

By: Senator(s) Farris

To: Judiciary

SENATE BILL NO. 2779

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. After a one-day notice to the owner which stipulates  
12 that the animal may not be removed without permission from the  
13 court except for care by a licensed veterinarian, and at an  
14 emergency hearing, such probable cause may be established upon  
15 sworn testimony of any person who has witnessed the condition of  
16 said animal. The court may appoint an animal control agency,  
17 agent of an animal protection organization, veterinarian or other  
18 person as temporary custodian for the said animal, pending final  
19 disposition of the animal pursuant to this section. Such  
20 temporary custodian shall directly contract and be responsible for  
21 any care rendered to such animal, and may make arrangements for  
22 such care as may be necessary. Upon seizure of an animal, the law  
23 enforcement agency responsible for removal of the animal shall  
24 post prominently a notice to the owner or custodian to inform such  
25 person that the animal has been seized. Such process and notice  
26 shall contain a description of the animal seized, the date seized,  
27 the name of the law enforcement agency seizing the animal, the

28 name of the temporary custodian, if known at the time, and shall  
29 be signed by the court issuing the order. If the court determines  
30 that the public safety or the welfare of the animal requires  
31 emergency action, the notice requirement shall be suspended and  
32 the court shall order its officer to make immediate seizure;  
33 provided further, that if the emergency is such that the animal  
34 presents a present or imminent life-threatening situation, or is  
35 likely to do so under the circumstances, then the officer may  
36 destroy the animal.

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

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

55 (a) Testimony from law enforcement officers, animal  
56 control officers, animal protection officials, and other witnesses  
57 as to the condition the animal was kept in by its owner or  
58 custodian.

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

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

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

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

67 (f) Any other evidence the court considers to be  
68 material or relevant.

69 (4) Upon proof of costs incurred as a result of the animal's  
70 seizure, including but not limited to animal medical and boarding,  
71 the court may order that the animal's owner reimburse the  
72 temporary custodian for such costs. A lien for authorized  
73 expenses is hereby created upon all animals seized under this  
74 section, and shall have priority to any other lien on such animal.

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

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

92 (7) If the court determines the owner is able to provide  
93 adequately for, and have custody of, the animal, the court shall

94 order the animal be claimed and removed by the owner within seven  
95 (7) days after the date of the order.

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

101 (9) Nothing in this section shall be construed to prohibit  
102 the lawful killing of livestock, any customary animal husbandry or  
103 farming practices involving livestock, unless lawful killing and  
104 use of an animal pursuant to fish and wildlife regulations, pest  
105 control or scientific research that is being conducted in  
106 compliance with federal regulations.

107 (10) For the purposes of this section, the term "animal" or  
108 "animals" means any animal other than man and includes birds,  
109 reptiles and fish, wild or domestic.

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