

By: Representatives Bondurant (By Request),  
Reynolds

To: Agriculture; Judiciary B

## HOUSE BILL NO. 1246

1 AN ACT TO CREATE THE OFFENSES OF ANIMAL ABUSE AND ANIMAL  
2 CRUELTY; TO DEFINE CERTAIN TERMS; TO AMEND SECTION 97-41-2,  
3 MISSISSIPPI CODE OF 1972, TO DELETE THE DEFINITION OF ANIMAL; TO  
4 AMEND SECTION 97-41-16, MISSISSIPPI CODE OF 1972, TO REVISE THE  
5 PENALTIES FOR MALICIOUSLY KILLING AN ANIMAL; TO REPEAL SECTIONS  
6 97-41-1, 97-41-5, 97-41-7, 97-41-9, 97-41-11 AND 97-41-17,  
7 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR ANIMAL CRUELTY  
8 OFFENSES; AND FOR RELATED PURPOSES.

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

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

13 (a) "Animal" means any nonhuman mammal, bird, reptile,  
14 amphibian or fish.

15 (b) "Guardian" means a person who has control, custody,  
16 possession, title or other legal interest in an animal.

17 (c) "Minimum care" means care sufficient to preserve  
18 the health and well-being of an animal and, except for  
19 emergencies, or circumstances beyond the reasonable control of the  
20 guardian, includes, but is not limited to, the following:

21 (i) Food of sufficient quantity and quality to  
22 allow for normal growth or maintenance of body weight.

23 (ii) Access to potable water of a drinkable  
24 temperature in sufficient quantity for an animal or group of  
25 animals.

26 (iii) Shelter that protects an animal from the  
27 adverse affects of weather (rain, snow, sleet, wind, etc.) and  
28 extreme temperatures, which is species and breed appropriate.

29 (iv) Veterinary care necessary to relieve distress  
30 from injury, neglect or disease.

31 (v) Adequate exercise to prevent debility.

32 (vi) If enclosed, adequate ventilation for normal  
33 breathing to prevent injury or suffering.

34 (vii) Lighting cycles of either natural or  
35 artificial light if quartered in a building.

36 (viii) If confined, an area free of excess waste,  
37 debris or other contaminants that could injure or affect the  
38 animal's health.

39 (d) "Person" means an individual, corporation, trust,  
40 partnership, association or any other legally defined human  
41 entity.

42 (e) "Physical injury" means physical trauma, impairment  
43 of condition or inflicted pain, except for that which is necessary  
44 for veterinary treatment.

45 (f) "Physical trauma" means fractures, cuts, burns,  
46 bruises, abrasions, punctures or other wounds, or illnesses  
47 produced by violence, neglect or a terminal or chemical agent.

48 (g) "Possession" means to have physical custody or to  
49 exercise dominion or control over an animal.

50 (h) "Critical physical injury" means physical injury  
51 that creates a substantial risk of death or that causes protracted  
52 disfigurement, protracted impairment of health or protracted loss  
53 or impairment of a bodily function.

54 (i) "Torture" means an act primarily taken to inflict  
55 pain or suffering.

56 (j) "Torment" means an act primarily intended to cause  
57 anguish, fear or suffering.

58 (k) "Except authorized by law" means any lawful  
59 hunting, fishing, slaughter, pest control, teaching or animal  
60 research or otherwise lawful use of or killing of animals.

61 **SECTION 2.** (1) A person who knowingly, intentionally or  
62 recklessly, except as otherwise authorized by law, abandons or  
63 leaves an animal at a location without providing for, or arranging

64 for the animal's continued sustenance, or fails to provide minimum  
65 care for, or causes physical pain or injury to an animal,  
66 including, but not limited to, overriding, overdriving, beating,  
67 kicking, starving, cutting, or torments an animal, or causes any  
68 of the above to be done, is guilty of a misdemeanor, except that  
69 the animal dies as a result of said act, or is permanently  
70 debilitated which causes such act to be felonious. For each  
71 incident of abuse and for each animal abused, there shall be a  
72 separate charge of abuse.

73 (2) A conviction of misdemeanor animal abuse shall be  
74 punishable by a fine not less than Two Hundred Fifty Dollars  
75 (\$250.00), or more than One Thousand Dollars (\$1,000.00), or  
76 imprisonment for up to six (6) months in the county jail, or both,  
77 and, if applicable, restitution to a guardian, and reimbursement  
78 to law enforcement, animal control, or humane societies for costs  
79 of investigation, sheltering, rehabilitation and costs related to  
80 the case. A convicted person may be prohibited from possessing an  
81 animal or animals, or residing or working where animals are kept.  
82 The court may order the convicted person to participate in  
83 community service and/or successfully complete professional  
84 counseling.

85 (3) A conviction of felony animal abuse shall be punishable  
86 by a fine of not less than One Thousand Dollars (\$1,000.00) nor  
87 more than Ten Thousand Dollars (\$10,000.00) or imprisonment for  
88 not less than one (1) year nor more than five (5) years in the  
89 State Penitentiary, or both, and, if applicable, restitution as  
90 described in subsection (2).

91 **SECTION 3.** (1) A person commits the crime of felony animal  
92 cruelty if, except otherwise authorized by law, knowingly,  
93 intentionally or with criminal negligence causes physical trauma,  
94 critical physical injury, or mutilation of, or the death of an  
95 animal, in an act of torture, malice, mischief or extreme  
96 deprivation of minimum care and sustenance. For each incidence of

97 cruelty and for each animal affected there shall be a separate  
98 charge of cruelty.

99 (2) A felony animal cruelty conviction shall be punishable  
100 by a minimum fine of not less than One Thousand Dollars  
101 (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00) or  
102 imprisonment in a State Penitentiary for not less than one (1)  
103 year, nor more than five (5) years, or both, and restitution to a  
104 guardian, and reimbursement to involved law enforcement, animal  
105 control, or humane agencies for investigation, sheltering or  
106 rehabilitation of the animals or animal, if applicable, and such  
107 person may not possess an animal or animals, if applicable, and  
108 such person may not possess an animal or animals for not less than  
109 five (5) years and may be ordered to successfully complete  
110 professional training.

111 **SECTION 4.** Section 97-41-2, Mississippi Code of 1972, is  
112 amended as follows:

113 97-41-2. (1) All courts in the State of Mississippi may  
114 order the seizure of an animal by a law enforcement agency, for  
115 its care and protection upon a finding of probable cause to  
116 believe said animal is being cruelly treated, neglected or  
117 abandoned. Such probable cause may be established upon sworn  
118 testimony of any person who has witnessed the condition of said  
119 animal. The court may appoint an animal control agency, agent of  
120 an animal shelter organization, veterinarian or other person as  
121 temporary custodian for the said animal, pending final disposition  
122 of the animal pursuant to this section. Such temporary custodian  
123 shall directly contract and be responsible for any care rendered  
124 to such animal, and may make arrangements for such care as may be  
125 necessary. Upon seizure of an animal, the law enforcement agency  
126 responsible for removal of the animal shall serve notice upon the  
127 owner of the animal, if possible, and shall also post prominently  
128 a notice to the owner or custodian to inform such person that the  
129 animal has been seized. Such process and notice shall contain a

130 description of the animal seized, the date seized, the name of the  
131 law enforcement agency seizing the animal, the name of the  
132 temporary custodian, if known at the time, and shall include a  
133 copy of the order of the court authorizing the seizure.

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

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

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

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

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

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

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

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

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

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

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

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

193 (8) Nothing in this section shall be construed to prevent or  
194 otherwise interfere with a law enforcement officer's authority to

195 seize an animal as evidence or require court action for the taking  
196 into custody and making proper disposition of animals as  
197 authorized in Sections 21-19-9 and 41-53-11.

198 \* \* \*

199 **SECTION 5.** Section 97-41-16, Mississippi Code of 1972, is  
200 amended as follows:

201 97-41-16. (1) Any person who shall maliciously, either out  
202 of a spirit of revenge or wanton cruelty, or who shall  
203 mischievously kill, maim or wound, or injure any dog, or cause any  
204 person to do the same, shall be fined not less than One Thousand  
205 Dollars (\$1,000.00) nor more than Ten Thousand Dollars  
206 (\$10,000.00) or be imprisoned in the State Penitentiary for not  
207 less than one (1) year nor more than five (5) years, or both.

208 (2) In addition to such fine or imprisonment which may be  
209 imposed, the court shall order that restitution be made to the  
210 owner of such dog. The measure for restitution in money shall be  
211 the current replacement value of such loss and/or the actual  
212 veterinarian fees, special supplies, loss of income and other cost  
213 incurred as a result of actions in violation of subsection (1) of  
214 this section.

215 **SECTION 6.** Sections 97-41-1, 97-41-5, 97-41-7, 97-41-9,  
216 97-41-11 and 97-41-17, Mississippi Code of 1972, which provide for  
217 offenses regarding animal cruelty, are repealed.

218 **SECTION 7.** This act shall take effect and be in force from  
219 and after July 1, 2004.