

By: Representative Snowden

To: Judiciary B

HOUSE BILL NO. 990

1 AN ACT TO AMEND SECTION 97-41-2, MISSISSIPPI CODE OF 1972, TO  
 2 PROVIDE FOR THE SEIZURE OF DOGS FOR WHICH THERE IS PROBABLE CAUSE  
 3 THAT THEY ARE USED FOR DOG FIGHTING; TO REQUIRE THAT AN ANIMAL  
 4 OWNER REQUEST A HEARING WITHIN FIVE DAYS OF ANIMAL SEIZURE OR  
 5 PERMANENTLY FORFEIT THE ANIMAL; TO AUTHORIZE IMMEDIATE  
 6 EUTHANIZATION FOR ANIMALS THAT ARE NOT LIKELY TO RECOVER; TO AMEND  
 7 SECTION 97-41-16, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT SIMPLE  
 8 CRUELTY TO A DOG OR CAT IS A FELONY; TO PROVIDE THAT MULTIPLE ACTS  
 9 OF SIMPLE OR AGGRAVATED CRUELTY TO ONE DOG OR CAT ARE SEPARATE  
 10 OFFENSES; TO PROVIDE THAT ACTS OF SIMPLE OR AGGRAVATED CRUELTY TO  
 11 MULTIPLE DOGS OR CATS ARE SEPARATE OFFENSES; TO AMEND SECTION  
 12 97-41-19, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE ARRESTING  
 13 LAW ENFORCEMENT OFFICER SHALL APPOINT A TEMPORARY CUSTODIAN FOR  
 14 ANY DOGS SEIZED PENDING FINAL DISPOSITION OF THE ANIMAL; TO BRING  
 15 FORWARD SECTION 97-41-18, WHICH RELATES TO PROHIBITIONS ON  
 16 FIGHTING ANIMALS, WAGERING AND BETTING, AND FOR RELATED PURPOSES.

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

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

20 97-41-2. (1) All courts in the State of Mississippi may  
 21 order the seizure of an animal by a law enforcement agency, for  
 22 its care and protection upon a finding of probable cause to  
 23 believe \* \* \* the animal is being cruelly treated, used for dog  
 24 fighting in violation of Section 97-41-19(1), neglected or  
 25 abandoned. Such probable cause may be established upon sworn



26 testimony of any person who has witnessed the condition of \* \* \*  
27 the animal. The court \* \* \* shall appoint an animal control  
28 agency, agent of an animal shelter organization, veterinarian  
29 or \* \* \* designee as temporary custodian for the \* \* \* the animal,  
30 pending final disposition of the animal pursuant to this section.  
31 Such temporary custodian shall directly contract and be  
32 responsible for any care rendered to such animal, and may make  
33 arrangements for such care as may be necessary. Upon seizure of  
34 an animal, the law enforcement agency responsible for removal of  
35 the animal shall serve notice upon the owner of the animal, if  
36 possible, and shall also post prominently a notice to the owner or  
37 custodian to inform such person that the animal has been seized.  
38 Such process and notice shall contain a description of the animal  
39 seized, the date seized, the name of the law enforcement agency  
40 seizing the animal, the name of the temporary custodian, if known  
41 at the time, and shall include a copy of the order of the court  
42 authorizing the seizure.

43 (2) Within five (5) days of seizure of an animal, the owner  
44 of the animal may request a hearing in the court ordering the  
45 animal to be seized to determine whether the owner is able to  
46 provide adequately for the animal and is fit to have custody of  
47 the animal. The court shall hold such hearing within fourteen  
48 (14) days of receiving such request. The hearing shall be  
49 concluded and the court order entered thereon within \* \* \* five  
50 (5) days after the hearing is commenced. If the owner of the



51 animal does not request a hearing within five (5) days of the  
52 animal being seized, the animal shall be permanently forfeited and  
53 released to an animal control agency. \* \* \*

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

56 (a) Testimony from law enforcement officers, animal  
57 control officers, animal protection officials, and other witnesses  
58 as to the condition the animal was kept in by its owner or  
59 custodian.

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

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

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

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

68 (f) Any other evidence the court considers to be  
69 material or relevant.

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



76 (5) If the court finds the owner of the animal is unable or  
77 unfit to adequately provide for the animal, or that the animal is  
78 severely injured, diseased, or suffering, and, therefore, not  
79 likely to recover, the court \* \* \* shall order that the animal be  
80 permanently forfeited and released to an animal control agency,  
81 animal protection organization or to the appropriate entity to be  
82 euthanized or the court may order that such animal be sold at  
83 public sale in the manner now provided for judicial sales; any  
84 proceeds from such sale shall go first toward the payment of  
85 expenses and costs relating to the care and treatment of such  
86 animal, and any excess amount shall be paid to the owner of the  
87 animal.

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

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

97 (8) Nothing in this section shall be construed to prevent or  
98 otherwise interfere with a law enforcement officer's authority to  
99 seize an animal as evidence or require court action for the taking  
100 into custody and making proper disposition of animals as



101 authorized in Sections 21-19-9 and 41-53-11, or with the immediate  
102  euthanization of an animal that is severely injured, diseased or  
103  suffering, and, therefore, not likely to recover, upon written  
104  certification of a licensed veterinarian or other officer of the  
105  humane society or animal welfare agency.

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

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

111 97-41-16. (1) (a) The provisions of this section shall be  
112 known and may be cited as the "Mississippi Dog and Cat Pet  
113 Protection Law of 2011."

114 (b) The intent of the Legislature in enacting this law  
115 is to provide only for the protection of domesticated dogs and  
116 cats, as these are the animals most often serving as the loyal and  
117 beloved pets of the citizens of this state. Animals other than  
118 domesticated dogs and cats are specifically excluded from the  
119 enhanced protection described in this section for dogs and cats.  
120 The provisions of this section do not apply, and shall not be  
121 construed as applying, to any animal other than a domesticated dog  
122 or cat.

123 (2) (a) If a person \* \* \* intentionally or with criminal  
124 negligence wounds, deprives of adequate shelter, food \* \* \*, water  
125 or necessary veterinary care, or \* \* \* carries or confines in a



126 cruel manner, any domesticated dog or cat, or causes any person to  
127 do the same, then he or she \* \* \* is guilty of the offense of  
128 simple cruelty to a dog or cat. A person who is convicted of the  
129 offense of simple cruelty to a dog or cat \* \* \* is guilty of a  
130 misdemeanor and shall be fined not more than One Thousand Dollars  
131 (\$1,000.00), or imprisoned not more than six (6) months, or both.  
132 A person who is convicted of the offense of simple cruelty to a  
133 dog or cat that causes serious bodily injury or death to the dog  
134 or cat is guilty of a felony and shall be fined not more than Five  
135 Thousand Dollars (\$5,000.00) and imprisoned for not less than one  
136 (1) year nor more than five (5) years.

137 (b) If a person with malice \* \* \* intentionally  
138 tortures, mutilates, maims, burns, starves or disfigures any  
139 domesticated dog or cat, or causes any person to do the same, then  
140 he or she \* \* \* is guilty of \* \* \* a felony and shall be fined not  
141 more than Five Thousand Dollars (\$5,000.00) and imprisoned for not  
142 less than one (1) year nor more than five (5) years.

143 \* \* \*

144 ( \* \* \* c) For purposes of this section, \* \* \* a person  
145 who commits multiple acts of simple or aggravated cruelty to a dog  
146 or cat may be charged with a separate offense for each such act,  
147 not to exceed ten (10) counts of simple or aggravated cruelty to a  
148 dog or cat. A person who commits simple or aggravated animal  
149 cruelty to multiple dogs or cats may be charged with a separate  
150 offense for each dog or cat.



151 (3) In addition to such fine or imprisonment which may be  
152 imposed:

153 (a) The court shall order that restitution be made to  
154 the owner of such dog or cat. The measure for restitution in  
155 money shall be the current replacement value of such loss and the  
156 actual veterinarian fees, medicine, special supplies, loss of  
157 income and other costs incurred as a result of actions in  
158 violation of subsection (2) of this section; and

159 (b) The court may order that:

160 (i) The reasonable costs of sheltering,  
161 transporting and rehabilitating the dog or cat, and any other  
162 costs directly related to the care of the dog or cat, be  
163 reimbursed to:

164 1. Any law enforcement agency; or

165 2. Any agency or department of a political  
166 subdivision that is charged with the control, protection or  
167 welfare of dogs or cats within the subdivision. The agency or  
168 department may reimburse a nongovernmental organization for such  
169 costs, if the organization possesses nonprofit status under the  
170 United States Internal Revenue Code and has the purpose of  
171 protecting the welfare of, or preventing cruelty to, dogs or cats.

172 (ii) The person convicted:

173 1. Receive a psychiatric or psychological  
174 evaluation and counseling or treatment for a length of time as  
175 prescribed by the court. The cost of any evaluation, counseling



176 and treatment shall be paid by the offender upon order of the  
177 court, up to a maximum amount that is no more than the  
178 jurisdictional limit of the sentencing court.

179                   2. Perform community service for a period not  
180 exceeding the applicable maximum term of imprisonment that may be  
181 imposed for conviction of the offense.

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

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

188                   (i) Defending himself or herself or another person  
189 from physical or economic injury being threatened or caused by a  
190 dog or cat.

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

195                   (iii) Acting under the provisions of Section  
196 95-5-19 to protect poultry or livestock from a trespassing dog  
197 that is in the act of chasing or killing the poultry or livestock,  
198 or acting to protect poultry or livestock from a trespassing cat  
199 that is in the act of chasing or killing the poultry or livestock.





200 (iv) Engaging in practices that are licensed or  
201 lawful under the Mississippi Veterinary Practice Act, Section  
202 73-39-51 et seq., or engaging in activities by any licensed  
203 veterinarian while following accepted standards of practice of the  
204 profession within the State of Mississippi, including the  
205 euthanizing of a dog or cat.

206 (v) Rendering emergency care, treatment, or  
207 assistance to a dog or cat that is abandoned, ill, injured, or in  
208 distress, if the person rendering the care, treatment, or  
209 assistance is acting in good faith.

210 (vi) Performing activities associated with  
211 accepted agricultural and animal husbandry practices with regard  
212 to livestock, poultry or other animals, including those activities  
213 which involve:

- 214 1. Using dogs in such practices.
- 215 2. Raising, managing and using animals to  
216 provide food, fiber or transportation.
- 217 3. Butchering animals and processing food.

218 (vii) Training for, or participating in, a rodeo,  
219 equine activity, dog show, event sponsored by a kennel club or  
220 other bona fide organization that promotes the breeding or showing  
221 of dogs or cats, or any other competitive event which involves the  
222 lawful use of dogs or cats.

223 (viii) Engaging in accepted practices of dog or  
224 cat identification.



225 (ix) Engaging in lawful activities that are  
226 regulated by the Mississippi Department of Wildlife, Fisheries and  
227 Parks or the Mississippi Department of Marine Resources, including  
228 without limitation, hunting, trapping, fishing, and wildlife and  
229 seafood management.

230 (x) Performing scientific, research, medical and  
231 zoological activities undertaken by research and education  
232 facilities or institutions that are:

233 1. Regulated under the provisions of the  
234 Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1,  
235 2011;

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

238 3. Subject to any other applicable state or  
239 federal law or regulation governing animal research as in effect  
240 on July 1, 2011.

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

246 (xii) Engaging in professional pest control  
247 activities, including those activities governed by the Mississippi  
248 Pesticide Law of 1975, Section 69-23-1 et seq.; professional  
249 services related to entomology, plant pathology, horticulture,



250 tree surgery, weed control or soil classification, as regulated  
251 under Section 69-19-1 et seq.; and any other pest control  
252 activities conducted in accordance with state law.

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

255 (b) If the owner or person in control of a dog or cat  
256 is precluded, by natural or other causes beyond his reasonable  
257 control, from acting to prevent an act or omission that might  
258 otherwise constitute an allegation of the offense of simple  
259 cruelty to a dog or cat or the offense of aggravated cruelty to a  
260 dog or cat, then that person shall not be guilty of the offense.  
261 Natural or other causes beyond the reasonable control of the  
262 person include, without limitation, acts of God, declarations of  
263 disaster, emergencies, acts of war, earthquakes, hurricanes,  
264 tornadoes, fires, floods or other natural disasters.

265 (5) The provisions of this section shall not be construed  
266 to:

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

268 (b) Create any civil or criminal liability on the part  
269 of the driver of a motor vehicle if the driver unintentionally  
270 injures or kills a dog or cat as a result of the dog or cat being  
271 accidentally hit by the vehicle.

272 (6) (a) Except as otherwise provided in Section 97-35-47  
273 for the false reporting of a crime, a person, who in good faith  
274 and acting without malice, reports a suspected incident of simple



275 cruelty to a dog or cat, or aggravated cruelty to a dog or cat, to  
276 a local animal control, protection or welfare organization, a  
277 local law enforcement agency, or the Mississippi Department of  
278 Public Safety, shall be immune from civil and criminal liability  
279 for reporting the incident.

280 (b) A veterinarian licensed in Mississippi or a person  
281 acting at the direction of a veterinarian licensed in Mississippi,  
282 who in good faith and acting without malice, participates in the  
283 investigation of an alleged offense of simple or aggravated  
284 cruelty to a dog or cat, or makes a decision or renders services  
285 regarding the care of a dog or cat that is involved in the  
286 investigation, shall be immune from civil and criminal liability  
287 for those acts.

288 (7) Other than an agency or department of a political  
289 subdivision that is charged with the control, protection or  
290 welfare of dogs or cats within the subdivision, any organization  
291 that has the purpose of protecting the welfare of, or preventing  
292 cruelty to, dogs or cats, shall register the organization with the  
293 sheriff of the county in which the organization operates a  
294 physical facility for the protection, welfare or shelter of dogs  
295 or cats, on or before the first day of October each year. The  
296 provisions of this subsection (7) shall apply to any organization  
297 that has the purpose of protecting the welfare of dogs or cats, or  
298 preventing cruelty to dogs or cats, regardless of whether the  
299 organization also protects animals other than dogs or cats.



300 (8) Nothing in this section shall limit the authority of a  
301 municipality or board of supervisors to adopt ordinances, rules,  
302 regulations or resolutions which may be, in whole or in part, more  
303 restrictive than the provisions of this section, and in those  
304 cases, the more restrictive ordinances, rules, regulations or  
305 resolutions will govern.

306 **SECTION 3.** Section 97-41-19, Mississippi Code of 1972, is  
307 amended as follows:

308 97-41-19. (1) If \* \* \* a person (a) \* \* \* sponsors,  
309 promotes, stages or conducts a fight or fighting match between  
310 dogs, \* \* \* (b) \* \* \* wagers or bets, promotes or encourages the  
311 wagering or betting of any money or other valuable thing upon any  
312 such fight or \* \* \* the result \* \* \* of the fight, \* \* \* (c) \* \* \*  
313 owns or \* \* \* possesses a dog with the intent to willfully enter  
314 it or to participate in any such fight, \* \* \* (d) \* \* \* trains or  
315 transports a dog for the purposes of participation in any such  
316 fight \* \* \* or (e) \* \* \* owns, possesses, buys, sells, transfers,  
317 or manufactures paraphernalia for the purpose of engaging in or  
318 otherwise promoting or facilitating such fight, \* \* \* he or she is  
319 guilty of a felony and, upon conviction for a first offense, shall  
320 be punished by a fine of not less than One Thousand Dollars  
321 (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or by  
322 imprisonment in the State Penitentiary for a term of not less than  
323 one (1) nor more than five (5) years, or by both such fine and  
324 imprisonment, in the discretion of the court.



325           Upon conviction for a second or subsequent offense, the  
326 person shall be guilty of a felony and punished by a fine of not  
327 less than Five Thousand Dollars (\$5,000.00), nor more than Ten  
328 Thousand Dollars (\$10,000.00), or by imprisonment in the custody  
329 of the Department of Corrections for a term of not less than three  
330 (3) years, nor more than ten (10) years, or both.

331           (2) If any person \* \* \* is present, as a spectator, at any  
332 location where preparations are being made for an exhibition of a  
333 fight between dogs with the intent to be present at such  
334 preparations, or if any person \* \* \* is present at an exhibition  
335 of a fight between dogs with the intent to be present at such  
336 exhibition, he \* \* \* or she is guilty of a felony and, upon  
337 conviction, shall be punished by a fine of not less than Five  
338 Hundred Dollars (\$500.00) nor more than Five Thousand Dollars  
339 (\$5,000.00), or by imprisonment in the State Penitentiary for a  
340 term of not more than one (1) year, or by both such fine and  
341 imprisonment, in the discretion of the court.

342           (3) Any law enforcement officer making an arrest under  
343 subsection (1) of this section may lawfully take possession of all  
344 paraphernalia, implements, equipment or other property, including  
345 dogs, used in violation of subsection (1) of this section. Such  
346 officer shall file with the circuit court of the county within  
347 which the alleged violation occurred an affidavit stating therein  
348 (a) the name of the person charged, (b) a description of the  
349 property taken, (c) the time and place of the taking, (d) the name



350 of the person who claims to own such property, if known, and (e)  
351 that the affiant has reason to believe, stating the ground of such  
352 belief, that the property taken was used in such violation. He or  
353 she shall thereupon deliver the property to such court which  
354 shall, by order in writing, place such paraphernalia, implements,  
355 equipment, or other property, including dogs, in the custody of  
356 the law enforcement agency, or its designee. All paraphernalia,  
357 implements, equipment, or other property, excluding dogs forfeited  
358 under subsection (4) of this section, are to be kept by such  
359 custodian or custodians until the conviction or final discharge of  
360 the accused, and shall then send a copy of such orders without  
361 delay to the district attorney of the county. The custodian or  
362 custodians named and designated in such order shall immediately  
363 assume the custody of such property and shall retain same, subject  
364 to order of the court. The custodian or custodians shall appoint  
365 an animal control agency, agent of an animal shelter organization,  
366 veterinarian or designee as temporary custodian for any dogs  
367 seized, pending final disposition of the animal under Section  
368 97-41-2.

369 (4) Within ten (10) days of the seizure of dogs under this  
370 section, the owner of the dogs may request a hearing to determine  
371 the disposition of the dogs. The court shall follow the procedure  
372 and guidelines as set out in Section 97-41-2(2) through (8) in  
373 conducting the hearing and determining the disposition of the



374 dogs. Nothing in subsection (1) of this section shall prohibit  
375 any of the following:

376 (a) The use of dogs in the management of livestock, by  
377 the owner of such livestock or other persons in lawful custody  
378 thereof;

379 (b) The use of dogs in lawful hunting; and

380 (c) The training of dogs for any purpose not prohibited  
381 by law.

382 (5) For purposes of this section, the term "paraphernalia"  
383 means equipment, products, implements and materials of any kind  
384 that are used, intended for use, or designed for use in the  
385 training, preparation, conditioning, or furtherance of dog  
386 fighting, and includes, but is not limited to, the following:

387 (a) Breaking sticks;

388 (b) Cat mills;

389 (c) Treadmills;

390 (d) Fighting pits;

391 (e) Spring poles;

392 (f) Unprescribed veterinary medicine; or

393 (g) Treatment supplies.

394 In determining whether an object is paraphernalia, a court  
395 shall consider any prior convictions under federal or state law  
396 relating to animal fighting, the proximity of the object in time  
397 and space to the direct violation of this section, direct or  
398 circumstantial evidence of the intent of the person to deliver the





399 object to persons whom he or she knows or should reasonably know  
400 intends to use the object to facilitate a violation of this  
401 section, oral or written instructions provided with or in the  
402 vicinity of the object concerning its use, descriptive materials  
403 accompanying the object which explain or depict its use, and any  
404 other relevant factors.

405         **SECTION 4.** Section 97-41-18, Mississippi Code of 1972, is  
406 brought forward as follows:

407             97-41-18. (1) For the purposes of this section, "hog" means  
408 a pig, swine or boar.

409             (2) It is unlawful for any person to organize or conduct any  
410 commercial event commonly referred to as a "catch" wherein there  
411 is a display of combat or fighting among one or more domestic or  
412 feral canines and feral or domestic hogs and in which it is  
413 intended or reasonably foreseeable that the canines or hogs would  
414 be injured, maimed, mutilated or killed.

415             (3) It is unlawful for any person to organize, conduct or  
416 financially or materially support any event prohibited by this  
417 section.

418             (4) The provisions of this section shall not apply to any  
419 competitive event in which canines trained for hunting or herding  
420 activities are released in an open or enclosed area to locate and  
421 corner hogs, commonly referred to as a "bay event," and in which  
422 competitive points are deducted if a hog is caught and held.



423           (5) The provisions of this section shall not apply to the  
424 lawful hunting of hogs with canines or the use of canines for the  
425 management, farming or herding of hogs which are livestock or the  
426 private training of canines for the purposes enumerated in this  
427 subsection provided that such training is conducted for the field  
428 using accepted dog handling and training practices and is not in  
429 violation of the provisions of subsection (1) of this section.

430           (6) Any person convicted under the provisions of this  
431 section shall be fined not more than One Thousand Dollars  
432 (\$1,000.00), imprisoned for not more than six (6) months, or both.

433           **SECTION 5.** This act shall take effect and be in force from  
434 and after July 1, 2019.

