

By: Roberson

To: Judiciary B

HOUSE BILL NO. 1521
(As Passed the House)

1 AN ACT TO AMEND SECTION 97-41-2, MISSISSIPPI CODE OF 1972, TO
2 REDUCE FROM THREE DAYS TO ONE DAY THE NOTICE BEFORE HEARING
3 REQUIREMENT TO OWNERS OF ANIMALS ALLEGED TO BE NEGLECTED; AND FOR
4 RELATED PURPOSES.

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

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

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

28 the court issuing the order.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

93 (9) For the purposes of this section the term "animal" or
94 "animals" means any feline, exotic animal, canine, horse, mule,
95 jack or jennet.

96 SECTION 2. This act shall take effect and be in force from
97 and after July 1, 2000.