

By: Senator(s) Dearing

To: Judiciary, Division B

SENATE BILL NO. 2821
(As Passed the Senate)

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 AMEND SECTIONS 97-41-1, 97-41-3, 97-41-5, 97-41-7, 97-41-9,
5 97-41-17, 97-41-21 AND 97-41-23, MISSISSIPPI CODE OF 1972, IN
6 CONFORMITY TO THE PROVISIONS OF THIS ACT; TO AMEND SECTION
7 97-41-2, MISSISSIPPI CODE OF 1972, TO CLARIFY AND REVISE THE
8 AUTHORITY OF A LAW ENFORCEMENT OFFICER TO SEIZE AN ANIMAL THAT IS
9 ALLEGED TO BE ABUSED AND NEGLECTED; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** The intent of the Legislature in amending Section
12 97-41-16 is to provide only for the protection of domesticated
13 dogs and cats, as these are the animals most often serving as the
14 loyal and beloved pets of the citizens of this state. Animals
15 other than dogs and cats are specifically excluded from the
16 enhanced protection described in Section 97-41-16 for dogs and
17 cats. The provisions of Section 97-41-16 do not apply, and shall
18 not be construed as applying, to any animal other than a dog or
19 cat.

20 **SECTION 2.** Section 97-41-16, Mississippi Code of 1972, is
21 amended as follows:

22 97-41-16. (1) (a) If a person * * * shall mischievously or
23 recklessly kill, maim, wound, * * * injure, beat, poison, deprive
24 of adequate shelter, food and water, or carry or confine in a
25 cruel manner any dog or cat, or cause any person to do the same,
26 then he shall be guilty of the offense of simple cruelty to a dog
27 or cat.

28 (i) A person who pleads guilty or nolo contendere
29 to, or is convicted of, a first offense of simple cruelty to a dog
30 or cat shall be guilty of a misdemeanor and fined not more than



31 One Thousand Dollars (\$1,000.00) or be imprisoned not more than
32 ninety (90) days, or both.

33 (ii) A person who pleads guilty or nolo contendere
34 to, or is convicted of, a second or subsequent offense of simple
35 cruelty to a dog or cat, the offenses being committed within a
36 period of five (5) years, shall be guilty of the felony of
37 aggravated cruelty to a dog or cat and punished as provided for
38 such offense in paragraph (b) of this subsection (1).

39 (b) If a person intentionally, maliciously, or out of a
40 spirit of revenge or wanton cruelty, shall kill, maim, seriously
41 wound, seriously injure, beat, poison, deprive of adequate
42 shelter, food and water, or carry or confine in a cruel manner any
43 dog or cat, or cause any person to do the same, then he shall be
44 guilty of the felony offense of aggravated cruelty to a dog or
45 cat, and upon conviction, shall be fined not more than Ten
46 Thousand Dollars (\$10,000.00) or imprisoned for not more than five
47 (5) years, or both.

48 (c) For purposes of this section, one or more alleged
49 acts of the offense of simple cruelty to a dog or cat that is
50 committed against more than one (1) dog or one (1) cat, or any
51 combination thereof, shall constitute a single offense if the
52 alleged acts occurred at the same time.

53 (2) In addition to the fine or imprisonment which may be
54 imposed, the court may order that restitution be made to the owner
55 of such dog or cat. The measure for restitution in money shall be
56 the current replacement value of such loss and the actual
57 veterinarian fees, medicine, special supplies, loss of income and
58 other costs incurred as a result of actions in violation of
59 subsection (1) of this section.

60 (3) (a) The court may order a person who pleads guilty or
61 nolo contendere to, or is convicted of the offense of aggravated
62 cruelty to a dog or cat, to:



63 (i) Receive a psychiatric or psychological
64 evaluation and counseling or treatment for a length of time as
65 prescribed by the court. The cost of any evaluation, counseling
66 and treatment shall be paid by the offender upon order of the
67 court, up to a maximum amount that is no more than the
68 jurisdictional limit of the sentencing court.

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

72 (iii) Submit to periodic unannounced visits by a
73 law enforcement officer, or an employee of an agency or department
74 of a political subdivision that is charged with the control or
75 welfare of dogs or cats within its jurisdiction, to inspect the
76 care and condition of any dog or cat that is in the care, custody
77 or possession of the offender, for a period of up to one (1) year,
78 which period may be extended by the court upon motion made by the
79 state.

80 (b) The court may enjoin a person who pleads guilty or
81 nolo contendere to, or is convicted of, the offense of aggravated
82 cruelty to a dog or cat from being employed in any position that
83 involves the care of a dog or cat, or in any place where dogs or
84 cats are kept or confined, for a period the court deems
85 appropriate.

86 (4) (a) Nothing in this section shall be construed as
87 prohibiting a person from:

88 (i) Defending himself or herself or another person
89 from physical or economic injury being threatened or caused by a
90 dog or cat.

91 (ii) Injuring or killing an unconfined dog or cat
92 on the property of the person, if the unconfined dog or cat is
93 believed to constitute a threat of physical injury or damage to
94 any animal under the care or control of such person or to any
95 wildlife that is found on the person's property.



96 (iii) Acting under the provisions of Section
97 95-5-19 to protect poultry or livestock from a trespassing dog
98 that is in the act of chasing or killing poultry or livestock.

99 (iv) Engaging in practices that are licensed or
100 lawful under the Mississippi Veterinary Practice Act, Section
101 73-39-51 et seq., or engaging in activities by any veterinarian
102 licensed in Mississippi while following accepted standards of
103 practice of the profession within the State of Mississippi,
104 including, but not limited to, the euthanizing, spaying or
105 neutering, ear cropping, ear tipping, tail docking, declawing or
106 debarking of a dog or cat.

107 (v) Rendering emergency care, treatment, or
108 assistance to a dog or cat that is abandoned, ill, injured, or in
109 distress related to an accident or disaster, if the person
110 rendering the care, treatment, or assistance is acting in good
111 faith.

112 (vi) Performing accepted agricultural and animal
113 husbandry practices with regard to livestock or poultry, including
114 those activities which involve:

- 115 1. Using dogs in such practices;
116 2. Raising, managing and using animals to
117 provide food, fiber or transportation.
118 3. Butchering animals and processing food.

119 (vii) Training for, or participating in, a rodeo,
120 equine activity, dog show, event sponsored by a kennel club or
121 other bona fide organization that promotes the breeding or showing
122 of dogs or cats, or other competitive event which involves the
123 lawful use of dogs or cats.

124 (viii) Engaging in accepted practices of dog or
125 cat identification.

126 (ix) Engaging in lawful activities that are
127 regulated by the Mississippi Department of Wildlife, Fisheries and
128 Parks or the Mississippi Department of Marine Resources,



129 including, without limitation, hunting, trapping, fishing and
130 wildlife and seafood management.

131 (x) Performing scientific and medical activities
132 undertaken by research and education facilities or institutions
133 that are:

134 1. Regulated under the provisions of the
135 Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1,
136 2011;

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

139 3. Subject to any other applicable state or
140 federal law or regulation governing animal research as in effect
141 on July 1, 2011.

142 (xi) Disposing of or destroying certain dogs under
143 authority of Section 19-5-50, 21-19-9 or 41-53-11, which allow
144 counties, municipalities and certain law enforcement officers to
145 destroy a dog running at large without proper identification
146 indicating that the dog has been vaccinated for rabies.

147 (xii) Engaging in professional pest control
148 activities, including those activities governed by the Mississippi
149 Pesticide Law of 1975, Section 69-23-1 et seq.; professional
150 services related to entomology, plant pathology, horticulture,
151 tree surgery, weed control or soil classification, as regulated
152 under Section 69-19-1 et seq.; and any other pest control
153 activities conducted in accordance with state law.

154 (b) If the owner or person in control of a dog or cat
155 is precluded, by natural or other causes beyond his reasonable
156 control, from acting to prevent an act or omission that might
157 otherwise constitute an allegation of the offense of simple
158 cruelty to a dog or cat or the offense of aggravated cruelty to a
159 dog or cat, then that person shall not be guilty of the offense.
160 Natural or other causes beyond the reasonable control of the
161 person include, without limitation, acts of God, declarations of



162 disaster, emergencies, acts of war, earthquakes, hurricanes,
163 tornadoes, fires, floods or other natural or man-made disasters.

164 (5) The provisions of this section shall not be construed
165 to:

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

167 (b) Create any civil or criminal liability on the part
168 of the driver of a motor vehicle if a dog or cat is accidentally
169 injured or killed as a result of being hit by the vehicle.

170 (6) (a) Except as otherwise provided in Section 97-35-47
171 for the false reporting of a crime, a person, who, in good faith
172 and acting without malice, reports a suspected incident of simple
173 or aggravated cruelty to a dog or cat to a local animal control,
174 protection or welfare organization, a local law enforcement
175 agency, or the Mississippi Department of Public Safety, shall be
176 immune from civil and criminal liability for reporting the
177 incident.

178 (b) A veterinarian licensed in Mississippi or a person
179 acting under the direct supervision of a veterinarian licensed in
180 Mississippi, who in good faith and acting without malice,
181 participates in the investigation of the alleged offense of
182 cruelty to a dog or cat, or makes a decision or renders services
183 regarding the care of a dog or cat that is involved in the
184 investigation, shall be immune from civil and criminal liability
185 for those acts.

186 (7) Nothing in this section shall limit the authority
187 of a municipality or board of supervisors to adopt ordinances,
188 rules, regulations or resolutions which may be, in whole or in
189 part, more restrictive than the provisions of this section, and in
190 those cases, the more restrictive ordinances, rules, regulations
191 or resolutions will govern.

192 **SECTION 3.** Section 97-41-1, Mississippi Code of 1972, is
193 amended as follows:



194 97-41-1. (1) Except as otherwise provided in Section
195 97-41-16 for a dog or cat, if any person shall intentionally
196 override, overdrive, overload, torture, * * *, unjustifiably
197 injure, deprive of shelter, food, or drink; or cruelly beat or
198 needlessly mutilate; or cause or procure to be overridden,
199 overdriven, overloaded, tortured, unjustifiably injured,
200 tormented, or deprived of shelter, food or drink; or to be cruelly
201 beaten or needlessly mutilated or killed, any living creature,
202 every such offender shall, for every offense, be guilty of a
203 misdemeanor.

204 (2) For purposes of this section:

205 (a) "Torture" is the act of doing physical injury or
206 causing death by the infliction of gross physical abuse meant for
207 no reason other than to cause intense or prolonged pain or serious
208 physical injury, with the intent of increasing or prolonging the
209 pain of the animal.

210 (b) "Mutilate" is to seriously injure an animal by
211 irreparably damaging the body parts of the animal or to render
212 useless any part of the body of the animal. "Mutilate" does not
213 include spaying, neutering, ear cropping, ear tipping, tail
214 docking, declawing, or debarking.

215 **SECTION 4.** Section 97-41-3, Mississippi Code of 1972, is
216 amended as follows:

217 97-41-3. (1) Any sheriff, constable, policeman, or agent of
218 a society for the prevention of cruelty to animals may kill, or
219 cause to be killed, any animal other than a dog or cat found
220 neglected or abandoned, if in the opinion of three (3) respectable
221 citizens it is injured or diseased past recovery, or by age has
222 become useless.

223 (2) After all reasonable attempts have been made to locate
224 the legal owner of a dog or cat that is found maimed, wounded,
225 injured or diseased, the dog or cat may be euthanized in a humane
226 manner, or caused to be euthanized in a humane manner, by:



227 (i) A law enforcement officer;
228 (ii) A veterinarian licensed in Mississippi;
229 (iii) An employee of an agency or department of a
230 political subdivision who is charged with the control or welfare
231 of dogs or cats within the subdivision; or
232 (iv) An employee or agent of an organization who
233 has the purpose of protecting the welfare of or preventing cruelty
234 to dogs or cats and that possesses nonprofit status under the
235 United States Internal Revenue Code.

236 The provisions of this subsection (2) shall not be construed
237 to prevent the immediate euthanasia by the persons enumerated in
238 this subsection or by any other person, if it is necessary to
239 prevent unrelievable suffering of the dog or cat. A method of
240 killing approved by the most recent American Veterinary Medical
241 Association Guidelines in Euthanasia in effect at the time shall
242 be presumed to be humane.

243 **SECTION 5.** Section 97-41-5, Mississippi Code of 1972, is
244 amended as follows:

245 97-41-5. If any person shall carry, or cause to be carried
246 by hand or in or upon any vehicle or other conveyance, any
247 creature other than a dog or cat in a cruel or inhuman manner, he
248 shall be guilty of a misdemeanor.

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

251 97-41-7. If any person shall confine, or cause to be
252 confined, in any stable, lot, or other place, any living creature
253 other than a dog or cat, without supplying the same during such
254 confinement with a sufficient quantity of good and wholesome food
255 and water, he shall be guilty of a misdemeanor.

256 **SECTION 7.** Section 97-41-9, Mississippi Code of 1972, is
257 amended as follows:

258 97-41-9. If any person be the owner or have the custody of
259 any living creature other than a dog or cat and unjustifiably



260 neglect or refuse to furnish it necessary shelter, food, or drink,
261 he shall be guilty of a misdemeanor.

262 **SECTION 8.** Section 97-41-17, Mississippi Code of 1972, is
263 amended as follows:

264 97-41-17. Every person who shall willfully and unlawfully
265 administer any poison to any horse, mare, colt, mule, jack,
266 jennet, cattle, deer, * * * hog, sheep, chicken, duck, goose,
267 turkey, pea-fowl, guinea-fowl, or partridge, or shall maliciously
268 expose any poison substance with intent that the same should be
269 taken or swallowed by any horse, mare, colt, mule, jack, jennet,
270 cattle, * * * hog, sheep, chicken, duck, goose, turkey, pea-fowl,
271 guinea-fowl, or partridge, shall, upon conviction, be punished by
272 imprisonment in the Penitentiary not exceeding three (3) years, or
273 in the county jail not exceeding one (1) year, and by a fine not
274 exceeding Five Hundred Dollars (\$500.00).

275 **SECTION 9.** Section 97-41-21, Mississippi Code of 1972, is
276 amended as follows:

277 97-41-21. (1) An individual shall not do either of the
278 following:

279 (a) Willfully and maliciously assault, beat, harass,
280 injure, or attempt to assault, beat, harass or injure, a dog that
281 he or she knows or has reason to believe is a guide or leader dog
282 for a blind individual, a hearing dog for a deaf or audibly
283 impaired individual, * * * a service dog for a physically limited
284 individual, or a support dog for a mobility impaired person as
285 described in Sections 43-6-151 through 43-6-155.

286 (b) Willfully and maliciously impede or interfere with,
287 or attempt to impede or interfere with, duties performed by a dog
288 that he or she knows or has reason to believe is a guide or leader
289 dog for a blind individual, a hearing dog for a deaf or audibly
290 impaired individual, * * * a service dog for a physically limited
291 individual, or a support dog for a mobility impaired person as
292 described in Sections 43-6-151 through 43-6-155.



293 (2) An individual who violates subsection (1) is guilty of a
294 misdemeanor punishable by imprisonment for not more than ninety
295 (90) days or a fine of not more than Five Hundred Dollars
296 (\$500.00), or both.

297 (3) In a prosecution for a violation of subsection (1),
298 evidence that the defendant initiated or continued conduct
299 directed toward a dog described in subsection (1) after being
300 requested to avoid or discontinue that conduct or similar conduct
301 by a blind, deaf, audibly impaired, physically limited or mobility
302 impaired individual being served or assisted by the dog shall give
303 rise to a rebuttable presumption that the conduct was initiated or
304 continued maliciously.

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

309 (5) As used in this section:

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

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

318 (c) "Deaf" means the individual's hearing is totally
319 impaired or the individual's hearing, with or without
320 amplification, is so seriously impaired that the primary means of
321 receiving spoken language is through other sensory input,
322 including, but not limited to, lip reading, sign language, finger
323 spelling or reading.

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



326 impede or interfere with the dog's performance of its duties or
327 that places the blind, deaf, audibly impaired or physically
328 limited individual being served or assisted by the dog in danger
329 of injury.

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

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

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

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

337 (iii) With intent to disturb, endanger or cause
338 emotional distress to a blind, deaf, audibly impaired or
339 physically limited individual being served or assisted by a dog
340 described in subsection (1).

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

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

347 (vi) With knowledge that the individual's conduct
348 will, or is likely to, disturb, endanger or cause emotional
349 distress to a blind, deaf, audibly impaired or physically limited
350 individual being served or assisted by a dog described in
351 subsection (1).

352 (g) "Physically limited" means having limited
353 ambulatory abilities and includes, but is not limited to, having a
354 temporary or permanent impairment or condition that does one or
355 more of the following:

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



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

360 (iii) Causes faulty coordination.

361 (iv) Reduces mobility, flexibility, coordination
362 or perceptiveness.

363 **SECTION 10.** Section 97-41-23, Mississippi Code of 1972, is
364 amended as follows:

365 97-41-23. (1) It is unlawful for any person to willfully
366 and maliciously taunt, torment, tease, beat, strike, or to
367 administer, expose or inject any desensitizing drugs, chemicals or
368 substance to any public service animal. Any person who violates
369 this section is guilty of a misdemeanor, and upon conviction
370 thereof shall be fined not more than Two Hundred Dollars (\$200.00)
371 and be imprisoned not more than five (5) days, or both.

372 (2) Any person who, without just cause, purposely kills or
373 injures any public service animal is guilty of a felony and upon
374 conviction shall be fined not more than Five Thousand Dollars
375 (\$5,000.00) and be imprisoned not more than five (5) years, or
376 both.

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

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

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

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



390 **SECTION 11.** Section 97-41-2, Mississippi Code of 1972, is
391 amended as follows:

392 97-41-2. (1) All courts in the State of Mississippi may
393 order the seizure of an animal by a law enforcement agency, for
394 its care and protection upon a determination that probable cause
395 exists to believe that a crime under this chapter has been or is
396 being committed against that animal. The court may appoint an
397 animal control agency, agent of an animal shelter or rescue
398 organization, veterinarian or other person as temporary custodian
399 for the said animal, pending final disposition of the animal
400 pursuant to this section. Such temporary custodian shall directly
401 contract and be responsible for any care rendered to such animal,
402 and may make arrangements for such care as may be necessary. Upon
403 seizure of an animal, the law enforcement agency responsible for
404 removal of the animal shall serve notice upon the owner of the
405 animal, if possible, and shall also post prominently a notice to
406 the owner or custodian to inform such person that the animal has
407 been seized. Such process and notice shall contain a description
408 of the animal seized, the date seized, the name of the law
409 enforcement agency seizing the animal, the name of the temporary
410 custodian, if known at the time, and shall include a copy of the
411 order of the court authorizing the seizure.

412 (2) Within five (5) days of seizure of an animal, the owner
413 of the animal may request a hearing in the court ordering the
414 animal to be seized to determine whether the owner is able to
415 provide adequately for the animal and is fit to have custody of
416 the animal until court proceedings are concluded. The court shall
417 hold such hearing within fourteen (14) days of receiving such
418 request. The hearing shall be concluded and the court order
419 entered thereon within twenty-one (21) days after the hearing is
420 commenced. * * *

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



423 (a) Testimony from law enforcement officers, animal
424 control officers, animal protection officials, and other witnesses
425 as to the condition the animal was kept in by its owner or
426 custodian.

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

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

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

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

435 (f) Any other evidence the court considers to be
436 material or relevant.

437 (4) If a defendant is found guilty of a violation of this
438 chapter, and upon proof of reasonable and necessary costs incurred
439 as a result of the animal's seizure, including, but not limited
440 to, animal medical and boarding, the court may order that the
441 animal's owner reimburse the temporary custodian for such costs.
442 A lien for authorized expenses is hereby created upon all animals
443 seized under this section, and shall have priority to any other
444 lien on such animal.

445 (5) If the court finds the owner of the animal is guilty of
446 a violation under this chapter, * * * the court may order that the
447 animal be permanently forfeited and released to an animal control
448 agency, animal protection organization or to the appropriate
449 entity to be euthanized or the court may order that such animal be
450 sold at public sale in the manner now provided for judicial sales;
451 any proceeds from such sale shall go first toward the payment of
452 expenses and costs relating to the care and treatment of such
453 animal, and any excess amount shall be paid to the owner of the
454 animal.



455 (6) If the court finds the owner guilty of a violation under
456 this chapter, the court may order that other animals in the
457 custody of the owner that were not seized be surrendered and
458 further enjoin the owner from having custody of other animals as a
459 condition of any probationary or parole term imposed.

460 (7) If the court determines the owner is able to provide
461 adequately for, and have custody of, the animal, until court
462 proceedings are included or the court finds the owner innocent of
463 a violation under this chapter, the court shall order the animal
464 be claimed and removed by the owner within seven (7) days after
465 the date of the order.

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

471 (9) For the purposes of this section, the term "animal" or
472 "animals" means any feline, exotic animal, canine, horse, mule,
473 jack or jennet.

474 **SECTION 12.** The provisions of Section 1 of this act shall be
475 known and may be cited as the "Mississippi Dog and Cat Pet
476 Protection Law of 2011."

477 **SECTION 13.** This act shall take effect and be in force from
478 and after its passage.

