

Miss. Code Ann. § 97-41-2

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[Mississippi Code 1972 Annotated](#) [Title 97. Crimes \(Chs. 1 – 45\)](#) [Chapter 41. Cruelty to Animals \(§§ 97-41-1 – 97-41-23\)](#)

§ 97-41-2. Authority to seize maltreated, neglected, or abandoned **animals**.

(1) All courts in the State of Mississippi may order the seizure of an **animal** by a law enforcement agency, for its care and protection upon a finding of probable cause to believe said **animal** is being cruelly treated, neglected or abandoned. Such probable cause may be established upon sworn testimony of any person who has witnessed the condition of said **animal**. The court may appoint an **animal** control agency, agent of an **animal** shelter organization, veterinarian or other person as temporary custodian for the said **animal**, pending final disposition of the **animal** pursuant to this section. Such temporary custodian shall directly contract and be responsible for any care rendered to such **animal**, and may make arrangements for such care as may be necessary. Upon seizure of an **animal**, the law enforcement agency responsible for removal of the **animal** shall serve notice upon the owner of the **animal**, if possible, and shall also post prominently a notice to the owner or custodian to inform such person that the **animal** has been seized. Such process and notice shall contain a description of the **animal** seized, the date seized, the name of the law enforcement agency seizing the **animal**, the name of the temporary custodian, if known at the time, and shall include a copy of the order of the court authorizing the seizure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

History

Laws, 1997, ch. 575, § 1; Laws, 2001, ch. 497, § 1; Laws, 2003, ch. 357, § 1, eff from and after passage (approved Mar. 12, 2003.).

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