

By: Representative Robertson

To: Judiciary B

HOUSE BILL NO. 172

1 AN ACT TO AMEND SECTIONS 97-41-1, 97-41-5, 97-41-7, 97-41-9,
2 97-41-11, 97-41-13, 97-41-16, 97-41-17, 97-41-19 AND 97-41-21,
3 MISSISSIPPI CODE OF 1972, TO REVISE CRIMINAL OFFENSES AND FINES
4 RELATED TO CRUELTY TO ANIMALS; AND FOR RELATED PURPOSES.

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

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

8 97-41-1. If any person shall override, overdrive, overload,
9 torture, torment, unjustifiably injure, deprive of necessary
10 sustenance, food, or drink; or cruelly beat or needlessly
11 mutilate; or cause or procure to be overridden, overdriven,
12 overloaded, tortured, unjustifiably injured, tormented, or
13 deprived of necessary sustenance, food or drink; or to be cruelly
14 beaten or needlessly mutilated or killed, any living creature,
15 every such offender shall, for every offense, be guilty of a
16 felony and shall be fined Two Thousand Five Hundred Dollars
17 (\$2,500.00) or imprisoned for one (1) year, or both.

18 SECTION 2. Section 97-41-5, Mississippi Code of 1972, is
19 amended as follows:

20 97-41-5. If any person shall carry, or cause to be carried
21 by hand or in or upon any vehicle or other conveyance, any
22 creature in a cruel or inhuman manner, he shall be guilty of a
23 felony.

24 SECTION 3. Section 97-41-7, Mississippi Code of 1972, is
25 amended as follows:

26 97-41-7. If any person shall confine, or cause to be
27 confined, in any stable, lot, or other place, any living creature,

28 without supplying the same during such confinement with a
29 sufficient quantity of good and wholesome food and water, he shall
30 be guilty of a felony.

31 SECTION 4. Section 97-41-9, Mississippi Code of 1972, is
32 amended as follows:

33 97-41-9. If any person be the owner or have the custody of
34 any living creature and unjustifiably neglect or refuse to furnish
35 it necessary sustenance, food, or drink, he shall be guilty of a
36 felony.

37 SECTION 5. Section 97-41-11, Mississippi Code of 1972, is
38 amended as follows:

39 97-41-11. Any person who shall keep or use, or in any way be
40 connected with or interested in the management of, or shall
41 receive money for the admission of any person to, any place kept
42 or used for the purpose of fighting any bear, cock or other
43 creature, except a dog, or of tormenting or torturing the same,
44 and every person who shall encourage, aid, or assist therein, or
45 who shall permit or suffer any place to be so kept or used, shall
46 be guilty of a felony. It shall be the duty of any policeman or
47 other officer of the law, county or municipal, to enter into any
48 such place kept for such purpose, and to arrest each and every
49 person concerned or participating therein.

50 SECTION 6. Section 97-41-13, Mississippi Code of 1972, is
51 amended as follows:

52 97-41-13. Any person who shall violate any of Sections
53 97-41-3 through 97-41-11, or Section 97-27-7 on the subject of
54 cruelty to animals shall, on conviction, be fined Two Thousand
55 Five Hundred Dollars (\$2,500.00), or shall be imprisoned for not
56 less than one (1) year, or both.

57 SECTION 7. Section 97-41-16, Mississippi Code of 1972, is
58 amended as follows:

59 97-41-16. (1) Any person who shall maliciously, either out
60 of a spirit of revenge or wanton cruelty, or who shall
61 mischievously kill, maim or wound, or injure any dog, or cause any
62 person to do the same, shall be fined Two Thousand Five Hundred
63 Dollars (\$2,500.00) or be imprisoned for one (1) year, or both.

64 (2) In addition to such fine or imprisonment which may be

65 imposed, the court shall order that restitution be made to the
66 owner of such dog. The measure for restitution in money shall be
67 the current replacement value of such loss and/or the actual
68 veterinarian fees, special supplies, loss of income and other cost
69 incurred as a result of actions in violation of subsection (1) of
70 this section.

71 SECTION 8. Section 97-41-17, Mississippi Code of 1972, is
72 amended as follows:

73 97-41-17. Every person who shall wilfully and unlawfully
74 administer any poison to any horse, mare, colt, mule, jack,
75 jennet, cattle, deer, dog, hog, sheep, chicken, duck, goose,
76 turkey, pea-fowl, guinea-fowl, or partridge, or shall maliciously
77 expose any poison substance with intent that the same should be
78 taken or swallowed by any horse, mare, colt, mule, jack, jennet,
79 cattle, dog, hog, sheep, chicken, duck, goose, turkey, pea-fowl,
80 guinea-fowl, or partridge, shall, be guilty of a felony upon
81 conviction, be punished by imprisonment in the Penitentiary not
82 exceeding three (3) years, or in the county jail not exceeding one
83 (1) year, and by a fine of Two Thousand Five Hundred Dollars
84 (\$2,500.00).

85 SECTION 9. Section 97-41-19, Mississippi Code of 1972, is
86 amended as follows:

87 97-41-19. (1) If any person (a) shall sponsor, promote,
88 stage or conduct a fight or fighting match between dogs, or (b)
89 shall wager or bet, promote or encourage the wagering or betting
90 of any money or other valuable thing upon any such fight or upon
91 the result thereof, or (c) shall own a dog with the intent to
92 wilfully enter it or to participate in any such fight, or (d)
93 shall train or transport a dog for the purposes of participation
94 in any such fight, he shall be guilty of a felony and, upon
95 conviction, shall be punished by a fine of not less than Two
96 Thousand Five Hundred Dollars (\$2,500.00) nor more than Five
97 Thousand Dollars (\$5,000.00), or by imprisonment in the State

98 Penitentiary for a term of not less than one (1) nor more than
99 three (3) years, or by both such fine and imprisonment, in the
100 discretion of the court.

101 (2) If any person shall be present, as a spectator, at any
102 location where preparations are being made for an exhibition of a
103 fight between dogs with the intent to be present at such
104 preparations, or if any person shall be present at an exhibition
105 of a fight between dogs with the intent to be present at such
106 exhibition, he shall be guilty of a felony and, upon conviction,
107 shall be punished by a fine of not less than Five Hundred Dollars
108 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or by
109 imprisonment in the State Penitentiary for a term of not more than
110 one (1) year, or by both such fine and imprisonment, in the
111 discretion of the court.

112 (3) Any law enforcement officer making an arrest under
113 subsection (1) of this section may lawfully take possession of all
114 dogs and all paraphernalia, implements, equipment or other
115 property used in violation of subsection (1) of this section.
116 Such officer shall file with the circuit court of the county
117 within which the alleged violation occurred an affidavit stating
118 therein (a) the name of the person charged, (b) a description of
119 the property taken, (c) the time and place of the taking, (d) the
120 name of the person who claims to own such property, if known, and
121 (e) that the affiant has reason to believe, stating the ground of
122 such belief, that the property taken was used in such violation.
123 He shall thereupon deliver the property to such court which
124 shall, by order in writing, place such dogs, paraphernalia,
125 implements, equipment, or other property in the custody of a
126 licensed veterinarian, the local humane society or other animal
127 welfare agency, or other suitable custodian, to be kept by such
128 custodian until the conviction or final discharge of the accused,
129 and shall send a copy of such order without delay to the district
130 attorney of the county. The custodian named and designated in

131 such order shall immediately assume the custody of such property
132 and shall retain same, subject to order of the court.

133 Upon the certification of a licensed veterinarian or officer
134 of the humane society or animal welfare agency that, in his
135 professional judgment, a dog which has been seized is not likely
136 to survive the final disposition of the charges or that, by reason
137 of the physical condition of the dog, it should be humanely
138 euthanized before such time, the court may order the dog humanely
139 euthanized. The court shall make its finding of whether to issue
140 such an order within seven (7) days from the certification by the
141 veterinarian or officer of the humane society or animal welfare
142 agency. The owner of a dog which is euthanized without an order
143 of the court with such certification of a licensed veterinarian or
144 officer of the humane society or other animal welfare agency shall
145 have a right of action for damages against the department or
146 agency by which the arresting or seizing officer is employed.
147 Upon conviction of the person charged with a violation of
148 subsection (1) of this section, all dogs seized shall be adjudged
149 by the court to be forfeited and the court shall order a humane
150 disposition of the same. In no event shall the court order the
151 dog to be euthanized without the certification of a licensed
152 veterinarian or officer of the humane society or other animal
153 welfare agency that, in his judgment, the dog is not likely to
154 survive or that, by reason of its physical condition, the dog
155 should be humanely euthanized. In the event of the acquittal or
156 final discharge without conviction of the accused, the court shall
157 direct the delivery of the property so held in custody to the
158 owner thereof. All reasonable expenses incurred by the custodian
159 of seized dogs and property shall be charged as costs of court, to
160 be taxed against the owner or county in the discretion of the
161 court.

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

164 (a) The use of dogs in the management of livestock, by
165 the owner of such livestock or other persons in lawful custody
166 thereof;

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

168 (c) The training of dogs for any purpose not prohibited
169 by law.

170 SECTION 10. Section 97-41-21, Mississippi Code of 1972, is
171 amended as follows:

172 97-41-21. (1) An individual shall not do either of the
173 following:

174 (a) Willfully and maliciously assault, beat, harass,
175 injure, or attempt to assault, beat, harass or injure, a dog that
176 he or she knows or has reason to believe is a guide or leader dog
177 for a blind individual, a hearing dog for a deaf or audibly
178 impaired individual, or a service dog for a physically limited
179 individual.

180 (b) Willfully and maliciously impede or interfere with,
181 or attempt to impede or interfere with, duties performed by a dog
182 that he or she knows or has reason to believe is a guide or leader
183 dog for a blind individual, a hearing dog for a deaf or audibly
184 impaired individual, or a service dog for a physically limited
185 individual.

186 (2) An individual who violates subsection (1) is guilty of a
187 felony punishable by imprisonment for one (1) year or a fine of
188 Two Thousand Five Hundred Dollars (\$2,500.00), or both.

189 (3) In a prosecution for a violation of subsection (1),
190 evidence that the defendant initiated or continued conduct
191 directed toward a dog described in subsection (1) after being
192 requested to avoid or discontinue that conduct or similar conduct
193 by a blind, deaf, audibly impaired or physically limited
194 individual being served or assisted by the dog shall give rise to
195 a rebuttable presumption that the conduct was initiated or
196 continued maliciously.

197 (4) A conviction and imposition of a sentence under this
198 section does not prevent a conviction and imposition of a sentence
199 under any other applicable provision of law.

200 (5) As used in this section:

201 (a) "Audibly impaired" means the inability to hear air
202 conduction thresholds at an average of forty (40) decibels or
203 greater in the individual's better ear.

204 (b) "Blind" means having a visual acuity of 20/200 or
205 less in the individual's better eye with correction, or having a
206 limitation of the individual's field of vision such that the
207 widest diameter of the visual field subtends an angular distance
208 not greater than twenty (20) degrees.

209 (c) "Deaf" means the individual's hearing is totally
210 impaired or the individual's hearing, with or without
211 amplification, is so seriously impaired that the primary means of
212 receiving spoken language is through other sensory input,
213 including, but not limited to, lip reading, sign language, finger
214 spelling or reading.

215 (d) "Harass" means to engage in any conduct directed
216 toward a guide, leader, hearing or service dog that is likely to
217 impede or interfere with the dog's performance of its duties or
218 that places the blind, deaf, audibly impaired or physically
219 limited individual being served or assisted by the dog in danger
220 of injury.

221 (e) "Injure" means to cause any physical injury to a
222 dog described in subsection (1).

223 (f) "Maliciously" means any of the following:

224 (i) With intent to assault, beat, harass or injure
225 a dog described in subsection (1).

226 (ii) With intent to impede or interfere with
227 duties performed by a dog described in subsection (1).

228 (iii) With intent to disturb, endanger or cause
229 emotional distress to a blind, deaf, audibly impaired or

230 physically limited individual being served or assisted by a dog
231 described in subsection (1).

232 (iv) With knowledge that the individual's conduct
233 will, or is likely to, harass or injure a dog described in
234 subsection (1).

235 (v) With knowledge that the individual's conduct
236 will, or is likely to, impede or interfere with duties performed
237 by a dog described in subsection (1).

238 (vi) With knowledge that the individual's conduct
239 will, or is likely to, disturb, endanger or cause emotional
240 distress to a blind, deaf, audibly impaired or physically limited
241 individual being served or assisted by a dog described in
242 subsection (1).

243 (g) "Physically limited" means having limited
244 ambulatory abilities and includes, but is not limited to, having a
245 temporary or permanent impairment or condition that does one or
246 more of the following:

247 (i) Causes the individual to use a wheelchair or
248 walk with difficulty or insecurity.

249 (ii) Affects sight or hearing to the extent that
250 an individual is insecure or exposed to danger.

251 (iii) Causes faulty coordination.

252 (iv) Reduces mobility, flexibility, coordination
253 or perceptiveness.

254 SECTION 11. This act shall take effect and be in force from
255 and after July 1, 1999.