



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS AND POLICY

April 6, 2023

Sheriff Charlie Sims  
Forrest County Sheriff's Department  
Post Office Box 747  
Hattiesburg, Mississippi 39403

Re: Agency's Ability to Seize Money Possessed by Juvenile Detained for  
Felony

Dear Sheriff Sims:

The Office of the Attorney General has received your request for an official opinion.

### **Question Presented**

For forfeiture purposes, may the Forrest County Sheriff's Department seize money possessed by a juvenile at the time of the juvenile's detention for felony possession of narcotics with intent to distribute?

### **Brief Response**

Regarding forfeiture, Mississippi Code Annotated Section 41-29-153 generally allows local law enforcement officers to seize money possessed by an individual at the time of the individual's arrest for felony possession of narcotics with intent to distribute. There is no statutory exclusion from this allowance for juveniles.

### **Applicable Law and Discussion**

Section 41-29-153 of the Uniform Controlled Substances Act regards "property subject to forfeiture." Section 41-29-153(a) provides:

The following are subject to forfeiture:

. . .

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

Section 41-29-153(b) goes on to state:

Property subject to forfeiture may be seized by the bureau, local law enforcement officers, enforcement officers of the Mississippi Department of Transportation, highway patrolmen, the board, the State Board of Pharmacy, or law enforcement officers of the Mississippi Department of Revenue or Mississippi Department of Health acting with their duties in accordance with the Mississippi Medical Cannabis Act, upon process issued by any appropriate court having jurisdiction over the property. Seizure without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant[.]

In sum, Section 41-29-153 generally allows local law enforcement officers to seize money possessed by an individual at the time of the individual's arrest for felony possession of narcotics with intent to distribute. We find no statutory exclusion from this allowance for juveniles. Accordingly, it is the opinion of this office that, for forfeiture purposes, the Forrest County Sheriff's Department may seize money possessed by a juvenile at the time of the juvenile's detention for felony possession of narcotics with intent to distribute. For forfeiture procedure, please see Section 41-29-153(f), which provides:

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

(2) A circuit or county judge having jurisdiction of any property other than a controlled substance, raw material or paraphernalia, may issue a seizure warrant upon proper oath or affirmation from a law enforcement agency. The law

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enforcement agency that is seeking a seizure warrant shall provide the following information to the judge:

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

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

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

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Maggie Kate Bobo*

Maggie Kate Bobo  
Special Assistant Attorney General

OFFICIAL OPINION