

By: Senator(s) Dearing

To: Judiciary, Division B

SENATE BILL NO. 2821
(As Sent to Governor)

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 domesticated dogs and cats are specifically excluded from the
20 enhanced 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 domesticated dog or cat.

23 (2) (a) If a person * * * shall intentionally or with
24 criminal negligence wound, deprive of adequate shelter, food or
25 water, or carry or confine in a cruel manner, any domesticated dog
26 or cat, or cause any person to do the same, then he or she shall
27 be guilty of the offense of simple cruelty to a dog or cat. A
28 person who is convicted of the offense of simple cruelty to a dog
29 or cat shall be guilty of a misdemeanor and fined not more than



30 One Thousand Dollars (\$1,000.00), or * * * imprisoned not more
31 than six (6) months, or both.

32 (b) If a person with malice shall intentionally
33 torture, mutilate, maim, burn, starve or disfigure any
34 domesticated dog or cat, or cause any person to do the same, then
35 he or she shall be guilty of the offense of aggravated cruelty to
36 a dog or cat.

37 (i) A person who is convicted of a first offense
38 of aggravated cruelty to a dog or cat shall be guilty of a
39 misdemeanor and fined not more than Two Thousand Five Hundred
40 Dollars (\$2,500.00), or imprisoned for not more than six (6)
41 months, or both.

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

48 (c) A conviction entered upon a plea of nolo contendere
49 to a charge of aggravated cruelty to a dog or cat shall be counted
50 as a conviction for the purpose of determining whether a later
51 conviction is a first or subsequent offense.

52 (d) For purposes of this section, one or more alleged
53 acts of the offenses of simple cruelty to a dog or cat or
54 aggravated cruelty to a dog or cat, committed against one or more
55 domesticated dogs or cats, or any combination thereof, shall
56 constitute a single offense if the alleged acts occurred at the
57 same time.

58 (3) In addition to such fine or imprisonment which may be
59 imposed:

60 (a) The court shall order that restitution be made to
61 the owner of such dog or cat. The measure for restitution in
62 money shall be the current replacement value of such loss and the



63 actual veterinarian fees, medicine, special supplies, loss of
64 income and other costs incurred as a result of actions in
65 violation of subsection (2) of this section; and

66 (b) The court may order that:

67 (i) The reasonable costs of sheltering,
68 transporting and rehabilitating the dog or cat, and any other
69 costs directly related to the care of the dog or cat, be
70 reimbursed to:

71 1. Any law enforcement agency; or

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

79 (ii) The person convicted:

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

86 2. Perform community service for a period not
87 exceeding the applicable maximum term of imprisonment that may be
88 imposed for conviction of the offense.

89 3. Be enjoined from employment in any
90 position that involves the care of a dog or cat, or in any place
91 where dogs or cats are kept or confined, for a period which the
92 court deems appropriate.

93 (4) (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 domesticated animal under the care or control of such person.

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

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

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

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

121 1. Using dogs in such practices.

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

124 3. Butchering animals and processing food.

125 (vii) Training for, or participating in, a rodeo,
126 equine activity, dog show, event sponsored by a kennel club or
127 other bona fide organization that promotes the breeding or showing



128 of dogs or cats, or any other competitive event which involves the
129 lawful use of dogs or cats.

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

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

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

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

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

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

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

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



160 (xiii) Performing the humane euthanization of a
161 dog or cat pursuant to Section 97-41-3.

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

172 (5) The provisions of this section shall not be construed
173 to:

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

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

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

187 (b) A veterinarian licensed in Mississippi or a person
188 acting at the direction of a veterinarian licensed in Mississippi,
189 who in good faith and acting without malice, participates in the
190 investigation of an alleged offense of simple or aggravated
191 cruelty to a dog or cat, or makes a decision or renders services
192 regarding the care of a dog or cat that is involved in the



193 investigation, shall be immune from civil and criminal liability
194 for those acts.

195 (7) Other than an agency or department of a political
196 subdivision that is charged with the control, protection or
197 welfare of dogs or cats within the subdivision, any organization
198 that has the purpose of protecting the welfare of, or preventing
199 cruelty to, dogs or cats, shall register the organization with the
200 sheriff of the county in which the organization operates a
201 physical facility for the protection, welfare or shelter of dogs
202 or cats, on or before the first day of October each year. The
203 provisions of this subsection (7) shall apply to any organization
204 that has the purpose of protecting the welfare of dogs or cats, or
205 preventing cruelty to dogs or cats, regardless of whether the
206 organization also protects animals other than dogs or cats.

207 (8) Nothing in this section shall limit the authority of a
208 municipality or board of supervisors to adopt ordinances, rules,
209 regulations or resolutions which may be, in whole or in part, more
210 restrictive than the provisions of this section, and in those
211 cases, the more restrictive ordinances, rules, regulations or
212 resolutions will govern.

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

215 97-41-1. Except as otherwise provided in Section 97-41-16
216 for a dog or cat, if any person shall intentionally or with
217 criminal negligence override, overdrive, overload, torture,
218 torment, unjustifiably injure, deprive of necessary sustenance,
219 food, or drink; or cruelly beat or needlessly mutilate; or cause
220 or procure to be overridden, overdriven, overloaded, tortured,
221 unjustifiably injured, tormented, or deprived of necessary
222 sustenance, food or drink; or to be cruelly beaten or needlessly
223 mutilated or killed, any living creature, every such offender
224 shall, for every offense, be guilty of a misdemeanor.



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

227 97-41-3. (1) Any sheriff, constable, policeman, or agent of
228 a society for the prevention of cruelty to animals may kill, or
229 cause to be killed, any animal other than a dog or cat found
230 neglected or abandoned, if in the opinion of three (3) respectable
231 citizens it is injured or diseased past recovery, or by age has
232 become useless.

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

237 (i) A law enforcement officer;

238 (ii) A veterinarian licensed in Mississippi;

239 (iii) An employee of an agency or department of a
240 political subdivision that is charged with the control or welfare
241 of dogs or cats within the subdivision; or

242 (iv) An employee or agent of an organization that
243 has the purpose of protecting the welfare of or preventing cruelty
244 to dogs or cats and that possesses nonprofit status under the
245 United States Internal Revenue Code.

246 (b) The provisions of this subsection (2) shall not be
247 construed to prevent the immediate euthanasia by the persons
248 enumerated in this subsection or by any other person, if it is
249 necessary to prevent unrelievable suffering of the dog or cat.

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

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

255 97-41-5. If any person shall carry, or cause to be carried
256 by hand or in or upon any vehicle or other conveyance, any



257 creature other than a dog or cat in a cruel or inhuman manner, he
258 shall be guilty of a misdemeanor.

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

261 97-41-7. If any person shall confine, or cause to be
262 confined, in any stable, lot, or other place, any living creature
263 other than a dog or cat, without supplying the same during such
264 confinement with a sufficient quantity of good and wholesome food
265 and water, he shall be guilty of a misdemeanor.

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

268 97-41-9. If any person be the owner or have the custody of
269 any living creature other than a dog or cat and unjustifiably
270 neglect or refuse to furnish it necessary sustenance, food, or
271 drink, he shall be guilty of a misdemeanor.

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

274 97-41-17. Every person who shall willfully and unlawfully
275 administer any poison to any horse, mare, colt, mule, jack,
276 jennet, cattle, deer, dog, cat, hog, sheep, chicken, duck, goose,
277 turkey, pea-fowl, guinea-fowl, or partridge, or shall maliciously
278 expose any poison substance with intent that the same should be
279 taken or swallowed by any horse, mare, colt, mule, jack, jennet,
280 cattle, dog, cat, hog, sheep, chicken, duck, goose, turkey,
281 pea-fowl, guinea-fowl, or partridge, shall, upon conviction, be
282 punished by imprisonment in the Penitentiary not exceeding three
283 (3) years, or in the county jail not exceeding one (1) year, and
284 by a fine not exceeding Five Hundred Dollars (\$500.00).

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

287 97-41-21. (1) An individual shall not do either of the
288 following:



289 (a) Willfully and maliciously assault, beat, harass,
290 injure, or attempt to assault, beat, harass or injure, a dog that
291 he or she knows or has reason to believe is a guide or leader dog
292 for a blind individual, a hearing dog for a deaf or audibly
293 impaired individual, * * * a service dog for a physically limited
294 individual, or a support dog for a mobility impaired person as
295 described in Sections 43-6-151 through 43-6-155.

296 (b) Willfully and maliciously impede or interfere with,
297 or attempt to impede or interfere with, duties performed by a dog
298 that he or she knows or has reason to believe is a guide or leader
299 dog for a blind individual, a hearing dog for a deaf or audibly
300 impaired individual, * * * a service dog for a physically limited
301 individual, or a support dog for a mobility impaired person as
302 described in Sections 43-6-151 through 43-6-155.

303 (2) An individual who violates subsection (1) is guilty of a
304 misdemeanor punishable by imprisonment for not more than ninety
305 (90) days or a fine of not more than Five Hundred Dollars
306 (\$500.00), or both.

307 (3) In a prosecution for a violation of subsection (1),
308 evidence that the defendant initiated or continued conduct
309 directed toward a dog described in subsection (1) after being
310 requested to avoid or discontinue that conduct or similar conduct
311 by a blind, deaf, audibly impaired, physically limited or mobility
312 impaired individual being served or assisted by the dog shall give
313 rise to a rebuttable presumption that the conduct was initiated or
314 continued maliciously.

315 (4) A conviction and imposition of a sentence under this
316 section does not prevent a conviction and imposition of a sentence
317 under Section 97-41-16 pertaining to the offenses of simple or
318 aggravated cruelty to a dog or cat, or any other applicable
319 provision of law.

320 (5) As used in this section:



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

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

329 (c) "Deaf" means the individual's hearing is totally
330 impaired or the individual's hearing, with or without
331 amplification, is so seriously impaired that the primary means of
332 receiving spoken language is through other sensory input,
333 including, but not limited to, lip reading, sign language, finger
334 spelling or reading.

335 (d) "Harass" means to engage in any conduct directed
336 toward a guide, leader, hearing or service dog that is likely to
337 impede or interfere with the dog's performance of its duties or
338 that places the blind, deaf, audibly impaired or physically
339 limited individual being served or assisted by the dog in danger
340 of injury.

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

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

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

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

348 (iii) With intent to disturb, endanger or cause
349 emotional distress to a blind, deaf, audibly impaired or
350 physically limited individual being served or assisted by a dog
351 described in subsection (1).



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

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

358 (vi) With knowledge that the individual's conduct
359 will, or is likely to, disturb, endanger or cause emotional
360 distress to a blind, deaf, audibly impaired or physically limited
361 individual being served or assisted by a dog described in
362 subsection (1).

363 (g) "Physically limited" means having limited
364 ambulatory abilities and includes, but is not limited to, having a
365 temporary or permanent impairment or condition that does one or
366 more of the following:

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

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

371 (iii) Causes faulty coordination.

372 (iv) Reduces mobility, flexibility, coordination
373 or perceptiveness.

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

376 97-41-23. (1) It is unlawful for any person to willfully
377 and maliciously taunt, torment, tease, beat, strike, or to
378 administer, expose or inject any desensitizing drugs, chemicals or
379 substance to any public service animal. Any person who violates
380 this section is guilty of a misdemeanor, and upon conviction
381 thereof shall be fined not more than Two Hundred Dollars (\$200.00)
382 and be imprisoned not more than five (5) days, or both.

383 (2) Any person who, without just cause, purposely kills or
384 injures any public service animal is guilty of a felony and upon



385 conviction shall be fined not more than Five Thousand Dollars
386 (\$5,000.00) and be imprisoned not more than five (5) years, or
387 both.

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

392 (4) A conviction and imposition of a sentence under this
393 section does not prevent a conviction and imposition of a sentence
394 under Section 97-41-16 pertaining to the offenses of simple or
395 aggravated cruelty to a dog or cat, or under any other applicable
396 provision of law.

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

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

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

