississippi Code of 1972, is  
brought forward as follows:

41-29-160. The director is authorized to pay any person such  
sum or sums of money as he may deem appropriate for information  
concerning a violation of this article from funds appropriated for  
the bureau of narcotics.

Moneys expended from the funds of the bureau for the purchase  
of controlled substances, and subsequently recovered shall be  
returned to the account from which they were originally drawn for



such purpose. Detailed records and accounts of the use and disposition of such funds shall be kept by the director.

**SECTION 7.** Section 41-29-161, Mississippi Code of 1972, is brought forward as follows:

41-29-161. Any officer or employee of the Mississippi Bureau of Drug Enforcement who is authorized to investigate, carry firearms, serve search warrants, and do all things as set forth in this article shall prior to entering upon the discharge of his duties enter into a good and sufficient surety bond in the sum of Ten Thousand Dollars (\$10,000.00) with a surety company authorized and doing business within the State of Mississippi. The said bond herein is conditioned upon the faithful performance of the duties of his office. All premiums shall be paid as are other expenses of the bureau.

**SECTION 8.** Section 41-29-163, Mississippi Code of 1972, is brought forward as follows:

41-29-163. All final determinations, findings and conclusions of the board, the bureau or the State Board of Pharmacy under this article are final and conclusive decisions of the matters involved. Except as otherwise provided by Section 41-29-176, any person aggrieved by the decision may obtain review of the decision in the chancery court.

**SECTION 9.** Section 41-29-165, Mississippi Code of 1972, is brought forward as follows:



368 41-29-165. Any person being aggrieved by any conviction or  
369 order of any board or commission authorized under this article  
370 shall have a right to appeal from said order or conviction to the  
371 circuit court of the county of the residence of the defendant or  
372 of the county where the offense was committed. Said appeal shall  
373 be tried de novo. Appeals taken under this article shall be  
374 perfected as all other appeals to the circuit court.

375 **SECTION 10.** Section 41-29-167, Mississippi Code of 1972, is  
376 brought forward as follows:

377 41-29-167. (a) The State Board of Medical Licensure, the  
378 Mississippi Bureau of Narcotics, the State Board of Pharmacy, the  
379 State Board of Dental Examiners, the Mississippi Board of Nursing  
380 and the State Board of Optometry shall cooperate with federal and  
381 other state agencies in discharging their responsibilities  
382 concerning traffic in controlled substances and in suppressing the  
383 abuse of controlled substances. To this end, they may:

384 (1) Arrange for the exchange of information among  
385 governmental officials concerning the use and abuse of controlled  
386 substances;

387 (2) Coordinate and cooperate in training programs  
388 concerning controlled substance law enforcement at local and state  
389 levels;

390 (3) Cooperate with the United States Drug Enforcement  
391 Administration by establishing a centralized unit to accept,  
392 catalogue, file and collect statistics, including records of drug





dependent persons and other controlled substance law offenders within the state, and make the information available for federal, state and local law enforcement purposes; and

(4) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

(b) Results, information and evidence received from the United States Drug Enforcement Administration relating to the regulatory functions of this article, including results of inspections conducted by it may be relied and acted upon by the Mississippi Bureau of Narcotics, the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing and the State Board of Optometry in the exercise of their regulatory functions under this article.

**SECTION 11.** Section 41-29-168, Mississippi Code of 1972, is brought forward as follows:

41-29-168. (1) Every sheriff, chief of police or constable or other peace officer in this state and the Identification Bureau of the Highway Safety Patrol is hereby required to report to the bureau all arrests, incidences and information involving or connected with controlled substances.

(2) The owner, manager, practitioner, or any other person having possession or custody of controlled substances or of premises on which controlled substances are stored or located,



whether or not such person is a registrant under Section 41-29-125, is hereby required to report to the bureau any theft, burglary, robbery or attempted theft, burglary or robbery of such premises or substance, or the mysterious disappearance of any controlled substance within forty-eight (48) hours of the discovery of such occurrence or disappearance.

(3) The director shall promulgate appropriate procedures and shall supply forms to facilitate the reports as required by subsections (1) and (2) of this section.

(4) It shall be unlawful for any person required to submit reports under subsection (2) of this section to omit to do so or to knowingly submit a false or incorrect report, in whole or in part, and, upon conviction, such person shall be guilty of a misdemeanor and shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) and may be confined for not more than thirty (30) days.

**SECTION 12.** Section 41-29-169, Mississippi Code of 1972, is brought forward as follows:

41-29-169. The Mississippi Bureau of Drug Enforcement and state board of education shall carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs they may:

(1) Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;



(2) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(3) Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(4) Evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

(5) Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them; and

(6) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

**SECTION 13.** Section 41-29-171, Mississippi Code of 1972, is brought forward as follows:

41-29-171. (a) The Mississippi Bureau of Narcotics, the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing and the State Board of Optometry shall encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of this article they may:



467           (1) Establish methods to assess accurately the effects  
468 of controlled substances and identify and characterize those with  
469 potential for abuse;

470           (2) Make studies and undertake programs of research to:

471               (A) Develop new or improved approaches,  
472 techniques, systems, equipment and devices to strengthen the  
473 enforcement of this article;

474               (B) Determine patterns of misuse and abuse of  
475 controlled substances and the social effects thereof; and

476               (C) Improve methods for preventing, predicting,  
477 understanding and dealing with the misuse and abuse of controlled  
478 substances;

479           (3) Enter into contracts with public agencies,  
480 institutions of higher education, and private organizations or  
481 individuals for the purpose of conducting research,  
482 demonstrations, or special projects which bear directly on misuse  
483 and abuse of controlled substances.

484           (b) The Mississippi Bureau of Narcotics and the State Board  
485 of Education may enter into contracts for educational and research  
486 activities without performance bonds.

487           (c) The board may authorize the possession and distribution  
488 of controlled substances by persons engaged in research. Persons  
489 who obtain this authorization are exempt from state prosecution  
490 for possession and distribution of controlled substances to the  
491 extent of the authorization.



492           **SECTION 14.** Section 41-29-173, Mississippi Code of 1972, is  
493 brought forward as follows:

494           41-29-173. (a) Prosecutions for any violations under prior  
495 laws shall not be affected or abated by the provisions of this  
496 article. The penalty for any such violations shall be prescribed  
497 in accordance with subsection (d) of Section 41-29-149.

498           (b) Civil seizures or forfeitures and injunctive proceedings  
499 commenced prior to May 19, 1972, are not affected by this article.

500           (c) All administrative proceedings pending under prior laws  
501 which are superseded by this article shall be continued and  
502 brought to a final determination in accord with the laws and rules  
503 in effect prior to May 19, 1972. Any substance controlled under  
504 prior law which is not listed within Schedules I through V, being  
505 Sections 41-29-113 through 41-29-121, is automatically controlled  
506 without further proceedings and shall be listed in the appropriate  
507 schedule.

508           (d) The state board of pharmacy and state board of medical  
509 licensure shall initially permit persons to register who own or  
510 operate any establishment engaged in the manufacture, distribution  
511 or dispensing of any controlled substance prior to May 19, 1972,  
512 and who are registered or licensed by the state.

513           (e) This article applies to violations of law, seizures and  
514 forfeiture, injunctive proceedings, administrative proceedings and  
515 investigations which occur following May 19, 1972.



**SECTION 15.** Section 41-29-175, Mississippi Code of 1972, is brought forward as follows:

41-29-175. Any orders and rules promulgated under any law affected by this article and in effect on April 16, 1971, and not in conflict with the provisions of this article shall continue in effect until modified, superseded or repealed.

**SECTION 16.** Section 41-29-176.1, Mississippi Code of 1972, is brought forward as follows:

41-29-176.1. The seizing law enforcement agency shall within thirty (30) days of a seizure, request either the district attorney of the county in which property is seized or the Mississippi Bureau of Narcotics to prosecute any cases involving seized property. No one other than the district attorney of the county in which the seizure occurred or an attorney from the Mississippi Bureau of Narcotics shall have authority to prosecute the forfeiture of the seized property. If the district attorney and the Mississippi Bureau of Narcotics decline to prosecute the forfeiture of the seized property, the seizing law enforcement agency shall notify the person from whom the property was seized that the property will not be forfeited, within thirty (30) days of receiving the notice not to prosecute, and shall provide written instructions advising the person how to retrieve the seized property.

**SECTION 17.** Section 41-29-177, Mississippi Code of 1972, is brought forward as follows:



541 41-29-177. (1) Except as otherwise provided in Section  
542 41-29-176, Mississippi Code of 1972, and in Section 41-29-107.1,  
543 when any property, other than a controlled substance, raw material  
544 or paraphernalia, is seized under the Uniform Controlled  
545 Substances Law, proceedings under this section shall be instituted  
546 within thirty (30) days from the date of seizure or the subject  
547 property shall be immediately returned to the party from whom  
548 seized.

549 (2) A petition for forfeiture shall be filed by the district  
550 attorney or his or her designee, or an attorney for the bureau, as  
551 applicable, in the name of the State of Mississippi, the county or  
552 the municipality and may be filed in the county in which the  
553 seizure is made, the county in which the criminal prosecution is  
554 brought or the county in which the owner of the seized property is  
555 found. Forfeiture proceedings may be brought in the circuit court  
556 or the county court if a county court exists in the county and the  
557 value of the seized property is within the jurisdictional limits  
558 of the county court as set forth in Section 9-9-21, Mississippi  
559 Code of 1972. A copy of such petition shall be served upon the  
560 following persons by service of process in the same manner as in  
561 civil cases:

- 562 (a) The owner of the property, if address is known;  
563 (b) Any secured party who has registered his lien or  
564 filed a financing statement as provided by law, if the identity of  
565 such secured party can be ascertained by the Bureau of Narcotics



or the local law enforcement agency by making a good faith effort to ascertain the identity of such secured party as described in subsections (3), (4), (5), (6) and (7) of this section;

(c) Any other bona fide lienholder or secured party or other person holding an interest in the property in the nature of a security interest of whom the Mississippi Bureau of Narcotics or the local law enforcement agency has actual knowledge;

(d) Any holder of a mortgage, deed of trust, lien or encumbrance of record, if the property is real estate, by making a good faith inquiry as described in subsection (8) of this section; and

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

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

(4) If the property is a motor vehicle and is not titled in the State of Mississippi, then the Bureau of Narcotics or the local law enforcement agency shall attempt to ascertain the name and address of the person in whose name the vehicle is licensed,





591 and if the vehicle is licensed in a state which has in effect a  
592 certificate of title law, the bureau or the local law enforcement  
593 agency shall make inquiry of the appropriate agency of that state  
594 as to what the records of the agency show as to who is the record  
595 owner of the vehicle and who, if anyone, holds any lien, security  
596 interest or other instrument in the nature of a security device  
597 which affects the vehicle.

598 (5) If the property is of a nature that a financing  
599 statement is required by the laws of this state to be filed to  
600 perfect a security interest affecting the property and if there is  
601 any reasonable cause to believe that a financing statement  
602 covering the security interest has been filed under the laws of  
603 this state, the Bureau of Narcotics or the local law enforcement  
604 agency shall make inquiry of the appropriate office designated in  
605 Section 75-9-501, Mississippi Code of 1972, as to what the records  
606 show as to who is the record owner of the property and who, if  
607 anyone, has filed a financing statement affecting the property.

608 (6) If the property is an aircraft or part thereof and if  
609 there is any reasonable cause to believe that an instrument in the  
610 nature of a security device affects the property, then the Bureau  
611 of Narcotics or the local law enforcement agency shall make  
612 inquiry of the Mississippi Department of Transportation as to what  
613 the records of the Federal Aviation Administration show as to who  
614 is the record owner of the property and who, if anyone, holds an



615 instrument in the nature of a security device which affects the  
616 property.

617 (7) In the case of all other personal property subject to  
618 forfeiture, if there is any reasonable cause to believe that an  
619 instrument in the nature of a security device affects the  
620 property, then the Bureau of Narcotics or the local law  
621 enforcement agency shall make a good faith inquiry to identify the  
622 holder of any such instrument.

623 (8) If the property is real estate, the Bureau of Narcotics  
624 or the local law enforcement agency shall make inquiry of the  
625 chancery clerk of the county wherein the property is located to  
626 determine who is the owner of record and who, if anyone, is a  
627 holder of a bona fide mortgage, deed of trust, lien or  
628 encumbrance.

629 (9) In the event the answer to an inquiry states that the  
630 record owner of the property is any person other than the person  
631 who was in possession of it when it was seized, or states that any  
632 person holds any lien, encumbrance, security interest, other  
633 interest in the nature of a security interest, mortgage or deed of  
634 trust which affects the property, the Bureau of Narcotics or the  
635 local law enforcement agency shall cause any record owner and also  
636 any lienholder, secured party, other person who holds an interest  
637 in the property in the nature of a security interest, or holder of  
638 an encumbrance, mortgage or deed of trust which affects the



property to be named in the petition of forfeiture and to be served with process in the same manner as in civil cases.

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

(11) No proceedings instituted pursuant to the provisions of this article shall proceed to hearing unless the judge conducting the hearing is satisfied that this section and Section 41-29-107.1 has been complied with. Any answer received from an inquiry required by subsections (3) through (8) of this section shall be introduced into evidence at the hearing.

**SECTION 18.** Section 41-29-179, Mississippi Code of 1972, is brought forward as follows:



663           41-29-179. (1) Except as otherwise provided in Section  
664 41-29-176 and Section 41-29-107.1, an owner of property, other  
665 than a controlled substance, raw material or paraphernalia, that  
666 has been seized shall file an answer within thirty (30) days after  
667 the completion of service of process. If an answer is not filed,  
668 the court shall hear evidence that the property is subject to  
669 forfeiture and forfeit the property to the Mississippi Bureau of  
670 Narcotics or the local law enforcement agency. If an answer is  
671 filed, a time for hearing on forfeiture shall be set within thirty  
672 (30) days of filing the answer or at the succeeding term of court  
673 if court would not be in progress within thirty (30) days after  
674 filing the answer. Provided, however, that upon request by the  
675 Bureau of Narcotics, the local law enforcement agency or the owner  
676 of the property, the court may postpone said forfeiture hearing to  
677 a date past the time any criminal action is pending against said  
678 owner.

679           (2) If the owner of the property has filed an answer denying  
680 that the property is subject to forfeiture, then the burden is on  
681 the petitioner to prove that the property is subject to  
682 forfeiture. However, if an answer has not been filed by the owner  
683 of the property, the petition for forfeiture may be introduced  
684 into evidence and is prima facie evidence that the property is  
685 subject to forfeiture. The standard of proof placed upon the  
686 petitioner in regard to property forfeited under the provisions of  
687 this article shall be by a preponderance of the evidence.



688           (3) At the hearing any claimant of any right, title or  
689 interest in the property may prove his lien, encumbrance, security  
690 interest, other interest in the nature of a security interest,  
691 mortgage or deed of trust to be bona fide and created without  
692 knowledge or consent that the property was to be used so as to  
693 cause the property to be subject to forfeiture.

694           (4) If it is found that the property is subject to  
695 forfeiture, then the judge shall forfeit the property to the  
696 Mississippi Bureau of Narcotics or the local law enforcement  
697 agency. However, if proof at the hearing discloses that the  
698 interest of any bona fide lienholder, secured party, other person  
699 holding an interest in the property in the nature of a security  
700 interest, or any holder of a bona fide encumbrance, mortgage or  
701 deed of trust is greater than or equal to the present value of the  
702 property, the court shall order the property released to him. If  
703 such interest is less than the present value of the property and  
704 if the proof shows that the property is subject to forfeiture, the  
705 court shall order the property forfeited to the Mississippi Bureau  
706 of Narcotics or the local law enforcement agency.

707           (5) Upon a petition filed in the name of the State of  
708 Mississippi, the county or the municipality with the clerk of the  
709 circuit court of the county in which the seizure of any controlled  
710 substance or raw material is made, the circuit court having  
711 jurisdiction may order the controlled substance or raw material  
712 summarily forfeited except when lawful possession and title can be



ascertained. If a person is found to have had lawful possession and title prior to seizure, the court shall order the controlled substance or raw material returned to the owner, if the owner so desires. Upon a petition filed in the name of the State of Mississippi, the county or the municipality with the clerk of the circuit court of the county in which the seizure of any purported paraphernalia is made, the circuit court having jurisdiction may order such seized property summarily forfeited when the court has determined the seized property to be paraphernalia as defined in Section 41-29-105(v).

**SECTION 19.** Section 41-29-181, Mississippi Code of 1972, is brought forward as follows:

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

- (a) Retain the property for its official purposes;
- (b) Deliver the property to a government agency or department for official purposes;
- (c) Deliver the property to a person authorized by the court to receive it; or
- (d) Destroy the property that is not otherwise disposed, pursuant to the provisions of Section 41-29-154.

(2) All other property, real or personal, which is forfeited under this article, except as otherwise provided in Section 41-29-185, and except as provided in subsections (3), (7) and (8)



of this section, shall be liquidated and, after deduction of court costs and the expenses of liquidation, the proceeds shall be divided and deposited as follows:

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

(b) In the event more than one (1) law enforcement agency participates in the underlying criminal case out of which the forfeiture arises, eighty percent (80%) of the proceeds shall be deposited and credited to the budget of the law enforcement agency whose officers initiated the criminal case and twenty percent (20%) shall be divided equitably between or among the other participating law enforcement agencies, and shall be deposited and credited to the budgets of the participating law enforcement agencies. In the event that the other participating law enforcement agencies cannot agree on the division of their twenty percent (20%), a petition shall be filed by any one of them in the court in which the civil forfeiture case is brought and the court shall make an equitable division.

If the criminal case is initiated by an officer of the Bureau of Narcotics and more than one (1) law enforcement agency



763 participates in the underlying criminal case out of which the  
764 forfeiture arises, the proceeds shall be divided equitably between  
765 or among the Bureau of Narcotics and other participating law  
766 enforcement agencies and shall be deposited and credited to the  
767 budgets of the participating law enforcement agencies. In the  
768 event that the Bureau of Narcotics and the other participating law  
769 enforcement agencies cannot agree on an equitable division of the  
770 proceeds, a petition shall be filed by any one of them in the  
771 court in which the civil forfeiture case is brought and the court  
772 shall make an equitable division.

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

777 (4) All property forfeited, deposited and credited to the  
778 Mississippi Bureau of Narcotics under this article shall be  
779 forwarded to the State Treasurer and deposited in a special fund  
780 for use by the Mississippi Bureau of Narcotics upon appropriation  
781 by the Legislature.

782 (5) All real estate which is forfeited under the provisions  
783 of this article shall be sold to the highest and best bidder at a  
784 public auction for cash, such auction to be conducted by the chief  
785 law enforcement officer of the initiating law enforcement agency,  
786 or his designee, at such place, on such notice and in accordance  
787 with the same procedure, as far as practicable, as is required in





788 the case of sales of land under execution at law. The proceeds of  
789 such sale shall first be applied to the cost and expense in  
790 administering and conducting such sale, then to the satisfaction  
791 of all mortgages, deeds of trust, liens and encumbrances of record  
792 on such property. The remaining proceeds shall be divided,  
793 forwarded and deposited in the same manner set out in subsection  
794 (2) of this section.

795 (6) All other property that has been forfeited shall, except  
796 as otherwise provided, be sold at a public auction for cash by the  
797 chief law enforcement officer of the initiating law enforcement  
798 agency, or his designee, to the highest and best bidder after  
799 advertising the sale for at least once each week for three (3)  
800 consecutive weeks, the last notice to appear not more than ten  
801 (10) days nor less than five (5) days prior to such sale, in a  
802 newspaper having a general circulation in the jurisdiction in  
803 which said law enforcement agency is located. Such notices shall  
804 contain a description of the property to be sold and a statement  
805 of the time and place of sale. It shall not be necessary to the  
806 validity of such sale either to have the property present at the  
807 place of sale or to have the name of the owner thereof stated in  
808 such notice. The proceeds of the sale shall be disposed of as  
809 follows:

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



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

817           (7) (a) Any county or municipal law enforcement agency may  
818 maintain, repair, use and operate for official purposes all  
819 property, other than real property, money or such property that is  
820 described in subsection (1) of this section, that has been  
821 forfeited to the agency if it is free from any interest of a bona  
822 fide lienholder, secured party or other party who holds an  
823 interest in the property in the nature of a security interest.  
824 Such county or municipal law enforcement agency may purchase the  
825 interest of a bona fide lienholder, secured party or other party  
826 who holds an interest so that the property can be released for its  
827 use. If the property is a motor vehicle susceptible of titling  
828 under the Mississippi Motor Vehicle Title Law, the law enforcement  
829 agency shall be deemed to be the purchaser, and the certificate of  
830 title shall be issued to it as required by subsection (9) of this  
831 section.

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

836           (ii) If a vehicle is forfeited to or transferred  
837 to a police department, then the police chief may transfer the



838 vehicle to the municipality for official or governmental use as  
839 the governing authority of the municipality may direct.

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

845 (8) The Mississippi Bureau of Narcotics may maintain,  
846 repair, use and operate for official purposes all property, other  
847 than real property, money or such property as is described in  
848 subsection (1) of this section, that has been forfeited to the  
849 bureau if it is free from any interest of a bona fide lienholder,  
850 secured party, or other party who holds an interest in the  
851 property in the nature of a security interest. In such case, the  
852 bureau may purchase the interest of a bona fide lienholder,  
853 secured party or other party who holds an interest so that such  
854 property can be released for use by the bureau.

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

861 (9) The Department of Revenue shall issue a certificate of  
862 title to any person who purchases property under the provisions of



this section when a certificate of title is required under the laws of this state.

**SECTION 20.** Section 41-29-183, Mississippi Code of 1972, is brought forward as follows:

41-29-183. The forfeiture procedure set forth in Sections 41-29-177 through 41-29-181 is the sole remedy of any claimant, and no court shall have jurisdiction to interfere therewith by replevin, injunction, supersedeas or in any other manner.

**SECTION 21.** Section 41-29-185, Mississippi Code of 1972, is brought forward as follows:

41-29-185. One hundred percent (100%) of any seized and forfeited property to be transferred to any state or local law enforcement agency under the provisions of 21 USCS Section 881(e)(1), 19 USCS Section 1616(a)(2), or other federal property sharing provisions, shall be credited to the budget of the state or local agency that directly participated in the seizure or forfeiture, for the specific purpose of increasing law enforcement resources for that specific state or local agency. Such transferred property must be used to augment existing state and local law enforcement budgets and not to supplant them.

**SECTION 22.** Section 41-29-187, Mississippi Code of 1972, is brought forward as follows:

41-29-187. (1) Attorneys for the Mississippi Bureau of Narcotics, by and through the Director of the Mississippi Bureau of Narcotics, are authorized to seek judicial subpoenas to require



888 any person, firm or corporation in the State of Mississippi to  
889 produce for inspection and copying business records and other  
890 documents which are relevant to the investigation of any felony  
891 violation of the Uniform Controlled Substances Law of the State of  
892 Mississippi. The production of the designated documents shall be  
893 at the location of the named person's, firm's or corporation's  
894 principal place of business, residence or other place at which the  
895 person, firm or corporation agrees to produce the documents. The  
896 cost of reproducing the documents shall be borne by the bureau at  
897 prevailing rates. At the conclusion of the investigation and any  
898 related judicial proceedings, the person, firm or corporation from  
899 whom the records or documents were subpoenaed shall, upon written  
900 request, be entitled to the return or destruction of all copies  
901 remaining in the possession of the bureau.

902 (2) The bureau is authorized to make an ex parte and in  
903 camera application to the county or circuit court of the county in  
904 which such person, firm or corporation resides or has his  
905 principal place of business, or if the person, firm or corporation  
906 is absent or a nonresident of the State of Mississippi, to the  
907 County or Circuit Court of Hinds County. On application of the  
908 county or circuit court, a subpoena duces tecum shall be issued  
909 only upon a showing of probable cause that the documents sought  
910 are relevant to the investigation of a felony violation of the  
911 Uniform Controlled Substances Law or may reasonably lead to the  
912 discovery of such relevant evidence. Nothing contained in this



913 section shall affect the right of a person to assert a claim that  
914 the information sought is privileged by law. Such application to  
915 the court shall be in writing and accompanied by a sworn affidavit  
916 from an agent of the Bureau of Narcotics which sets forth facts  
917 which the court shall consider in determining that probable cause  
918 exists.

919 (3) Any person, firm or corporation complying in good faith  
920 with a judicial subpoena issued pursuant to this section shall not  
921 be liable to any other person, firm or corporation for damages  
922 caused in whole or in part by such compliance.

923 (4) Documents in the possession of the Mississippi Bureau of  
924 Narcotics gathered pursuant to the provisions of this section and  
925 subpoenas issued by the court shall be maintained in confidential  
926 files with access limited to prosecutorial and other law  
927 enforcement investigative personnel on a "need to know" basis and  
928 shall be exempt from the provisions of the Mississippi Public  
929 Records Act of 1983, except that upon the filing of an indictment  
930 or information, or upon the filing of an action for forfeiture or  
931 recovery of property, funds or fines, such documents shall be  
932 subject to such disclosure as may be required pursuant to the  
933 applicable statutes or court rules governing the trial of any such  
934 judicial proceeding.

935 (5) The circuit or county judge shall seal each application  
936 and affidavit filed and each subpoena issued after service of said  
937 subpoena. The application, affidavit and subpoena may not be



disclosed except in the course of a judicial proceeding. Any unauthorized disclosure of a sealed subpoena, application or affidavit shall be punishable as contempt of court.

(6) No person, including the Director of the Mississippi Bureau of Narcotics, an agent or member of his staff, prosecuting attorney, law enforcement officer, witness, court reporter, attorney or other person, shall disclose to an unauthorized person documents gathered by the bureau pursuant to the provisions of this section, nor investigative demands and subpoenas issued and served, except that upon the filing of an indictment or information, or upon the filing of an action for forfeiture or recovery of property, funds or fines, or in other legal proceedings, the documents shall be subject to such disclosure as may be required pursuant to applicable statutes and court rules governing the trial of any such judicial proceeding. In the event of an unauthorized disclosure of any such documents gathered by the Mississippi Bureau of Narcotics pursuant to the provisions of this section, the person making any such unauthorized disclosure shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or imprisonment of not more than six (6) months, or by both such fine and imprisonment.

(7) No person, agent or employee upon whom a subpoena is served pursuant to this section shall disclose the existence of said subpoena or the existence of the investigation to any person



unless such disclosure is necessary for compliance with the subpoena. Any person who willfully violates this subsection shall be guilty of a misdemeanor and may be confined in the county jail, for a period not to exceed one (1) year, or fined not more than Ten Thousand Dollars (\$10,000.00), or both.

**SECTION 23.** Section 41-29-189, Mississippi Code of 1972, is brought forward as follows:

41-29-189. There is created in the State Treasury a special fund to be known as the Drug Evidence Disposition Fund. The purpose of the fund shall be to provide funding for costs associated with the acquisition, storage, destruction or other disposition of evidence related to offenses under the Uniform Controlled Substances Act. Monies from the funds derived from assessments under Section 99-19-73 shall be distributed by the State Treasurer upon warrants issued by the Mississippi Bureau of Narcotics. The fund shall be a continuing fund, not subject to fiscal-year limitations, and shall consist of:

- (a) Monies appropriated by the Legislature;
- (b) The interest accruing to the fund;
- (c) Monies received under the provisions of Section 99-19-73;
- (d) Monies received from the federal government;
- (e) Donations; and
- (f) Monies received from such other sources as may be provided by or allowable under law.





988           **SECTION 24.** This act shall take effect and be in force from  
989 and after July 1, 2025.

