

*****Adopted*****

SUBSTITUTE 1 FOR AMENDMENT No. 1 PROPOSED TO

House Bill NO. 1521

By Senator(s) Farris

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. * * * 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 serve notice upon the owner of the animal, if possible, and shall
25 also post prominently a notice to the owner or custodian to inform
26 such person that the animal has been seized. Such process and
27 notice shall contain a description of the animal seized, the date

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

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

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

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

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

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

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

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

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