

By: Senator(s) Hill, Boyd, England,
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Sojourner

To: Judiciary, Division B

SENATE BILL NO. 2658
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 97-41-16, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE OFFENSE OF ABUSE OF A DOMESTICATED DOG OR CAT; AND
3 FOR RELATED PURPOSES.

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

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

7 97-41-16. (1) (a) The provisions of this section shall be
8 known and may be cited as the "Mississippi Dog and Cat Pet
9 Protection Law of 2011."

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



19 (2) (a) If a person shall intentionally or with criminal
20 negligence wound, deprive of adequate shelter, food or water, or
21 carry or confine in a cruel manner, any domesticated dog or cat,
22 or cause any person to do the same, then he or she shall be guilty
23 of the offense of simple cruelty to a domesticated dog or cat. A
24 person who is convicted of the offense of simple cruelty to a
25 domesticated dog or cat shall be guilty of a misdemeanor and fined
26 not more than One Thousand Dollars (\$1,000.00), or imprisoned not
27 more than six (6) months, or both. Each act of simple cruelty
28 that is committed against more than one (1) domesticated dog or
29 cat constitutes a separate offense.

30 (b) (i) If a person with malice shall *intentionally*
31 *torture, mutilate, maim, burn, starve* ~~***~~ or to death, crush,
32 disfigure, drown, suffocate or impale any domesticated dog or cat,
33 or cause any person to do the same, then he or she shall be guilty
34 of the offense of aggravated cruelty to a domesticated dog or cat.
35 Each act of aggravated cruelty that is committed against more than
36 one (1) domesticated dog or cat shall constitute a separate
37 offense.

38 (~~***~~ ii) A person who is convicted of a first
39 offense of aggravated cruelty to a domesticated dog or cat shall
40 be guilty of a ~~***misdemeanor~~ felony and fined not more
41 than ~~***Two Thousand Five Hundred Dollars (\$2,500.00)~~ Five
42 Thousand Dollars (\$5,000.00), or ***imprisoned committed to the



43 custody of the Department of Corrections for not more than * * *
44 ~~six (6) months~~ three (3) years, or both.

45 (* * * ~~iiii~~) A person who is convicted of a
46 second or subsequent offense of aggravated cruelty to a
47 domesticated dog or cat, the offenses being committed within a
48 period of five (5) years, shall be guilty of a felony and fined
49 not more than * * * ~~Five Thousand Dollars (\$5,000.00)~~ Ten Thousand
50 Dollars (\$10,000.00) and imprisoned in the custody of the
51 Department of Corrections for not less than one (1) year nor more
52 than * * * ~~five (5)~~ ten (10) years.

53 For purposes of calculating previous offenses of aggravated
54 cruelty under this subparagraph (iii), commission of one or more
55 acts of aggravated cruelty against one or more domesticated dogs
56 or cats within a twenty-four-hour period shall be considered one
57 (1) offense.

58 (c) A conviction entered upon a plea of nolo contendere
59 to a charge of aggravated cruelty to a domesticated dog or cat
60 shall be counted as a conviction for the purpose of determining
61 whether a later conviction is a first or subsequent offense.

62 * * * ~~(d) For purposes of this section, one or more~~
63 ~~alleged acts of the offenses of simple cruelty to a dog or cat or~~
64 ~~aggravated cruelty to a dog or cat, committed against one or more~~
65 ~~domesticated dogs or cats, or any combination thereof, shall~~
66 ~~constitute a single offense if the alleged acts occurred at the~~
67 ~~same time.~~



68 (3) In addition to such fine or imprisonment which may be
69 imposed:

70 (a) The court shall order that restitution be made to
71 the owner of such domesticated dog or cat. The measure for
72 restitution in money shall be the current replacement value of
73 such loss and the actual veterinarian fees, medicine, special
74 supplies, loss of income and other costs incurred as a result of
75 actions in violation of subsection (2) of this section; and

76 (b) The court may order that:

77 (i) The reasonable costs of sheltering,
78 transporting and rehabilitating the domesticated dog or cat, and
79 any other costs directly related to the care of the domesticated
80 dog or cat, be reimbursed to:

81 1. Any law enforcement agency; or

82 2. Any agency or department of a political
83 subdivision that is charged with the control, protection or
84 welfare of domesticated or feral dogs or cats within the
85 subdivision. The agency or department may reimburse a
86 nongovernmental organization for such costs, if the organization
87 possesses nonprofit status under the United States Internal
88 Revenue Code and has the purpose of protecting the welfare of, or
89 preventing cruelty to, dogs or cats whether domesticated or feral.

90 (ii) The person convicted:

91 1. Receives a psychiatric or psychological
92 evaluation and counseling or treatment for a length of time as



93 prescribed by the court. The cost of any evaluation, counseling
94 and treatment shall be paid by the offender upon order of the
95 court, up to a maximum amount that is no more than the
96 jurisdictional limit of the sentencing court.

97 2. Performs community service for a period
98 not exceeding the applicable maximum term of imprisonment that may
99 be imposed for conviction of the offense.

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

104 4. If convicted of simple cruelty under this
105 section, be prohibited from owning or possessing or residing with
106 a domesticated dog or cat for any period of time not exceeding
107 five (5) years from the date of sentencing, or any period of time
108 not exceeding fifteen (15) years from the date of sentencing if
109 the conviction involved four (4) or more counts of simple cruelty.

110 (c) The court shall order that any person convicted of
111 an offense of aggravated cruelty under this section be prohibited
112 from owning or possessing or residing with a domesticated dog or
113 cat for a period not less than five (5) years nor more than
114 fifteen (15) years from the date of sentencing.

115 (d) A person found in violation of a court order
116 incorporating the provisions of paragraph (b) (ii) 4. or (c) of this
117 subsection may, in addition to any other punishment provided by



118 law, be fined in an amount not exceeding One Thousand Dollars
119 (\$1,000.00) for each domesticated dog or cat unlawfully owned or
120 possessed.

121 (e) Any domesticated dog or cat involved in a violation
122 of a court order described in paragraph (d) of this subsection
123 shall be forfeited to the state.

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

126 (i) Defending himself or herself or another person
127 from physical * * * ~~or economic~~ injury being threatened or caused
128 by a domesticated or feral dog or cat.

129 (ii) Injuring or killing an unconfined
130 domesticated or feral dog or cat on the property of the person, if
131 the unconfined dog or cat is believed to constitute a threat of
132 physical injury or damage to any domesticated animal under the
133 care or control of such person.

134 (iii) Acting under the provisions of Section
135 95-5-19 to protect poultry or livestock from a trespassing dog
136 that is in the act of chasing or killing the poultry or livestock,
137 or acting to protect poultry or livestock from a trespassing cat
138 that is in the act of chasing or killing the poultry or livestock.

139 (iv) Engaging in practices that are licensed or
140 lawful under the Mississippi Veterinary Practice Act, Section
141 73-39-51 et seq., or engaging in activities by any licensed
142 veterinarian while following accepted standards of practice of the



143 profession within the State of Mississippi, including the
144 euthanizing of a dog or cat.

145 (v) Rendering emergency care, treatment, or
146 assistance to a dog or cat that is abandoned, ill, injured, or in
147 distress, if the person rendering the care, treatment, or
148 assistance is acting in good faith.

149 (vi) Performing activities associated with
150 accepted agricultural and animal husbandry practices with regard
151 to livestock, poultry or other animals, including those activities
152 which involve:

- 153 1. Using dogs in such practices.
- 154 2. Raising, managing and using animals to
155 provide food, fiber or transportation.
- 156 3. Butchering animals and processing food.

157 (vii) Training for, or participating in, a rodeo,
158 equine activity, dog show, event sponsored by a kennel club or
159 other bona fide organization that promotes the breeding or showing
160 of dogs or cats, or any other competitive event which involves the
161 lawful use of dogs or cats.

162 (viii) Engaging in accepted practices of dog or
163 cat identification.

164 (ix) Engaging in lawful activities that are
165 regulated by the Mississippi Department of Wildlife, Fisheries and
166 Parks or the Mississippi Department of Marine Resources,



167 including, without limitation, hunting, trapping, fishing, and
168 wildlife and seafood management.

169 (x) Performing scientific, research, medical and
170 zoological activities undertaken by research and education
171 facilities or institutions that are:

172 1. Regulated under the provisions of the
173 Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1,
174 2011;

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

177 3. Subject to any other applicable state or
178 federal law or regulation governing animal research as in effect
179 on July 1, 2011.

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

185 (xii) Engaging in professional pest control
186 activities, including those activities governed by the Mississippi
187 Pesticide Law of 1975, Section 69-23-1 et seq.; professional
188 services related to entomology, plant pathology, horticulture,
189 tree surgery, weed control or soil classification, as regulated
190 under Section 69-19-1 et seq.; and any other pest control
191 activities conducted in accordance with state law.



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

194 (xiv) Engaging in the training of service dogs
195 used to assist those with physical or mental health conditions.

196 (b) If the owner or person in control of a domesticated
197 dog or cat is precluded, by natural or other causes beyond his
198 reasonable control, from acting to prevent an act or omission that
199 might otherwise constitute an allegation of the offense of simple
200 cruelty to a domesticated dog or cat or the offense of aggravated
201 cruelty to a domesticated dog or cat, then that person shall not
202 be guilty of the offense. Natural or other causes beyond the
203 reasonable control of the person include, without limitation, acts
204 of God, declarations of disaster, emergencies, acts of war,
205 earthquakes, hurricanes, tornadoes, fires, floods or other natural
206 disasters.

207 (5) The provisions of this section shall not be construed
208 to:

209 (a) Apply to any animal other than a domesticated dog
210 or cat.

211 (b) Create any civil or criminal liability on the part
212 of the driver of a motor vehicle if the driver unintentionally
213 injures or kills a domesticated dog or cat as a result of the
214 domesticated dog or cat being accidentally hit by the vehicle.

215 (6) (a) Except as otherwise provided in Section 97-35-47
216 for the false reporting of a crime, a person, who in good faith



217 and acting without malice, reports a suspected incident of simple
218 cruelty to a domesticated dog or cat, or aggravated cruelty to a
219 domesticated dog or cat, to a local animal control, protection or
220 welfare organization, a local law enforcement agency, or the
221 Mississippi Department of Public Safety, shall be immune from
222 civil and criminal liability for reporting the incident.

223 (b) A veterinarian licensed in Mississippi or a person
224 acting at the direction of a veterinarian licensed in Mississippi,
225 who in good faith and acting without malice, participates in the
226 investigation of an alleged offense of simple or aggravated
227 cruelty to a domesticated dog or cat, or makes a decision or
228 renders services regarding the care of a domesticated or feral dog
229 or cat that is involved in the investigation, shall be immune from
230 civil and criminal liability for those acts.

231 (7) Other than an agency or department of a political
232 subdivision that is charged with the control, protection or
233 welfare of dogs or cats within the subdivision, any organization
234 that has the purpose of protecting the welfare of, or preventing
235 cruelty to, domesticated dogs or cats, shall register the
236 organization with the sheriff of the county in which the
237 organization operates a physical facility for the protection,
238 welfare or shelter of dogs or cats, on or before the first day of
239 October each year. The provisions of this subsection (7) shall
240 apply to any organization that has the purpose of protecting the
241 welfare of dogs or cats, or preventing cruelty to dogs or cats,



242 regardless of whether the organization also protects animals other
243 than domesticated dogs or cats.

244 (8) Nothing in this section shall limit the authority of a
245 municipality or board of supervisors to adopt ordinances, rules,
246 regulations or resolutions which may be, in whole or in part, more
247 restrictive than the provisions of this section, and in those
248 cases, the more restrictive ordinances, rules, regulations or
249 resolutions will govern.

250 **SECTION 2.** This act shall take effect and be in force from
251 and after July 1, 2020.

