

By: Representatives Whittington, Brown,  
Jones (111th)

To: Agriculture; Judiciary B

## HOUSE BILL NO. 831

1 AN ACT TO AMEND SECTION 97-41-16, MISSISSIPPI CODE OF 1972,  
2 TO ENACT THE "MISSISSIPPI DOG AND CAT PET PROTECTION LAW OF 2011";  
3 TO CLARIFY AND REVISE THE CRIME OF CRUELTY TO A DOG OR CAT; TO  
4 SPECIFICALLY DESCRIBE ACTIVITIES THAT DO NOT CONSTITUTE THE CRIME  
5 OF CRUELTY TO A DOG OR CAT; TO AMEND SECTIONS 97-41-1, 97-41-3,  
6 97-41-5, 97-41-7, 97-41-9, 97-41-17, 97-41-21 AND 97-41-23,  
7 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS  
8 ACT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 97-41-16, Mississippi Code of 1972, is  
11 amended as follows:

12 97-41-16. (1) (a) The provisions of this section shall be  
13 known and may be cited as the "Mississippi Dog and Cat Pet  
14 Protection Law of 2011."

15 (b) The intent of the Legislature in enacting this law  
16 is to provide only for the protection of domesticated dogs and  
17 cats, as these are the animals most often serving as the loyal and  
18 beloved pets of the citizens of this state. Animals other than  
19 dogs and cats are specifically excluded from the enhanced  
20 protection described in this act for dogs and cats. The  
21 provisions of this act do not apply, and shall not be construed as  
22 applying, to any animal other than a dog or cat.

23 (2) (a) If a person \* \* \* shall maliciously, either out of  
24 a spirit of revenge or wanton cruelty, intentionally,  
25 mischievously, unjustifiably or negligently maim, wound, deprive  
26 of necessary sustenance including adequate food and water, poison,  
27 carry or confine in a cruel manner, injure or kill any dog or cat,  
28 or cause any person to do the same, then he shall be guilty of the  
29 offense of cruelty to a dog or cat.



30                   (i) A person who pleads guilty or nolo contendere  
31 to, or is convicted of, a first offense of cruelty to a dog or cat  
32 shall be guilty of a misdemeanor and fined not less than Two  
33 Hundred Dollars (\$200.00) nor more than One Thousand Dollars  
34 (\$1,000.00), or be imprisoned not less than thirty (30) days nor  
35 more than six (6) months, or both.

36                   (ii) A person who pleads guilty or nolo contendere  
37 to, or is convicted of, a second offense of cruelty to a dog or  
38 cat, the offenses being committed within a period of five (5)  
39 years, shall be guilty of a misdemeanor and fined not less than  
40 Four Hundred Dollars (\$400.00) nor more than Two Thousand Five  
41 Hundred Dollars (\$2,500.00), or be imprisoned not less than ninety  
42 (90) days nor more than six (6) months, or both.

43                   (iii) A person who pleads guilty or nolo  
44 contendere to, or is convicted of, a third or subsequent offense  
45 of cruelty to a dog or cat, the offenses being committed within a  
46 period of five (5) years, shall be guilty of the felony of  
47 aggravated cruelty to a dog or cat, and upon conviction, shall be  
48 fined not less than Five Thousand Dollars (\$5,000.00) and  
49 imprisoned for not less than one (1) year nor more than five (5)  
50 years.

51                   (b) For purposes of this section, each alleged act of  
52 the offense of cruelty to a dog or cat, or of the offense of  
53 aggravated cruelty to a dog or cat, that is committed against more  
54 than one (1) dog or one (1) cat shall constitute a separate  
55 offense.

56           (3) In addition to such fine or imprisonment which may be  
57 imposed, the court shall order that:

58                   (a) Restitution be made to the owner of such dog or  
59 cat. The measure for restitution in money shall be the current  
60 replacement value of such loss and the actual veterinarian fees,  
61 medicine, special supplies, loss of income and other costs



62 incurred as a result of actions in violation of subsection (2) of  
63 this section.

64 (b) The reasonable costs of sheltering, transporting  
65 and rehabilitating the dog or cat, and any other costs directly  
66 related to the care of the dog or cat, be reimbursed to:

67 (i) Any law enforcement agency; or

68 (ii) Any agency or department of a political  
69 subdivision that is charged with the control, protection or  
70 welfare of dogs or cats within the subdivision. The agency or  
71 department may reimburse a nongovernmental organization for such  
72 costs, if the organization possesses nonprofit status under the  
73 United States Internal Revenue Code and has the purpose of  
74 protecting the welfare of, or preventing cruelty to, dogs or cats.

75 (4) (a) The court may order a person who pleads guilty or  
76 nolo contendere to, or is convicted of, the offense of aggravated  
77 cruelty to a dog or cat, to:

78 (i) Receive a psychiatric or psychological  
79 evaluation and counseling or treatment for a length of time as  
80 prescribed by the court. The cost of any evaluation, counseling  
81 and treatment shall be paid by the offender upon order of the  
82 court, up to a maximum amount that is no more than the  
83 jurisdictional limit of the sentencing court.

84 (ii) Perform community service for a period not  
85 exceeding the applicable maximum term of imprisonment that may be  
86 imposed for conviction of the offense.

87 (b) The court may enjoin a person who pleads guilty or  
88 nolo contendere to, or is convicted of, the offense of aggravated  
89 cruelty to a dog or cat, from being employed in any position that  
90 involves the care of a dog or cat, or in any place where dogs or  
91 cats are kept or confined, for a period which the court deems  
92 appropriate.

93 (5) (a) Nothing in this section shall be construed as  
94 prohibiting a person from:



95 (i) Defending himself or herself or another person  
96 from physical or economic injury being threatened or caused by a  
97 dog or cat.

98 (ii) Injuring or killing an unconfined dog or cat  
99 on the property of the person, if the unconfined dog or cat is  
100 believed to constitute a threat of physical injury or damage to  
101 any animal under the care or control of such person or to any  
102 wildlife that is found on the person's property.

103 (iii) Acting under the provisions of Section  
104 95-5-19 to protect poultry or livestock from a trespassing dog  
105 that is in the act of chasing or killing the poultry or livestock,  
106 or acting to protect poultry or livestock from a trespassing cat  
107 that is in the act of chasing or killing the poultry or livestock.

108 (iv) Engaging in practices that are licensed or  
109 lawful under the Mississippi Veterinary Practice Act, Section  
110 73-39-51, et seq., or engaging in activities by any licensed  
111 veterinarian while following accepted standards of practice of the  
112 profession within the State of Mississippi, including the  
113 ethanizing of a dog or cat.

114 (v) Rendering emergency care, treatment, or  
115 assistance to a dog or cat that is abandoned, ill, injured, or in  
116 distress, if the person rendering the care, treatment, or  
117 assistance is acting in good faith.

118 (vi) Performing activities associated with  
119 accepted agricultural and animal husbandry practices with regard  
120 to livestock, poultry or other animals, including those activities  
121 which involve:

122 1. Using dogs in such practices.

123 2. Raising, managing and using animals to  
124 provide food, fiber or transportation.

125 3. Butchering animals and processing food.

126 (vii) Training for, or participating in, a rodeo,  
127 equine activity, dog show, event sponsored by a kennel club or



128 other bona fide organization that promotes the breeding or showing  
129 of dogs or cats, or any other competitive event which involves the  
130 lawful use of dogs or cats.

131 (viii) Engaging in accepted practices of dog or  
132 cat identification.

133 (ix) Engaging in lawful activities that are  
134 regulated by the Mississippi Department of Wildlife, Fisheries and  
135 Parks or the Mississippi Department of Marine Resources, including  
136 without limitation, hunting, trapping, fishing, and wildlife and  
137 seafood management.

138 (x) Performing scientific, research, medical and  
139 zoological activities undertaken by research and education  
140 facilities or institutions that are:

141 1. Regulated under the provisions of the  
142 Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1,  
143 2011;

144 2. Regulated under the provisions of the  
145 Health Research Extension Act of 1985, Public Law No. 99-158; or

146 3. Subject to any other applicable state or  
147 federal law or regulation governing animal research as in effect  
148 on July 1, 2011.

149 (xi) Disposing of or destroying certain dogs under  
150 authority of Sections 19-5-50, 21-19-9 and 41-53-11, which allow  
151 counties, municipalities and certain law enforcement officers to  
152 destroy dogs running at large without proper identification  
153 indicating that such dogs have been vaccinated for rabies.

154 (xii) Engaging in professional pest control  
155 activities, including those activities governed by the Mississippi  
156 Pesticide Law of 1975, Section 69-23-1, et seq.; professional  
157 services related to entomology, plant pathology, horticulture,  
158 tree surgery, weed control or soil classification, as regulated  
159 under Section 69-19-1, et seq.; and any other pest control  
160 activities conducted in accordance with state law.



161           (b) If the owner or person in control of a dog or cat  
162 is precluded, by natural or other causes beyond his reasonable  
163 control, from acting to prevent an act or omission that might  
164 otherwise constitute an allegation of the offense of cruelty to a  
165 dog or cat or the offense of aggravated cruelty to a dog or cat,  
166 then that person shall not be guilty of the offense. Natural or  
167 other causes beyond the reasonable control of the person include,  
168 without limitation, acts of God, declarations of disaster,  
169 emergencies, acts of war, earthquakes, hurricanes, tornadoes,  
170 fires, floods or other natural disasters.

171           (6) The provisions of this section shall not be construed  
172 to:

173           (a) Apply to any animal other than a dog or cat.

174           (b) Create any civil or criminal liability on the part  
175 of the driver of a motor vehicle if the driver unintentionally  
176 injures or kills a dog or cat as a result of the dog or cat being  
177 accidentally hit by the vehicle.

178           (7) (a) Except as otherwise provided in Section 97-35-47  
179 for the false reporting of a crime, a person, who, in good faith  
180 and acting without malice, reports a suspected incident of cruelty  
181 to a dog or cat or aggravated cruelty to a dog or cat to a local  
182 animal control, protection or welfare organization, a local law  
183 enforcement agency, or the Mississippi Department of Public  
184 Safety, shall be immune from civil and criminal liability for  
185 reporting the incident.

186           (b) A licensed veterinarian or a person acting at the  
187 direction of a licensed veterinarian, who in good faith and acting  
188 without malice, participates in the investigation of the alleged  
189 offense of cruelty to a dog or cat, or makes a decision or renders  
190 services regarding the care of a dog or cat that is involved in  
191 the investigation, shall be immune from civil and criminal  
192 liability for those acts.



193       (8) (a) Other than an agency or department of a political  
194 subdivision that is charged with the control, protection or  
195 welfare of dogs or cats within the subdivision, any organization  
196 that has the purpose of protecting the welfare of, or preventing  
197 cruelty to, dogs or cats, shall:

198               (i) Register the organization with the sheriff of  
199 the county in which the organization operates a physical facility  
200 for the protection, welfare or shelter of dogs or cats, on or  
201 before the first day of October each year.

202               (ii) Arrange for the surgical spaying or neutering  
203 of a dog or cat before relinquishing possession of the dog or cat  
204 or allowing the dog or cat to be adopted. If the organization  
205 chooses to have the surgery performed before the adoption, then  
206 the organization may collect a monetary deposit from the person  
207 adopting the dog or cat, in such amount as reasonably necessary to  
208 perform the surgery, and the organization may use the deposit to  
209 offset the costs of the surgery. If the surgery is not performed  
210 before the adoption of the dog or cat, then the organization shall  
211 require the person adopting the dog or cat to sign a written  
212 agreement containing a commitment that the person will have the  
213 dog or cat spayed or neutered within thirty (30) days of the date  
214 of the adoption, or before such date as the dog or cat reaches  
215 sexual maturity as determined by a veterinarian licensed in the  
216 State of Mississippi, whichever date is sooner. Upon presentation  
217 of a written statement signed by a veterinarian licensed in the  
218 State of Mississippi verifying that the surgery has been  
219 performed, the organization shall refund the balance of the  
220 deposit to the person adopting the dog or cat, after deducting a  
221 reasonable amount for administrative costs.

222               (b) The provisions of this subsection shall apply to  
223 any organization that has the purpose of protecting the welfare of  
224 dogs or cats, or preventing cruelty to dogs or cats, regardless of



225 whether the organization also protects animals other than dogs or  
226 cats.

227 (9) Nothing in this section shall limit the authority of a  
228 municipality or board of supervisors to adopt ordinances, rules,  
229 regulations or resolutions which may be, in whole or in part, more  
230 restrictive than the provisions of this section, and in those  
231 cases, the more restrictive ordinances, rules, regulations or  
232 resolutions will govern.

233 **SECTION 2.** Section 97-41-1, Mississippi Code of 1972, is  
234 amended as follows:

235 97-41-1. Except as otherwise provided in Section 97-41-16  
236 for a dog or cat, if any person shall override, overdrive,  
237 overload, torture, torment, unjustifiably injure, deprive of  
238 necessary sustenance, food, or drink; or cruelly beat or  
239 needlessly mutilate; or cause or procure to be overridden,  
240 overdriven, overloaded, tortured, unjustifiably injured,  
241 tormented, or deprived of necessary sustenance, food or drink; or  
242 to be cruelly beaten or needlessly mutilated or killed, any living  
243 creature, every such offender shall, for every offense, be guilty  
244 of a misdemeanor.

245 **SECTION 3.** Section 97-41-3, Mississippi Code of 1972, is  
246 amended as follows:

247 97-41-3. (1) Any sheriff, constable, policeman, or agent of  
248 a society for the prevention of cruelty to animals may kill, or  
249 cause to be killed, any animal other than a dog or cat found  
250 neglected or abandoned, if in the opinion of three (3) respectable  
251 citizens it is injured or diseased past recovery, or by age has  
252 become useless.

253 (2) After all reasonable attempts have been made to locate  
254 the legal owner of a dog or cat that is found maimed, wounded,  
255 injured or diseased, the dog or cat may be euthanized, or caused  
256 to be euthanized, by:

257 (i) A law enforcement officer;





258                   (ii) A licensed veterinarian;  
259                   (iii) An employee of an agency or department of a  
260 political subdivision that is charged with the control or welfare  
261 of dogs or cats within the subdivision; or  
262                   (iv) An employee or agent of an organization that  
263 has the purpose of protecting the welfare of or preventing cruelty  
264 to dogs or cats and that possesses nonprofit status under the  
265 United States Internal Revenue Code.

266           The provisions of this subsection (2) shall not be construed  
267 to prevent the immediate euthanasia by the persons enumerated in  
268 this subsection or by any other person, if it is necessary to  
269 prevent unrelievable suffering of the dog or cat.

270           (3) Any person acting in good faith and without malice  
271 pursuant to this section shall be immune from civil and criminal  
272 liability for that action.

273           **SECTION 4.** Section 97-41-5, Mississippi Code of 1972, is  
274 amended as follows:

275           97-41-5. If any person shall carry, or cause to be carried  
276 by hand or in or upon any vehicle or other conveyance, any  
277 creature other than a dog or cat in a cruel or inhuman manner, he  
278 shall be guilty of a misdemeanor.

279           **SECTION 5.** Section 97-41-7, Mississippi Code of 1972, is  
280 amended as follows:

281           97-41-7. If any person shall confine, or cause to be  
282 confined, in any stable, lot, or other place, any living creature  
283 other than a dog or cat, without supplying the same during such  
284 confinement with a sufficient quantity of good and wholesome food  
285 and water, he shall be guilty of a misdemeanor.

286           **SECTION 6.** Section 97-41-9, Mississippi Code of 1972, is  
287 amended as follows:

288           97-41-9. If any person be the owner or have the custody of  
289 any living creature other than a dog or cat and unjustifiably



290 neglect or refuse to furnish it necessary sustenance, food, or  
291 drink, he shall be guilty of a misdemeanor.

292 **SECTION 7.** Section 97-41-17, Mississippi Code of 1972, is  
293 amended as follows:

294 97-41-17. Every person who shall willfully and unlawfully  
295 administer any poison to any horse, mare, colt, mule, jack,  
296 jennet, cattle, deer, \* \* \* hog, sheep, chicken, duck, goose,  
297 turkey, pea-fowl, guinea-fowl, or partridge, or shall maliciously  
298 expose any poison substance with intent that the same should be  
299 taken or swallowed by any horse, mare, colt, mule, jack, jennet,  
300 cattle, \* \* \* hog, sheep, chicken, duck, goose, turkey, pea-fowl,  
301 guinea-fowl, or partridge, shall, upon conviction, be punished by  
302 imprisonment in the Penitentiary not exceeding three (3) years, or  
303 in the county jail not exceeding one (1) year, and by a fine not  
304 exceeding Five Hundred Dollars (\$500.00).

305 **SECTION 8.** Section 97-41-21, Mississippi Code of 1972, is  
306 amended as follows:

307 97-41-21. (1) An individual shall not do either of the  
308 following:

309 (a) Willfully and maliciously assault, beat, harass,  
310 injure, or attempt to assault, beat, harass or injure, a dog that  
311 he or she knows or has reason to believe is a guide or leader dog  
312 for a blind individual, a hearing dog for a deaf or audibly  
313 impaired individual, \* \* \* a service dog for a physically limited  
314 individual, or a support dog for a mobility impaired person as  
315 described in Sections 43-6-151 through 43-6-155.

316 (b) Willfully and maliciously impede or interfere with,  
317 or attempt to impede or interfere with, duties performed by a dog  
318 that he or she knows or has reason to believe is a guide or leader  
319 dog for a blind individual, a hearing dog for a deaf or audibly  
320 impaired individual, \* \* \* a service dog for a physically limited  
321 individual, or a support dog for a mobility impaired person as  
322 described in Sections 43-6-151 through 43-6-155.



323 (2) An individual who violates subsection (1) is guilty of a  
324 misdemeanor punishable by imprisonment for not more than ninety  
325 (90) days or a fine of not more than Five Hundred Dollars  
326 (\$500.00), or both.

327 (3) In a prosecution for a violation of subsection (1),  
328 evidence that the defendant initiated or continued conduct  
329 directed toward a dog described in subsection (1) after being  
330 requested to avoid or discontinue that conduct or similar conduct  
331 by a blind, deaf, audibly impaired, physically limited or mobility  
332 impaired individual being served or assisted by the dog shall give  
333 rise to a rebuttable presumption that the conduct was initiated or  
334 continued maliciously.

335 (4) A conviction and imposition of a sentence under this  
336 section does not prevent a conviction and imposition of a sentence  
337 under Section 97-41-16 pertaining to the offense of cruelty to a  
338 dog or cat, or any other applicable provision of law.

339 (5) As used in this section:

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

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

348 (c) "Deaf" means the individual's hearing is totally  
349 impaired or the individual's hearing, with or without  
350 amplification, is so seriously impaired that the primary means of  
351 receiving spoken language is through other sensory input,  
352 including, but not limited to, lip reading, sign language, finger  
353 spelling or reading.

354 (d) "Harass" means to engage in any conduct directed  
355 toward a guide, leader, hearing or service dog that is likely to



356 impede or interfere with the dog's performance of its duties or  
357 that places the blind, deaf, audibly impaired or physically  
358 limited individual being served or assisted by the dog in danger  
359 of injury.

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

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

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

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

367 (iii) With intent to disturb, endanger or cause  
368 emotional distress to a blind, deaf, audibly impaired or  
369 physically limited individual being served or assisted by a dog  
370 described in subsection (1).

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

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

377 (vi) With knowledge that the individual's conduct  
378 will, or is likely to, disturb, endanger or cause emotional  
379 distress to a blind, deaf, audibly impaired or physically limited  
380 individual being served or assisted by a dog described in  
381 subsection (1).

382 (g) "Physically limited" means having limited  
383 ambulatory abilities and includes, but is not limited to, having a  
384 temporary or permanent impairment or condition that does one or  
385 more of the following:

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



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

390 (iii) Causes faulty coordination.

391 (iv) Reduces mobility, flexibility, coordination  
392 or perceptiveness.

393 **SECTION 9.** Section 97-41-23, Mississippi Code of 1972, is  
394 amended as follows:

395 97-41-23. (1) It is unlawful for any person to willfully  
396 and maliciously taunt, torment, tease, beat, strike, or to  
397 administer, expose or inject any desensitizing drugs, chemicals or  
398 substance to any public service animal. Any person who violates  
399 this section is guilty of a misdemeanor, and upon conviction  
400 thereof shall be fined not more than Two Hundred Dollars (\$200.00)  
401 and be imprisoned not more than five (5) days, or both.

402 (2) Any person who, without just cause, purposely kills or  
403 injures any public service animal is guilty of a felony and upon  
404 conviction shall be fined not more than Five Thousand Dollars  
405 (\$5,000.00) and be imprisoned not more than five (5) years, or  
406 both.

407 (3) For purposes of this section, the term "public service  
408 animal" means any animal trained and used to assist a law  
409 enforcement agency, public safety entity or search and rescue  
410 agency.

411 (4) A conviction and imposition of a sentence under this  
412 section does not prevent a conviction and imposition of a sentence  
413 under Section 97-41-16 pertaining to the offense of cruelty to a  
414 dog or cat, or any other applicable provision of law.

415 (5) Any person guilty of violating subsection (2) of this  
416 section shall also be required to make restitution to the law  
417 enforcement agency or owner aggrieved thereby.

418 (6) The provisions of this section shall not apply to the  
419 lawful practice of veterinary medicine.



420           **SECTION 10.** This act shall take effect and be in force from  
421 and after its passage.

