

By: Representative Holden

To: Judiciary B

## HOUSE BILL NO. 1268

1 AN ACT TO AMEND SECTION 97-41-2, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE PROCEDURE BEFORE THE COURT FOR SEIZURE OF A MALTREATED,  
3 NEGLECTED OR ABANDONED ANIMAL; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 97-41-2, Mississippi Code of 1972, is  
6 amended as follows:

7 97-41-2. (1) All \* \* \* courts in the State of Mississippi  
8 may order the seizure of an animal by a law enforcement agency,  
9 for its care and protection upon a finding of probable cause to  
10 believe said animal is being cruelly treated, neglected or  
11 abandoned. \* \* \* At a preliminary hearing within five (5) days  
12 before the court of proper jurisdiction, such probable cause may  
13 be established upon sworn testimony of any person who has  
14 witnessed the condition of said animal. The court may appoint an  
15 animal control agency, agent of an animal protection organization,  
16 veterinarian or other person as temporary custodian for the said  
17 animal, pending final disposition of the animal pursuant to this  
18 section. Such temporary custodian shall directly contract and be  
19 responsible for any care rendered to such animal, and may make  
20 arrangements for such care as may be necessary. Upon seizure of  
21 an animal, the law enforcement agency responsible for removal of  
22 the animal shall post prominently a notice to the owner or  
23 custodian to inform such person that the animal has been seized.  
24 Such notice shall contain a description of the animal seized, the  
25 date seized, the name of the law enforcement agency seizing the  
26 animal, the name of the temporary custodian, if known at the time,

27 and shall be signed by the court issuing the order.

28 (2) Within five (5) days of seizure of an animal, the owner  
29 of the animal may request a hearing in the court ordering the  
30 animal to be seized to determine whether the owner is able to  
31 provide adequately for the animal and is fit to have custody of  
32 the animal. The court shall hold such hearing within fourteen  
33 (14) days of receiving such request. The hearing shall be  
34 concluded and the court order entered thereon within twenty-one  
35 (21) days after the hearing is commenced. Upon requesting a  
36 hearing, the owner shall have three (3) business days to post a  
37 bond or security with the court clerk in an amount determined by  
38 the court to be sufficient to repay all reasonable costs  
39 sufficient to provide for the animal's care. Failure to post such  
40 bond within three (3) days shall result in forfeiture of the  
41 animal to the court. If the temporary custodian has custody of  
42 the animal upon the expiration of the bond or security, the animal  
43 shall be forfeited to the court unless the court orders otherwise.

44 (3) In determining the owner's fitness to have custody of an  
45 animal, the court may consider, among other matters:

46 (a) Testimony from law enforcement officers, animal  
47 control officers, animal protection officials, and other witnesses  
48 as to the condition the animal was kept in by its owner or  
49 custodian.

50 (b) Testimony and evidence as to the type and amount of  
51 care provided to the animal by its owner or custodian.

52 (c) Expert testimony as to the proper and reasonable  
53 care of the same type of animal.

54 (d) Testimony from any witnesses as to prior treatment  
55 or condition of this or other animals in the same custody.

56 (e) Violations of laws relating to animal cruelty that  
57 the owner or custodian has been convicted of prior to the hearing.

58 (f) Any other evidence the court considers to be  
59 material or relevant.

60 (4) Upon proof of costs incurred as a result of the animal's  
61 seizure, including but not limited to animal medical and boarding,  
62 the court may order that the animal's owner reimburse the  
63 temporary custodian for such costs. A lien for authorized

64 expenses is hereby created upon all animals seized under this  
65 section, and shall have priority to any other lien on such animal.

66 (5) If the court finds the owner of the animal is unable or  
67 unfit to adequately provide for the animal, or that the animal is  
68 severely injured, diseased or suffering, and, therefore, not  
69 likely to recover, the court may order that the animal be  
70 permanently forfeited and released to an animal control agency,  
71 animal protection organization or to the appropriate entity to be  
72 euthanized or the court may order that such animal be sold at  
73 public sale in the manner now provided for judicial sales; any  
74 proceeds from such sale shall go first toward the payment of  
75 expenses and costs relating to the care and treatment of such  
76 animal, and any excess amount shall be paid to the owner of the  
77 animal.

78 (6) Upon notice and hearing as provided in this section, or  
79 as a part of any proceeding conducted under the terms of this  
80 section, the court may order that other animals in the custody of  
81 the owner that were not seized be surrendered and further enjoin  
82 the owner from having custody of other animals in the future.

83 (7) If the court determines the owner is able to provide  
84 adequately for, and have custody of, the animal, the court shall  
85 order the animal be claimed and removed by the owner within seven  
86 (7) days after the date of the order.

87 (8) Nothing in this section shall be construed to prevent or  
88 otherwise interfere with a law enforcement officer's authority to  
89 seize an animal as evidence or require court action for the taking  
90 into custody and making proper disposition of animals as  
91 authorized in Sections 21-19-9 and 41-53-11.

92 \* \* \*

93 SECTION 2. This act shall take effect and be in force from  
94 and after its passage.