

*****Pending*****

AMENDMENT No. 1 PROPOSED TO

House Bill NO. 1521

By Senator(s) Committee

5 **Amend by striking all after the enacting clause and inserting**
6 **in lieu thereof the following:**

7

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

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

28the law enforcement agency seizing the animal, the name of the
29temporary custodian, if known at the time, and shall be signed by
30the court issuing the order.

31 (2) Within five (5) days of seizure of an animal, the owner
32of the animal may request a hearing in the court ordering the
33animal to be seized to determine whether the owner is able to
34provide adequately for the animal and is fit to have custody of
35the animal. The court shall hold such hearing within fourteen
36(14) days of receiving such request. The hearing shall be
37concluded and the court order entered thereon within twenty-one
38(21) days after the hearing is commenced. Upon requesting a
39hearing, the owner shall have three (3) business days to post a
40bond or security with the court clerk in an amount determined by
41the court to be sufficient to repay all reasonable costs
42sufficient to provide for the animal's care. Failure to post such
43bond within three (3) days shall result in forfeiture of the
44animal to the court. If the temporary custodian has custody of
45the animal upon the expiration of the bond or security, the animal
46shall be forfeited to the court unless the court orders otherwise.

47 (3) In determining the owner's fitness to have custody of an
48animal, the court may consider, among other matters:

49 (a) Testimony from law enforcement officers, animal
50control officers, animal protection officials, and other witnesses
51as to the condition the animal was kept in by its owner or
52custodian.

53 (b) Testimony and evidence as to the type and amount of
54care provided to the animal by its owner or custodian.

55 (c) Expert testimony as to the proper and reasonable
56care of the same type of animal.

57 (d) Testimony from any witnesses as to prior treatment
58or condition of this or other animals in the same custody.

59 (e) Violations of laws relating to animal cruelty that
60the owner or custodian has been convicted of prior to the hearing.

61 (f) Any other evidence the court considers to be
62material or relevant.

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

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

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

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

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

95 * * *

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

Further, amend by striking the title in its entirety and inserting in lieu thereof the following:

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.