

By: Representative Hudson

To: Agriculture; Judiciary B

HOUSE BILL NO. 1160

1 AN ACT TO REVISE 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 less than One Hundred Dollars (100.00) nor more than
36 Five Hundred Dollars (\$500.00) or be imprisoned not exceeding six
37 (6) months, or both.

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

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

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

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

58 **SECTION 3.** (1) A person commits animal abuse in the first
59 degree if the person intentionally, knowingly or recklessly causes
60 serious physical injury to an animal; or cruelly or wantonly
61 causes the death of an animal, or causes any person to do the
62 same. Animal abuse in the first degree is a misdemeanor. Every

63 person who shall be convicted of animal abuse in the first degree
64 shall be fined not less than Five Hundred Dollars (\$500.00) nor
65 more than One Thousand Dollars (\$1,000.00), or imprisoned in the
66 county jail not less than ninety (90) days, nor more than six (6)
67 months, or both.

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

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

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

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

88 **SECTION 4.** (1) A person commits aggravated animal abuse in
89 the first degree if the person (a) maliciously kills an animal; or
90 (b) intentionally or knowingly tortures an animal, or causes any
91 person to do the same. Aggravated animal abuse in the first
92 degree is a misdemeanor. Every person who shall be convicted of
93 aggravated animal abuse in the first degree shall be confined to
94 the county jail for not more than one (1) year and pay a fine of

95 not less than Five Hundred Dollars (\$500.00) nor more than One
96 Thousand Dollars (\$1,000.00).

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

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

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

115 **SECTION 5.** (1) A person commits the crime of animal
116 abandonment if the person knowingly, intentionally or recklessly
117 leaves a domesticated animal at a location without providing for
118 its continued care. Every person convicted of animal abandonment
119 shall be fined Five Hundred Dollars (\$500.00) for each animal
120 abandoned.

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

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

126 97-41-2. (1) All courts in the State of Mississippi may
127 order the seizure of an animal by a law enforcement agency, for

128 its care and protection upon a finding of probable cause to
129 believe said animal is being cruelly treated, neglected or
130 abandoned. Such probable cause may be established upon sworn
131 testimony of any person who has witnessed the condition of said
132 animal. The court may appoint an animal control agency, agent of
133 an animal shelter organization, veterinarian or other person as
134 temporary custodian for the said animal, pending final disposition
135 of the animal pursuant to this section. Such temporary custodian
136 shall directly contract and be responsible for any care rendered
137 to such animal, and may make arrangements for such care as may be
138 necessary. Upon seizure of an animal, the law enforcement agency
139 responsible for removal of the animal shall serve notice upon the
140 owner of the animal, if possible, and shall also post prominently
141 a notice to the owner or custodian to inform such person that the
142 animal has been seized. Such process and notice shall contain a
143 description of the animal seized, the date seized, the name of the
144 law enforcement agency seizing the animal, the name of the
145 temporary custodian, if known at the time, and shall include a
146 copy of the order of the court authorizing the seizure.

147 (2) Within five (5) days of seizure of an animal, the owner
148 of the animal may request a hearing in the court ordering the
149 animal to be seized to determine whether the owner is able to
150 provide adequately for the animal and is fit to have custody of
151 the animal. The court shall hold such hearing within fourteen
152 (14) days of receiving such request. The hearing shall be
153 concluded and the court order entered thereon within twenty-one
154 (21) days after the hearing is commenced. Upon requesting a
155 hearing, the owner shall have three (3) business days to post a
156 bond or security with the court clerk in an amount determined by
157 the court to be sufficient to repay all reasonable costs
158 sufficient to provide for the animal's care. Failure to post such
159 bond within three (3) days shall result in forfeiture of the
160 animal to the court. If the temporary custodian has custody of

161 the animal upon the expiration of the bond or security, the animal
162 shall be forfeited to the court unless the court orders otherwise.

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

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

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

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

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

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

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

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

185 (5) If the court finds the owner of the animal is unable or
186 unfit to adequately provide for the animal, or that the animal is
187 severely injured, diseased, or suffering, and, therefore, not
188 likely to recover, the court may order that the animal be
189 permanently forfeited and released to an animal control agency,
190 animal protection organization or to the appropriate entity to be
191 euthanized or the court may order that such animal be sold at
192 public sale in the manner now provided for judicial sales; any
193 proceeds from such sale shall go first toward the payment of

194 expenses and costs relating to the care and treatment of such
195 animal, and any excess amount shall be paid to the owner of the
196 animal.

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

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

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

211 * * *

212 **SECTION 7.** Sections 97-41-1, 97-41-7, 97-41-9, 97-41-13,
213 97-41-16 and 97-41-17, Mississippi Code of 1972, which provide for
214 offenses and penalties regarding cruelty to animals, are repealed.

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