

By: Representative Snowden

To: Judiciary B

HOUSE BILL NO. 984

1 AN ACT TO AMEND SECTION 97-41-16, MISSISSIPPI CODE OF 1972,
2 TO CREATE A FIRST-OFFENSE FELONY OF AGGRAVATED CRUELTY TO A DOG OR
3 CAT AND TO ENHANCE THE PENALTY FOR THOSE VIOLATIONS; TO DEFINE THE
4 TERM "ADEQUATE SHELTER"; TO LIMIT THE NUMBER OF COUNTS THAT CAN BE
5 CHARGED ARISING FROM A SINGLE INCIDENT; TO REQUIRE THE REPORTING
6 OF ALL OFFENSES AGAINST DOGS OR CATS TO CONFORM TO FBI REPORTING
7 GUIDELINES; AND FOR RELATED PURPOSES.

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

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

11 97-41-16. (1) (a) The provisions of this section shall be
12 known and may be cited as the "Mississippi Dog and Cat Pet
13 Protection Law of 2011."

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



21 construed as applying, to any animal other than a domesticated dog
22 or cat.

23 (2) (a) If a person * * * intentionally or with criminal
24 negligence wounds, deprives of food, water or adequate
25 shelter * * * that protects the animal from the elements of wind
26 and water and allows the animal to remain dry, or * * * carries or
27 confines in a cruel manner, any domesticated dog or cat, or causes
28 any person to do the same, then he or she shall be guilty of the
29 offense of simple cruelty to a dog or cat. A person who is
30 convicted of the offense of simple cruelty to a dog or cat shall
31 be guilty of a misdemeanor and fined not more than One Thousand
32 Dollars (\$1,000.00), or imprisoned not more than six (6) months,
33 or both.

34 (b) If a person with malice * * * intentionally
35 tortures, mutilates, maims, burns, suffocates, drowns, starves to
36 death or disfigures any domesticated dog or cat, or causes any
37 person to do the same, then he or she shall be guilty of the
38 offense of aggravated cruelty to a dog or cat. * * * A person who
39 is convicted of * * * aggravated cruelty to a dog or cat * * *
40 shall be guilty of a felony and fined not more than Five Thousand
41 Dollars (\$5,000.00) and imprisoned for not less than one (1) year
42 nor more than five (5) years.

43 (c) * * * As used in this section, "adequate shelter"
44 for dogs and cats predominantly maintained outdoors means a
45 shelter that is:



46 (i) Structurally sound and strong enough to block
47 rain, sun and wind;

48 (ii) Constructed of materials that are impervious
49 to moisture, including a floor with a solid surface such as a
50 resting platform, pad, floor mat or a similar device;

51 (iii) Constructed with a minimum of three (3)
52 sides and a waterproof roof allowing the animal to remain dry and
53 clean;

54 (iv) Of sufficient space to allow the animal
55 freedom of movement; and

56 (v) Properly ventilated and periodically cleaned
57 to minimize health hazards.

58 (d) For purposes of this section, * * * if more * * *
59 than one (1) act of the offenses of simple cruelty to a dog or cat
60 or aggravated cruelty to a dog or cat, committed against one or
61 more domesticated dogs or cats, or any combination thereof * * *
62 is alleged, each act shall constitute a * * * separate offense if
63 the alleged acts occurred at the same time and arose out of the
64 same set of circumstances, subject to a maximum of ten (10) counts
65 of simple or aggravated cruelty to a dog or cat.

66 (3) In addition to such fine or imprisonment which may be
67 imposed:

68 (a) The court shall order that:

69 (i) Restitution be made to the owner of such dog
70 or cat. The measure for restitution in money shall be the current



71 replacement value of such loss and the actual veterinarian fees,
72 medicine, special supplies, loss of income and other costs
73 incurred as a result of actions in violation of subsection (2) of
74 this section; and

75 (ii) The person convicted receive a psychiatric or
76 psychological evaluation and counseling or treatment for a length
77 of time as prescribed by the court. The cost of any evaluation,
78 counseling or treatment must be paid by the offender upon order of
79 the court, up to a maximum amount that is no more than the
80 jurisdictional limit of the sentencing court; and

81 (b) The court may order that:

82 (i) The reasonable costs of sheltering,
83 transporting and rehabilitating the dog or cat, and any other
84 costs directly related to the care of the dog or cat, be
85 reimbursed to:

- 86 1. Any law enforcement agency; or
87 2. Any agency or department of a political
88 subdivision that is charged with the control, protection or
89 welfare of dogs or cats within the subdivision. The agency or
90 department may reimburse a nongovernmental organization for such
91 costs, if the organization possesses nonprofit status under the
92 United States Internal Revenue Code and has the purpose of
93 protecting the welfare of, or preventing cruelty to, dogs or cats.

94 (ii) The person convicted:

95 * * *



96 * * *1. Perform community service for a
97 period not exceeding the applicable maximum term of imprisonment
98 that may be imposed for conviction of the offense.

99 * * *2. Be enjoined from employment in any
100 position that involves the care of a dog or cat, or in any place
101 where dogs or cats are kept or confined, for a period which the
102 court deems appropriate.

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

105 (i) Defending himself or herself or another person
106 from physical or economic injury being threatened or caused by a
107 dog or cat.

108 (ii) Injuring or killing an unconfined dog or cat
109 on the property of the person, if the unconfined dog or cat is
110 believed to constitute a threat of physical injury or damage to
111 any domesticated animal under the care or control of such person.

112 (iii) Acting under the provisions of Section
113 95-5-19 to protect poultry or livestock from a trespassing dog
114 that is in the act of chasing or killing the poultry or livestock,
115 or acting to protect poultry or livestock from a trespassing cat
116 that is in the act of chasing or killing the poultry or livestock.

117 (iv) Engaging in practices that are licensed or
118 lawful under the Mississippi Veterinary Practice Act, Section
119 73-39-51 et seq., or engaging in activities by any licensed
120 veterinarian while following accepted standards of practice of the



121 profession within the State of Mississippi, including the
122 euthanizing of a dog or cat.

123 (v) Rendering emergency care, treatment, or
124 assistance to a dog or cat that is abandoned, ill, injured, or in
125 distress, if the person rendering the care, treatment, or
126 assistance is acting in good faith.

127 (vi) Performing activities associated with
128 accepted agricultural and animal husbandry practices with regard
129 to livestock, poultry or other animals, including those activities
130 which involve:

- 131 1. Using dogs in such practices.
- 132 2. Raising, managing and using animals to
133 provide food, fiber or transportation.
- 134 3. Butchering animals and processing food.

135 (vii) Training for, or participating in, a rodeo,
136 equine activity, dog show, event sponsored by a kennel club or
137 other bona fide organization that promotes the breeding or showing
138 of dogs or cats, or any other competitive event which involves the
139 lawful use of dogs or cats.

140 (viii) Engaging in accepted practices of dog or
141 cat identification.

142 (ix) Engaging in lawful activities that are
143 regulated by the Mississippi Department of Wildlife, Fisheries and
144 Parks or the Mississippi Department of Marine Resources, including



145 without limitation, hunting, trapping, fishing, and wildlife and
146 seafood management.

147 (x) Performing scientific, research, medical and
148 zoological activities undertaken by research and education
149 facilities or institutions that are:

150 1. Regulated under the provisions of the
151 Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1,
152 2011;

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

155 3. Subject to any other applicable state or
156 federal law or regulation governing animal research as in effect
157 on July 1, 2011.

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

163 (xii) Engaging in professional pest control
164 activities, including those activities governed by the Mississippi
165 Pesticide Law of 1975, Section 69-23-1 et seq.; professional
166 services related to entomology, plant pathology, horticulture,
167 tree surgery, weed control or soil classification, as regulated
168 under Section 69-19-1 et seq.; and any other pest control
169 activities conducted in accordance with state law.



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

172 (b) If the owner or person in control of a dog or cat
173 is precluded, by natural or other causes beyond his reasonable
174 control, from acting to prevent an act or omission that might
175 otherwise constitute an allegation of the offense of simple
176 cruelty to a dog or cat or the offense of aggravated cruelty to a
177 dog or cat, then that person shall not be guilty of the offense.
178 Natural or other causes beyond the reasonable control of the
179 person include, without limitation, acts of God, declarations of
180 disaster, emergencies, acts of war, earthquakes, hurricanes,
181 tornadoes, fires, floods or other natural disasters.

182 (5) The provisions of this section shall not be construed
183 to:

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

185 (b) Create any civil or criminal liability on the part
186 of the driver of a motor vehicle if the driver unintentionally
187 injures or kills a dog or cat as a result of the dog or cat being
188 accidentally hit by the vehicle.

189 (6) (a) Except as otherwise provided in Section 97-35-47
190 for the false reporting of a crime, a person, who in good faith
191 and acting without malice, reports a suspected incident of simple
192 cruelty to a dog or cat, or aggravated cruelty to a dog or cat, to
193 a local animal control, protection or welfare organization, a
194 local law enforcement agency, or the Mississippi Department of



195 Public Safety, shall be immune from civil and criminal liability
196 for reporting the incident.

197 (b) A veterinarian licensed in Mississippi or a person
198 acting at the direction of a veterinarian licensed in Mississippi,
199 who in good faith and acting without malice, participates in the
200 investigation of an alleged offense of simple or aggravated
201 cruelty to a dog or cat, or makes a decision or renders services
202 regarding the care of a dog or cat that is involved in the
203 investigation, shall be immune from civil and criminal liability
204 for those acts.

205 (7) Other than an agency or department of a political
206 subdivision that is charged with the control, protection or
207 welfare of dogs or cats within the subdivision, any organization
208 that has the purpose of protecting the welfare of, or preventing
209 cruelty to, dogs or cats, shall register the organization with the
210 sheriff of the county in which the organization operates a
211 physical facility for the protection, welfare or shelter of dogs
212 or cats, on or before the first day of October each year. The
213 provisions of this subsection (7) shall apply to any organization
214 that has the purpose of protecting the welfare of dogs or cats, or
215 preventing cruelty to dogs or cats, regardless of whether the
216 organization also protects animals other than dogs or cats.

217 (8) Nothing in this section shall limit the authority of a
218 municipality or board of supervisors to adopt ordinances, rules,
219 regulations or resolutions which may be, in whole or in part, more



220 restrictive than the provisions of this section, and in those
221 cases, the more restrictive ordinances, rules, regulations or
222 resolutions will govern.

223 (9) (a) When investigating allegations of a violation of
224 this section, whether or not an arrest results, law enforcement
225 officers must use the form prescribed for investigation of simple
226 or aggravated cruelty to a dog or cat by the Attorney General in
227 consultation with the Mississippi Sheriffs' Association and the
228 Mississippi Association of Police Chiefs. However, failure by a
229 law enforcement officer to use the uniform offense report is not a
230 defense to a crime charged under this section.

231 (b) In any conviction under this section, the
232 sentencing order must include the designation of "animal cruelty."
233 The court clerk must enter the disposition of the matter into the
234 corresponding uniform offense report.

235 (c) The Attorney General, in conjunction with the
236 Mississippi Sheriffs' Association and the Mississippi Association
237 of Police Chiefs, shall develop the uniform offense report form in
238 conformity with the rules of the Federal Bureau of Investigation
239 in order to facilitate the entry of animal cruelty offenses into
240 the National Incident-Based Reporting System.

241 **SECTION 2.** This act shall take effect and be in force from
242 and after July 1, 2019.

