

By: Representative Criswell

To: Judiciary B

HOUSE BILL NO. 1398

1 AN ACT TO AMEND SECTION 41-29-153, MISSISSIPPI CODE OF 1972,
 2 TO EXEMPT HOMESTEAD PROPERTY AND OTHER SPECIFIED PROPERTY HAVING A
 3 CERTAIN VALUE FROM SEIZURE AND FORFEITURE; TO BRING FORWARD
 4 SECTIONS 41-29-107.1, 41-29-176.1, 41-29-177, 41-29-179, 41-29-181
 5 AND 41-29-183, MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE
 6 MISSISSIPPI BUREAU OF NARCOTICS WEBSITE ON SEIZED PROPERTY AND THE
 7 PROSECUTION OF CASES AND PROCEDURES FOR THE DISPOSITION OF SEIZED
 8 PROPERTY, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED
 9 PURPOSES.

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

11 **SECTION 1.** Section 41-29-153, Mississippi Code of 1972, is
 12 amended as follows:

13 41-29-153. (a) The following property is exempt from
 14 seizure and forfeiture:

15 (1) Homestead real property.

16 (2) U.S. currency totaling Five Hundred Dollars
 17 (\$500.00) or less; however, the district attorney of a circuit
 18 court district may establish an exemption with a maximum dollar
 19 amount greater than Five Hundred Dollars (\$500.00) for U.S.
 20 currency seized within that district.



21 (3) A motor vehicle having a market value equal to or
22 less than Two Thousand Five Hundred Dollars (\$2,500.00); however,
23 the district attorney of a circuit court district may establish an
24 exemption with a maximum dollar amount greater than Two Thousand
25 Five Hundred Dollars (\$2,500.00) for a motor vehicle seized within
26 that district.

27 (* * *b) The following are subject to forfeiture:

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

31 (2) All raw materials, products and equipment of any
32 kind which are used, or intended for use, in manufacturing,
33 compounding, processing, delivering, importing, or exporting any
34 controlled substance in violation of this article or in violation
35 of Article 5 of this chapter;

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

39 (4) All conveyances, including aircraft, vehicles or
40 vessels, which are used, or intended for use, to transport, or in
41 any manner to facilitate the transportation, sale, receipt,
42 possession or concealment of property described in paragraph (1)
43 or (2) of this subsection, however:

44 A. No conveyance used by any person as a common
45 carrier in the transaction of business as a common carrier is



46 subject to forfeiture under this section unless it appears that
47 the owner or other person in charge of the conveyance is a
48 consenting party or privy to a violation of this article;

49 B. No conveyance is subject to forfeiture under
50 this section by reason of any act or omission proved by the owner
51 thereof to have been committed or omitted without his knowledge or
52 consent; if the confiscating authority has reason to believe that
53 the conveyance is a leased or rented conveyance, then the
54 confiscating authority shall notify the owner of the conveyance
55 within five (5) days of the confiscation;

56 C. A forfeiture of a conveyance encumbered by a
57 bona fide security interest is subject to the interest of the
58 secured party if he neither had knowledge of nor consented to the
59 act or omission;

60 D. A conveyance is not subject to forfeiture for a
61 violation of Section 41-29-139(c) (2) (A) 1, 2 or (B)1 or (C)1, 2,
62 3;

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

67 (6) All drug paraphernalia as defined in Section
68 41-29-105(v); and

69 (7) Everything of value, including real estate,
70 furnished, or intended to be furnished, in exchange for a



71 controlled substance in violation of this article, all proceeds
72 traceable to such an exchange, and all monies, negotiable
73 instruments, businesses or business investments, securities, and
74 other things of value used, or intended to be used, to facilitate
75 any violation of this article. All monies, coin and currency
76 found in close proximity to forfeitable controlled substances, to
77 forfeitable drug manufacturing or distributing paraphernalia, or
78 to forfeitable records of the importation, manufacture or
79 distribution of controlled substances are presumed to be
80 forfeitable under this paragraph; the burden of proof is upon
81 claimants of the property to rebut this presumption.

82 A. No property shall be forfeited under the
83 provisions of * * * this * * * paragraph (7), to the extent of the
84 interest of an owner, by reason of any act or omission established
85 by him to have been committed or omitted without his knowledge or
86 consent.

87 B. Neither personal property encumbered by a bona
88 fide security interest nor real estate encumbered by a bona fide
89 mortgage, deed of trust, lien or encumbrance shall be forfeited
90 under the provisions of * * * this * * * paragraph (7), to the
91 extent of the interest of the secured party or the interest of the
92 mortgagee, holder of a deed of trust, lien or encumbrance by
93 reason of any act or omission established by him to have been
94 committed or omitted without his knowledge or consent.



95 (* * * c) Property subject to forfeiture may be seized by
96 the bureau, local law enforcement officers, enforcement officers
97 of the Mississippi Department of Transportation, highway
98 patrolmen, the board, or the State Board of Pharmacy upon process
99 issued by any appropriate court having jurisdiction over the
100 property. Seizure without process may be made if:

101 (1) The seizure is incident to an arrest or a search
102 under a search warrant or an inspection under an administrative
103 inspection warrant;

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

107 (3) The bureau, the board, local law enforcement
108 officers, enforcement officers of the Mississippi Department of
109 Transportation, or highway patrolmen, or the State Board of
110 Pharmacy have probable cause to believe that the property is
111 directly or indirectly dangerous to health or safety;

112 (4) The bureau, local law enforcement officers,
113 enforcement officers of the Mississippi Department of
114 Transportation, highway patrolmen, the board, or the State Board
115 of Pharmacy have probable cause to believe that the property was
116 used or is intended to be used in violation of this article; or

117 (5) The seizing law enforcement agency obtained a
118 seizure warrant as described in * * * subsection (* * * g) of this
119 section.



120 (* * *d) Controlled substances listed in Schedule I of
121 Section 41-29-113 that are possessed, transferred, sold, or
122 offered for sale in violation of this article are contraband and
123 shall be seized and summarily forfeited to the state. Controlled
124 substances listed in the said Schedule I, which are seized or come
125 into the possession of the state, the owners of which are unknown,
126 are contraband and shall be summarily forfeited to the state.

127 (* * *e) Species of plants from which controlled substances
128 in Schedules I and II of Sections 41-29-113 and 41-29-115 may be
129 derived which have been planted or cultivated in violation of this
130 article, or of which the owners or cultivators are unknown, or
131 which are wild growths, may be seized and summarily forfeited to
132 the state.

133 (* * *f) The failure, upon demand by the bureau and/or
134 local law enforcement officers, or their authorized agents, or
135 highway patrolmen designated by the bureau, the board, or the
136 State Board of Pharmacy, of the person in occupancy or in control
137 of land or premises upon which the species of plants are growing
138 or being stored, to produce an appropriate registration, or proof
139 that he is the holder thereof, constitutes authority for the
140 seizure and forfeiture of the plants.

141 (* * *g) (1) When any property is seized under the Uniform
142 Controlled Substances Law, except as otherwise provided in
143 paragraph (3) of this subsection, by a law enforcement agency with
144 the intent to be forfeited, the law enforcement agency that seized



145 the property shall obtain a seizure warrant from the county or
146 circuit court having jurisdiction of such property within
147 seventy-two (72) hours of any seizure, excluding weekends and
148 holidays. Any law enforcement agency that fails to obtain a
149 seizure warrant within seventy-two (72) hours as required by this
150 section shall notify the person from whom the property was seized
151 that it will not be forfeited and shall provide written
152 instructions advising the person how to retrieve the seized
153 property.

154 (2) A circuit or county judge having jurisdiction of
155 any property other than a controlled substance, raw material or
156 paraphernalia, may issue a seizure warrant upon proper oath or
157 affirmation from a law enforcement agency. The law enforcement
158 agency that is seeking a seizure warrant shall provide the
159 following information to the judge:

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

162 B. The name of the person from whom the property
163 was seized; and

164 C. A detailed description of the property which is
165 seized, including the value of the property.

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



169 **SECTION 2.** Section 41-29-107.1, Mississippi Code of 1972, is
170 brought forward as follows:

171 41-29-107.1. (1) The Mississippi Bureau of Narcotics shall
172 establish and maintain a public website that is searchable by case
173 numbers created by the bureau which tracks seized property from
174 the time of seizure to final disposition of the property. The
175 website shall be designed in a manner that allows the information
176 required by this section to be uploaded to the website. The
177 website shall include the following information regarding property
178 that is seized by a law enforcement agency pursuant to Section
179 41-29-153:

180 (a) The name of the law enforcement agency that seized
181 the property;

182 (b) A description of each item seized, including the
183 approximate value of the property;

184 (c) A copy of the notice of intent to forfeit as
185 described in Section 41-29-176 or the petition for forfeiture as
186 described in Section 41-29-177, whichever is applicable;

187 (d) A copy of any petition to contest forfeiture filed
188 as described in Section 41-29-176;

189 (e) If a forfeiture was obtained because no petition to
190 contest forfeiture was timely filed as provided in Section
191 41-29-176, a copy of the written declaration of forfeiture as
192 required by Section 41-29-176;



193 (f) If a forfeiture is obtained under Section
194 41-29-177, a copy of any final judgment or dispositive order
195 regarding the merits of the petition for forfeiture; and

196 (g) If the forfeiture was initiated under Section
197 41-29-176 and a petition to contest is filed, a copy of any final
198 order or other dispositive order regarding the forfeiture.

199 (2) (a) Except as otherwise provided in this section for
200 the bureau, upon seizure of any property by a law enforcement
201 agency pursuant to Section 41-29-153, the seizing law enforcement
202 agency shall provide the applicable information required by
203 subsection (1) of this section to the district attorney of the
204 county in which the property was seized within thirty (30) days of
205 such seizure. However, if the bureau is conducting the seizure of
206 property on behalf of a law enforcement agency, the provisions of
207 paragraph (b) of this subsection shall apply. Within thirty (30)
208 days of receipt of notice of intent to forfeit as described in
209 Section 41-29-176 or the filing of a petition for forfeiture as
210 described in Section 41-29-177 in a court of competent
211 jurisdiction, the district attorney shall upload the information
212 required by this section to the bureau's website. Within thirty
213 (30) days of service of a petition to contest forfeiture as
214 described by Section 41-29-176, the district attorney shall upload
215 the information required by the section to the bureau's website.
216 Within thirty (30) days of dispositive actions regarding any
217 seized property, the district attorney shall upload the applicable



218 information required by subsection (1) of this section to the
219 bureau's website. The commander of a multijurisdictional
220 taskforce may appoint one (1) agency to report its seizures to the
221 district attorney of the county in which the property was seized.
222 Any law enforcement agency that fails to provide the information
223 required by this section shall be disqualified from applying for
224 or receiving state grants.

225 (b) Upon seizure of any property by the bureau pursuant
226 to Section 41-29-153 or pursuant to a request by a law enforcement
227 agency for the bureau to seize property on behalf of the law
228 enforcement agency, the bureau shall upload the information
229 required by this subsection on its website within thirty (30) days
230 of the seizure, or from the time of the receipt of the request
231 from the law enforcement agency.

232 (3) Failure to upload the information required by this
233 section shall not invalidate the seizure or otherwise preclude the
234 same.

235 (4) The Mississippi Bureau of Narcotics shall adopt rules
236 and regulations that are necessary to implement this section.

237 (5) For purposes of this section, the term "law enforcement
238 agency" includes any person or entity having seizure authority
239 under Section 41-29-159.

240 (6) Failure to substantially comply with the provisions of
241 this section shall disqualify the seizing law enforcement agency



242 from applying for or receiving federal or state grants until such
243 time as in compliance with this section.

244 (7) The provisions of this section shall be required only at
245 such time as the Legislature has appropriated funds for the bureau
246 to create and maintain the required website. The website shall be
247 created and functionally operational, not more than twelve (12)
248 months from the date that sufficient funds have been appropriated
249 for that purpose. The bureau shall provide at least thirty (30)
250 days notice in advance of the date when the website will be
251 operational to each district attorney in the state.

252 **SECTION 3.** Section 41-29-176.1, Mississippi Code of 1972, is
253 brought forward as follows:

254 41-29-176.1. The seizing law enforcement agency shall within
255 thirty (30) days of a seizure, request either the district
256 attorney of the county in which property is seized or the
257 Mississippi Bureau of Narcotics to prosecute any cases involving
258 seized property. No one other than the district attorney of the
259 county in which the seizure occurred or an attorney from the
260 Mississippi Bureau of Narcotics shall have authority to prosecute
261 the forfeiture of the seized property. If the district attorney
262 and the Mississippi Bureau of Narcotics decline to prosecute the
263 forfeiture of the seized property, the seizing law enforcement
264 agency shall notify the person from whom the property was seized
265 that the property will not be forfeited, within thirty (30) days
266 of receiving the notice not to prosecute, and shall provide



267 written instructions advising the person how to retrieve the
268 seized property.

269 **SECTION 4.** Section 41-29-177, Mississippi Code of 1972, is
270 brought forward as follows:

271 41-29-177. (1) Except as otherwise provided in Section
272 41-29-176, Mississippi Code of 1972, and in Section 41-29-107.1,
273 when any property, other than a controlled substance, raw material
274 or paraphernalia, is seized under the Uniform Controlled
275 Substances Law, proceedings under this section shall be instituted
276 within thirty (30) days from the date of seizure or the subject
277 property shall be immediately returned to the party from whom
278 seized.

279 (2) A petition for forfeiture shall be filed by the district
280 attorney or his or her designee, or an attorney for the bureau, as
281 applicable, in the name of the State of Mississippi, the county or
282 the municipality and may be filed in the county in which the
283 seizure is made, the county in which the criminal prosecution is
284 brought or the county in which the owner of the seized property is
285 found. Forfeiture proceedings may be brought in the circuit court
286 or the county court if a county court exists in the county and the
287 value of the seized property is within the jurisdictional limits
288 of the county court as set forth in Section 9-9-21, Mississippi
289 Code of 1972. A copy of such petition shall be served upon the
290 following persons by service of process in the same manner as in
291 civil cases:



292 (a) The owner of the property, if address is known;
293 (b) Any secured party who has registered his lien or
294 filed a financing statement as provided by law, if the identity of
295 such secured party can be ascertained by the Bureau of Narcotics
296 or the local law enforcement agency by making a good faith effort
297 to ascertain the identity of such secured party as described in
298 subsections (3), (4), (5), (6) and (7) of this section;

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

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

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

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



317 (4) If the property is a motor vehicle and is not titled in
318 the State of Mississippi, then the Bureau of Narcotics or the
319 local law enforcement agency shall attempt to ascertain the name
320 and address of the person in whose name the vehicle is licensed,
321 and if the vehicle is licensed in a state which has in effect a
322 certificate of title law, the bureau or the local law enforcement
323 agency shall make inquiry of the appropriate agency of that state
324 as to what the records of the agency show as to who is the record
325 owner of the vehicle and who, if anyone, holds any lien, security
326 interest or other instrument in the nature of a security device
327 which affects the vehicle.

328 (5) If the property is of a nature that a financing
329 statement is required by the laws of this state to be filed to
330 perfect a security interest affecting the property and if there is
331 any reasonable cause to believe that a financing statement
332 covering the security interest has been filed under the laws of
333 this state, the Bureau of Narcotics or the local law enforcement
334 agency shall make inquiry of the appropriate office designated in
335 Section 75-9-501, Mississippi Code of 1972, as to what the records
336 show as to who is the record owner of the property and who, if
337 anyone, has filed a financing statement affecting the property.

338 (6) If the property is an aircraft or part thereof and if
339 there is any reasonable cause to believe that an instrument in the
340 nature of a security device affects the property, then the Bureau
341 of Narcotics or the local law enforcement agency shall make



342 inquiry of the Mississippi Department of Transportation as to what
343 the records of the Federal Aviation Administration show as to who
344 is the record owner of the property and who, if anyone, holds an
345 instrument in the nature of a security device which affects the
346 property.

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

353 (8) If the property is real estate, the Bureau of Narcotics
354 or the local law enforcement agency shall make inquiry of the
355 chancery clerk of the county wherein the property is located to
356 determine who is the owner of record and who, if anyone, is a
357 holder of a bona fide mortgage, deed of trust, lien or
358 encumbrance.

359 (9) In the event the answer to an inquiry states that the
360 record owner of the property is any person other than the person
361 who was in possession of it when it was seized, or states that any
362 person holds any lien, encumbrance, security interest, other
363 interest in the nature of a security interest, mortgage or deed of
364 trust which affects the property, the Bureau of Narcotics or the
365 local law enforcement agency shall cause any record owner and also
366 any lienholder, secured party, other person who holds an interest



367 in the property in the nature of a security interest, or holder of
368 an encumbrance, mortgage or deed of trust which affects the
369 property to be named in the petition of forfeiture and to be
370 served with process in the same manner as in civil cases.

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

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



391 **SECTION 5.** Section 41-29-179, Mississippi Code of 1972, is
392 brought forward as follows:

393 41-29-179. (1) Except as otherwise provided in Section
394 41-29-176 and Section 41-29-107.1, an owner of property, other
395 than a controlled substance, raw material or paraphernalia, that
396 has been seized shall file an answer within thirty (30) days after
397 the completion of service of process. If an answer is not filed,
398 the court shall hear evidence that the property is subject to
399 forfeiture and forfeit the property to the Mississippi Bureau of
400 Narcotics or the local law enforcement agency. If an answer is
401 filed, a time for hearing on forfeiture shall be set within thirty
402 (30) days of filing the answer or at the succeeding term of court
403 if court would not be in progress within thirty (30) days after
404 filing the answer. Provided, however, that upon request by the
405 Bureau of Narcotics, the local law enforcement agency or the owner
406 of the property, the court may postpone said forfeiture hearing to
407 a date past the time any criminal action is pending against said
408 owner.

409 (2) If the owner of the property has filed an answer denying
410 that the property is subject to forfeiture, then the burden is on
411 the petitioner to prove that the property is subject to
412 forfeiture. However, if an answer has not been filed by the owner
413 of the property, the petition for forfeiture may be introduced
414 into evidence and is prima facie evidence that the property is
415 subject to forfeiture. The standard of proof placed upon the



416 petitioner in regard to property forfeited under the provisions of
417 this article shall be by a preponderance of the evidence.

418 (3) At the hearing any claimant of any right, title or
419 interest in the property may prove his lien, encumbrance, security
420 interest, other interest in the nature of a security interest,
421 mortgage or deed of trust to be bona fide and created without
422 knowledge or consent that the property was to be used so as to
423 cause the property to be subject to forfeiture.

424 (4) If it is found that the property is subject to
425 forfeiture, then the judge shall forfeit the property to the
426 Mississippi Bureau of Narcotics or the local law enforcement
427 agency. However, if proof at the hearing discloses that the
428 interest of any bona fide lienholder, secured party, other person
429 holding an interest in the property in the nature of a security
430 interest, or any holder of a bona fide encumbrance, mortgage or
431 deed of trust is greater than or equal to the present value of the
432 property, the court shall order the property released to him. If
433 such interest is less than the present value of the property and
434 if the proof shows that the property is subject to forfeiture, the
435 court shall order the property forfeited to the Mississippi Bureau
436 of Narcotics or the local law enforcement agency.

437 (5) Upon a petition filed in the name of the State of
438 Mississippi, the county or the municipality with the clerk of the
439 circuit court of the county in which the seizure of any controlled
440 substance or raw material is made, the circuit court having



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

453 **SECTION 6.** Section 41-29-181, Mississippi Code of 1972, is
454 brought forward as follows:

455 41-29-181. (1) Regarding all controlled substances, raw
456 materials and paraphernalia which have been forfeited, the circuit
457 court shall by its order direct the Bureau of Narcotics to:

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

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

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

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



465 (2) All other property, real or personal, which is forfeited
466 under this article, except as otherwise provided in Section
467 41-29-185, and except as provided in subsections (3), (7) and (8)
468 of this section, shall be liquidated and, after deduction of court
469 costs and the expenses of liquidation, the proceeds shall be
470 divided and deposited as follows:

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

478 (b) In the event more than one (1) law enforcement
479 agency participates in the underlying criminal case out of which
480 the forfeiture arises, eighty percent (80%) of the proceeds shall
481 be deposited and credited to the budget of the law enforcement
482 agency whose officers initiated the criminal case and twenty
483 percent (20%) shall be divided equitably between or among the
484 other participating law enforcement agencies, and shall be
485 deposited and credited to the budgets of the participating law
486 enforcement agencies. In the event that the other participating
487 law enforcement agencies cannot agree on the division of their
488 twenty percent (20%), a petition shall be filed by any one of them



489 in the court in which the civil forfeiture case is brought and the
490 court shall make an equitable division.

491 If the criminal case is initiated by an officer of the Bureau
492 of Narcotics and more than one (1) law enforcement agency
493 participates in the underlying criminal case out of which the
494 forfeiture arises, the proceeds shall be divided equitably between
495 or among the Bureau of Narcotics and other participating law
496 enforcement agencies and shall be deposited and credited to the
497 budgets of the participating law enforcement agencies. In the
498 event that the Bureau of Narcotics and the other participating law
499 enforcement agencies cannot agree on an equitable division of the
500 proceeds, a petition shall be filed by any one of them in the
501 court in which the civil forfeiture case is brought and the court
502 shall make an equitable division.

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

507 (4) All property forfeited, deposited and credited to the
508 Mississippi Bureau of Narcotics under this article shall be
509 forwarded to the State Treasurer and deposited in a special fund
510 for use by the Mississippi Bureau of Narcotics upon appropriation
511 by the Legislature.

512 (5) All real estate which is forfeited under the provisions
513 of this article shall be sold to the highest and best bidder at a



514 public auction for cash, such auction to be conducted by the chief
515 law enforcement officer of the initiating law enforcement agency,
516 or his designee, at such place, on such notice and in accordance
517 with the same procedure, as far as practicable, as is required in
518 the case of sales of land under execution at law. The proceeds of
519 such sale shall first be applied to the cost and expense in
520 administering and conducting such sale, then to the satisfaction
521 of all mortgages, deeds of trust, liens and encumbrances of record
522 on such property. The remaining proceeds shall be divided,
523 forwarded and deposited in the same manner set out in subsection
524 (2) of this section.

525 (6) All other property that has been forfeited shall, except
526 as otherwise provided, be sold at a public auction for cash by the
527 chief law enforcement officer of the initiating law enforcement
528 agency, or his designee, to the highest and best bidder after
529 advertising the sale for at least once each week for three (3)
530 consecutive weeks, the last notice to appear not more than ten
531 (10) days nor less than five (5) days prior to such sale, in a
532 newspaper having a general circulation in the jurisdiction in
533 which said law enforcement agency is located. Such notices shall
534 contain a description of the property to be sold and a statement
535 of the time and place of sale. It shall not be necessary to the
536 validity of such sale either to have the property present at the
537 place of sale or to have the name of the owner thereof stated in



538 such notice. The proceeds of the sale shall be disposed of as
539 follows:

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

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

547 (7) (a) Any county or municipal law enforcement agency may
548 maintain, repair, use and operate for official purposes all
549 property, other than real property, money or such property that is
550 described in subsection (1) of this section, that has been
551 forfeited to the agency if it is free from any interest of a bona
552 fide lienholder, secured party or other party who holds an
553 interest in the property in the nature of a security interest.
554 Such county or municipal law enforcement agency may purchase the
555 interest of a bona fide lienholder, secured party or other party
556 who holds an interest so that the property can be released for its
557 use. If the property is a motor vehicle susceptible of titling
558 under the Mississippi Motor Vehicle Title Law, the law enforcement
559 agency shall be deemed to be the purchaser, and the certificate of
560 title shall be issued to it as required by subsection (9) of this
561 section.



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

566 (ii) If a vehicle is forfeited to or transferred
567 to a police department, then the police chief may transfer the
568 vehicle to the municipality for official or governmental use as
569 the governing authority of the municipality may direct.

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

575 (8) The Mississippi Bureau of Narcotics may maintain,
576 repair, use and operate for official purposes all property, other
577 than real property, money or such property as is described in
578 subsection (1) of this section, that has been forfeited to the
579 bureau if it is free from any interest of a bona fide lienholder,
580 secured party, or other party who holds an interest in the
581 property in the nature of a security interest. In such case, the
582 bureau may purchase the interest of a bona fide lienholder,
583 secured party or other party who holds an interest so that such
584 property can be released for use by the bureau.

585 The bureau may maintain, repair, use and operate such
586 property with money appropriated to the bureau for current



587 operations. If the property is a motor vehicle susceptible of
588 titling under the Mississippi Motor Vehicle Title Law, the bureau
589 is deemed to be the purchaser and the certificate of title shall
590 be issued to it as required by subsection (9) of this section.

591 (9) The Department of Revenue shall issue a certificate of
592 title to any person who purchases property under the provisions of
593 this section when a certificate of title is required under the
594 laws of this state.

595 **SECTION 7.** Section 41-29-183, Mississippi Code of 1972, is
596 brought forward as follows:

597 41-29-183. The forfeiture procedure set forth in Sections
598 41-29-177 through 41-29-181 is the sole remedy of any claimant,
599 and no court shall have jurisdiction to interfere therewith by
600 replevin, injunction, supersedeas or in any other manner.

601 **SECTION 8.** This act shall take effect and be in force from
602 and after July 1, 2020.

