

By: Representatives Read, Stevens

To: Agriculture; Judiciary B

HOUSE BILL NO. 740

1 AN ACT TO CREATE CRIMINAL OFFENSES AND PENALTIES RELATED TO  
2 ANIMAL ABUSE, AGGRAVATED ANIMAL ABUSE AND ANIMAL ABANDONMENT; TO  
3 DEFINE CERTAIN TERMS; TO AMEND SECTION 97-41-2, IN CONFORMITY; TO  
4 REPEAL SECTIONS 97-41-1, 97-41-7, 97-41-9, 97-41-13, 97-41-16 AND  
5 97-41-17, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR OFFENSES AND  
6 PENALTIES REGARDING CRUELTY TO ANIMALS; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** The following words and phrases shall have the  
9 meanings ascribed herein, unless the context clearly indicates  
10 otherwise:

11 (a) "Animal" means any nonhuman mammal, bird, reptile  
12 or amphibian.

13 (b) "Physical injury" means the impairment of physical  
14 condition. This includes, but is not limited to, depriving of  
15 potable water or food of sufficient quality and quantity to allow  
16 for normal growth or maintenance of body weight (ice and snow are  
17 not potable water; failing to protect an animal against wind,  
18 rain, snow or sun; failing to get the animal adequate treatment  
19 for obvious disease.

20 (c) "Serious physical injury" means physical injury  
21 that creates a substantial risk of death or suffering, or that  
22 causes protracted disfigurement, protracted impairment of health,  
23 or protracted loss or impairment of the function of a limb or  
24 bodily organ.

25 (d) "Maliciously" means intentionally acting with a  
26 depravity of mind and reckless and wanton disregard for life,  
27 including out of revenge or wanton cruelty.

28 (e) "Torture" means an action taken for the primary  
29 purpose of inflicting pain.

30           **SECTION 2.** (1) A person commits animal abuse in the second  
31 degree if the person intentionally, knowingly or recklessly causes  
32 physical injury to an animal, or causes any person to do the same.  
33 Animal abuse in the second degree is a misdemeanor. Every person  
34 who shall be convicted of animal abuse in the second degree shall  
35 be fined not more than One Thousand Dollars (\$1,000.00) or be  
36 imprisoned not exceeding six (6) months, or both.

37           (2) In addition to such fine or imprisonment, the court  
38 shall order that restitution be made to the owner of such animal.  
39 The measure for restitution shall be the current replacement value  
40 of such loss and/or the actual veterinarian fees, special  
41 supplies, loss of income and other costs incurred as a result of  
42 actions in violation of subsection (1).

43           (3) As part of the sentence for a violation of subsection  
44 (1), the court may order the defendant not to own or possess an  
45 animal for any period of time determined by the court, which may  
46 be permanent. A person who violates this order is subject to the  
47 contempt power of the court, and if found guilty, may be  
48 imprisoned or fined as the court sees fit.

49           (4) A person convicted of a violation of this section shall  
50 be liable to the impounding officer for all costs of impoundment  
51 from the time of seizure. In addition, the court may order the  
52 defendant to pay all costs of medical care, boarding and food for  
53 the animal that was provided by other agencies, veterinarians or  
54 persons.

55           (5) Any practice of good animal husbandry is not a violation  
56 of this section.

57           **SECTION 3.** (1) A person commits animal abuse in the first  
58 degree if the person intentionally, knowingly or recklessly causes  
59 serious physical injury to an animal; or cruelly or wantonly  
60 causes the death of an animal, or causes any person to do the  
61 same. Every person who shall be convicted of animal abuse in the  
62 first degree shall be fined not less than One Thousand Dollars

63 (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or  
64 imprisoned in the county jail not less than ninety (90) days, nor  
65 more than six (6) months, or both. A second or subsequent  
66 conviction under this section is punishable by a fine of not less  
67 than Two Thousand Five Hundred Dollars (\$2,500.00) nor more than  
68 Seven Thousand Five Hundred Dollars (\$7,500.00) and imprisonment  
69 in the county jail not less than ninety (90) days, nor more than  
70 six (6) months, or both.

71 (2) In addition to such fine and imprisonment, the court  
72 shall order that restitution be made to the owner of such animal.  
73 The measure for restitution shall be the current replacement value  
74 of such loss and/or the actual veterinarian fees, special  
75 supplies, loss of income and other costs incurred as a result of  
76 actions in violation of subsection (1).

77 (3) As part of the sentence for a violation of subsection  
78 (1), the court may order the defendant not to own or possess an  
79 animal for any period of time determined by the court, which may  
80 be permanent. A person who violates this order is subject to the  
81 contempt power of the court, and if found guilty, may be  
82 imprisoned or fined as the court sees fit.

83 (4) A person convicted of a violation of this section shall  
84 be liable to the impounding officer for all costs of impoundment  
85 from the time of seizure. In addition, the court may order the  
86 defendant to pay all costs of medical care, boarding and food for  
87 the animal that was provided by other agencies, veterinarians or  
88 persons.

89 (5) Any practice of good animal husbandry is not a violation  
90 of this section.

91 **SECTION 4.** (1) A person commits aggravated animal abuse in  
92 the first degree if the person (a) maliciously kills an animal; or  
93 (b) intentionally or knowingly tortures an animal, or causes any  
94 person to do the same. Aggravated animal abuse in the first  
95 degree is a felony. Every person who shall be convicted of

96 aggravated animal abuse in the first degree shall be confined to  
97 the penitentiary for at least one (1), but no more than three (3)  
98 years, or in the county jail for at least one (1), but no more  
99 than three (3) years, and pay a fine of not less than Five  
100 Thousand Dollars (\$5,000.00) nor more than Seven Thousand Five  
101 Hundred Dollars (\$7,500.00). A second or subsequent conviction  
102 under this section is punishable by confinement to the  
103 penitentiary for at least three (3) years and a fine of not less  
104 than Seven Thousand Five Hundred Dollars (\$7,500.00) nor more than  
105 Ten Thousand Dollars (\$10,000.00).

106 (2) In addition to such fine and imprisonment, the court  
107 shall order that restitution be made to the owner of such animal.  
108 The measure for restitution shall be the current replacement value  
109 of such loss and/or the actual veterinarian fees, special  
110 supplies, loss of income and other costs incurred as a result of  
111 actions in violation subsection (1).

112 (3) As part of the sentence for a violation of subsection  
113 (1), the court may order the defendant not to own or possess an  
114 animal for any period of time determined by the court, which may  
115 be permanent. A person who violates this order is subject to the  
116 contempt power of the court, and if found guilty, may be  
117 imprisoned or fined as the court sees fit.

118 (4) A person convicted of a violation of this section shall  
119 be liable to the impounding officer for all costs of impoundment  
120 from the time of seizure. In addition, the court may order the  
121 defendant to pay all costs of medical care, boarding and food for  
122 the animal that was provided by other agencies, veterinarians or  
123 persons.

124 **SECTION 5.** (1) A person commits the crime of animal  
125 abandonment if the person knowingly, intentionally or recklessly  
126 leaves a domesticated animal at a location without providing for  
127 its continued care. Every person convicted of animal abandonment

128 shall be fined One Thousand Dollars (\$1,000.00) for each animal  
129 abandoned.

130 (2) It is no defense to subsection (1) that the animal was  
131 abandoned outside an animal shelter, a veterinarian's office, a  
132 park, a rest stop or other place of shelter.

133 **SECTION 6.** Section 97-41-2, Mississippi Code of 1972, is  
134 amended as follows:

135 97-41-2. (1) All courts in the State of Mississippi may  
136 order the seizure of an animal by a law enforcement agency, for  
137 its care and protection upon a finding of probable cause to  
138 believe said animal is being cruelly treated, neglected or  
139 abandoned. Such probable cause may be established upon sworn  
140 testimony of any person who has witnessed the condition of said  
141 animal. The court may appoint an animal control agency, agent of  
142 an animal shelter organization, veterinarian or other person as  
143 temporary custodian for the said animal, pending final disposition  
144 of the animal pursuant to this section. Such temporary custodian  
145 shall directly contract and be responsible for any care rendered  
146 to such animal, and may make arrangements for such care as may be  
147 necessary. Upon seizure of an animal, the law enforcement agency  
148 responsible for removal of the animal shall serve notice upon the  
149 owner of the animal, if possible, and shall also post prominently  
150 a notice to the owner or custodian to inform such person that the  
151 animal has been seized. Such process and notice shall contain a  
152 description of the animal seized, the date seized, the name of the  
153 law enforcement agency seizing the animal, the name of the  
154 temporary custodian, if known at the time, and shall include a  
155 copy of the order of the court authorizing the seizure.

156 (2) Within five (5) days of seizure of an animal, the owner  
157 of the animal may request a hearing in the court ordering the  
158 animal to be seized to determine whether the owner is able to  
159 provide adequately for the animal and is fit to have custody of  
160 the animal. The court shall hold such hearing within fourteen

161 (14) days of receiving such request. The hearing shall be  
162 concluded and the court order entered thereon within twenty-one  
163 (21) days after the hearing is commenced. Upon requesting a  
164 hearing, the owner shall have three (3) business days to post a  
165 bond or security with the court clerk in an amount determined by  
166 the court to be sufficient to repay all reasonable costs  
167 sufficient to provide for the animal's care. Failure to post such  
168 bond within three (3) days shall result in forfeiture of the  
169 animal to the court. If the temporary custodian has custody of  
170 the animal upon the expiration of the bond or security, the animal  
171 shall be forfeited to the court unless the court orders otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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221 **SECTION 7.** Sections 97-41-1, 97-41-7, 97-41-9, 97-41-13,  
222 97-41-16 and 97-41-17, Mississippi Code of 1972, which provide for  
223 offenses and penalties regarding cruelty to animals, are repealed.

224 **SECTION 8.** This act shall take effect and be in force from  
225 and after July 1, 2004.