

By: Representative Barker

To: Judiciary B

HOUSE BILL NO. 1298

1 AN ACT TO AMEND SECTION 97-41-19, MISSISSIPPI CODE OF 1972,
 2 TO REVISE THE SEIZURE OF ANIMALS AND EQUIPMENT UTILIZED IN ILLEGAL
 3 DOG FIGHTING; TO AMEND SECTION 97-41-2, MISSISSIPPI CODE OF 1972,
 4 TO REVISE TEMPORARY CUSTODY OF MISTREATED ANIMALS AFTER SEIZURE,
 5 POSTING OF SECURITY TO COVER CARE, REQUIRE COURT REVIEW EVERY
 6 THIRTY DAYS, AND REQUIRE EXCESS FUNDS TO BE RETURNED TO THE OWNER;
 7 TO AUTHORIZE IMMEDIATE EUTHANASIA OF AN ANIMAL UNDER APPROPRIATE
 8 CIRCUMSTANCES; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 97-41-19, Mississippi Code of 1972, is
 11 amended as follows:

12 97-41-19. (1) If any person (a) shall sponsor, promote,
 13 stage or conduct a fight or fighting match between dogs, or (b)
 14 shall wager or bet, promote or encourage the wagering or betting
 15 of any money or other valuable thing upon any such fight or upon
 16 the result thereof, or (c) shall own a dog with the intent to
 17 willfully enter it or to participate in any such fight, or (d)
 18 shall train or transport a dog for the purposes of participation
 19 in any such fight, he shall be guilty of a felony and, upon
 20 conviction, shall be punished by a fine of not less than One
 21 Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars



22 (\$5,000.00), or by imprisonment in the State Penitentiary for a
23 term of not less than one (1) nor more than three (3) years, or by
24 both such fine and imprisonment, in the discretion of the court.

25 (2) If any person shall be present, as a spectator, at any
26 location where preparations are being made for an exhibition of a
27 fight between dogs with the intent to be present at such
28 preparations, or if any person shall be present at an exhibition
29 of a fight between dogs with the intent to be present at such
30 exhibition, he shall be guilty of a felony and, upon conviction,
31 shall be punished by a fine of not less than Five Hundred Dollars
32 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or by
33 imprisonment in the State Penitentiary for a term of not more than
34 one (1) year, or by both such fine and imprisonment, in the
35 discretion of the court.

36 (3) Any law enforcement officer making an arrest under
37 subsection (1) of this section may lawfully take possession of all
38 dogs and all paraphernalia, implements, equipment or other
39 property used in violation of subsection (1) of this section.

40 * * * The officer shall file with the circuit court of the county
41 within which the alleged violation occurred an affidavit stating
42 therein (a) the name of the person charged, (b) a description of
43 the property taken, (c) the time and place of the taking, (d) the
44 name of the person who claims to own such property, if known, and
45 (e) that the affiant has reason to believe, stating the ground
46 of * * * the belief, that the property taken was used in * * * a



47 violation of this section. He shall thereupon deliver the
48 property to * * * the court which shall, by order in writing,
49 place * * * the paraphernalia, implements, equipment, or other
50 property in the custody of * * * the law enforcement agency or
51 other suitable custodian, to be kept by * * * the agency or
52 custodian until the conviction or final discharge of the accused,
53 and shall appoint an animal control agency, agent of an animal
54 shelter organization, licensed veterinarian or other suitable
55 custodian as temporary custodian for any dogs seized, pending
56 final disposition of the dogs under Section 97-41-2. * * * A copy
57 of * * * the orders shall be sent without delay to the district
58 attorney of the county. The custodian or custodians named and
59 designated in * * * the orders shall immediately assume the
60 custody of * * * the dogs and property and shall retain same,
61 subject to order of the court.

62 Upon the written certification of a licensed veterinarian or
63 officer of the humane society or animal welfare agency that, in
64 his professional judgment, a dog which has been seized is not
65 likely to survive the final disposition * * * under Section
66 97-41-2 or that, by reason of the physical condition of the dog,
67 it should be humanely euthanized before such time, the * * * dog
68 may be immediately humanely euthanized. * * *

69 (4) Nothing in subsection (1) of this section shall prohibit
70 any of the following:



71 (a) The use of dogs in the management of livestock, by
72 the owner of such livestock or other persons in lawful custody
73 thereof;

74 (b) The use of dogs in lawful hunting; and

75 (c) The training of dogs for any purpose not prohibited
76 by law.

77 **SECTION 2.** Section 97-41-2, Mississippi Code of 1972, is
78 amended as follows:

79 97-41-2. (1) All courts in the State of Mississippi may
80 order the seizure of an animal by a law enforcement agency, for
81 its care and protection, upon a finding of probable cause to
82 believe * * * the animal is being cruelly treated, is neglected or
83 abandoned, or is being used for dog fighting in violation of
84 Section 97-41-19. * * * Probable cause may be established upon
85 sworn testimony of any person who has witnessed the condition
86 of * * * the animal. The court * * * shall appoint an animal
87 control agency, agent of an animal shelter organization, licensed
88 veterinarian or other * * * suitable custodian as temporary
89 custodian for the * * * animal, pending final disposition of the
90 animal * * * under this section. * * * The temporary custodian
91 shall directly contract and be responsible for any care rendered
92 to * * * the animal, and may make arrangements for such care as
93 may be necessary. Upon seizure of an animal, the law enforcement
94 agency responsible for removal of the animal shall serve notice
95 upon the owner of the animal, if possible, and shall also post



96 prominently a notice to the owner or custodian to inform * * * the
97 owner or custodian that the animal has been seized. * * * The
98 process and notice shall contain a description of the animal
99 seized, the date seized, the name of the law enforcement agency
100 seizing the animal, the name of the temporary custodian, if known
101 at the time, and shall include a copy of the order of the court
102 authorizing the seizure.

103 (2) Within five (5) days of seizure of an animal, the owner
104 of the animal may request a hearing in the court ordering the
105 animal to be seized to determine whether the owner is able to
106 provide adequately for the animal and is fit to have custody of
107 the animal. The court shall hold such hearing within fourteen
108 (14) days of receiving * * * the request. The hearing shall be
109 concluded and the court order entered thereon within twenty-one
110 (21) days after the hearing is commenced. * * *

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

113 (a) Testimony from law enforcement officers, animal
114 control officers, animal protection officials, and other witnesses
115 as to the condition the animal was kept in by its owner or
116 custodian.

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

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



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

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

125 (f) Any other evidence the court considers to be
126 material or relevant.

127 (4) * * * If the court finds, by a preponderance of the
128 evidence, that the owner is unable or unfit to adequately provide
129 for the animal, the court shall order the owner to post a
130 renewable bond or security with the court clerk in an amount
131 determined by the court to be sufficient to provide all reasonable
132 costs for the animal's care for thirty (30) days.

133 (5) * * * The owner shall be ordered to deposit the same
134 amount every thirty (30) days thereafter until the final
135 disposition of the criminal matter, unless the owner requests a
136 hearing no less than five (5) business days after the expiration
137 of a thirty-day period. If the required funds are not deposited
138 within five (5) business days of the issuance of the order setting
139 the amount of bond or security, or five (5) business days after
140 the expiration of a thirty-day period, the animal is forfeited to
141 the temporary custodian by operation of law.

142 (a) If a hearing is requested, the court may correct,
143 alter or otherwise adjust each renewal bond or security. The
144 hearing must be held within ten (10) days of the motion, and
145 notice must be provided to the temporary custodian and to the



146 owner. The bond or security shall be due five (5) days after the
147 court orders, or refuses to order, an adjustment.

148 (b) The temporary custodian may draw the actual costs
149 incurred in keeping and caring for the animal from the date of the
150 impoundment to the date of the final disposition of the animal in
151 the criminal action from the bond or security posted under
152 subsections (4) and (5) of this section.

153 (c) Upon final disposition of the criminal action,
154 remaining funds deposited with the municipal, justice or county
155 court clerk shall be returned to the owner.

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

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

165 (8) Nothing in this section shall be construed to prevent or
166 otherwise interfere with a law enforcement officer's authority to
167 seize an animal as evidence or require court action for the taking
168 into custody and making proper disposition of animals as
169 authorized in Sections 21-19-9 and 41-53-11, or with the immediate
170 ethanizing of an animal that is severely injured, diseased or



171 suffering and therefore not likely to recover, upon written
172 certification by a licensed veterinarian, officer of an animal
173 control agency, or agent of an animal shelter organization.

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

177 **SECTION 3.** This act shall take effect and be in force from
178 and after July 1, 2016.

