

By: Senator(s) Farris

To: Judiciary

COMMITTEE SUBSTITUTE
FOR
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. * * * Such probable cause may be established upon
12 sworn testimony of any person who has witnessed the condition of
13 said animal. The court may appoint an animal control agency,
14 agent of an animal protection organization, veterinarian or other
15 person as temporary custodian for the said animal, pending final
16 disposition of the animal pursuant to this section. Such
17 temporary custodian shall directly contract and be responsible for
18 any care rendered to such animal, and may make arrangements for
19 such care as may be necessary. Upon seizure of an animal, the law
20 enforcement agency responsible for removal of the animal shall
21 serve notice upon the owner of the animal, if possible, and shall
22 also post prominently a notice to the owner or custodian to inform
23 such person that the animal has been seized. Such process and
24 notice shall contain a description of the animal seized, the date
25 seized, the name of the law enforcement agency seizing the animal,
26 the name of the temporary custodian, if known at the time, and
27 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
62 boarding, the court may order that the animal's owner reimburse
63 the 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.