

By: Senator(s) Hill, Boyd, England,
Blackwell, Chism, Wiggins

To: Judiciary, Division B

SENATE BILL NO. 2658

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, or subjects to cruel
22 mistreatment, any domesticated dog or cat, or cause any person to
23 do the same, then he or she shall be guilty of the offense of
24 simple cruelty to a domesticated dog or cat. A person who is
25 convicted of the offense of simple cruelty to a domesticated dog
26 or cat shall be guilty of a misdemeanor and fined not more than
27 One Thousand Dollars (\$1,000.00), or imprisoned not more than six
28 (6) months, or both. Each act of simple cruelty to a domesticated
29 dog or cat constitutes a separate offense.

30 (b) (i) If a person with malice shall
31 intentionally * * * crush, burn, * * * drown, suffocate, impale or
32 otherwise subject to serious bodily injury any domesticated dog or
33 cat, or cause any person to do the same, then he or she shall be
34 guilty of the offense of aggravated cruelty to a domesticated dog
35 or cat. Each act of aggravated cruelty to a domesticated dog or
36 cat shall constitute a separate offense.

37 (* * * ii) A person who is convicted of a first
38 offense of aggravated cruelty to a domesticated dog or cat shall
39 be guilty of a * * * felony and fined not more than * * * Five
40 Thousand Dollars (\$5,000.00), or * * * committed to the custody of
41 the Department of Corrections for not more than * * * five (5)
42 years, or both.



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

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

* * *

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

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

(b) The court may order that:

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



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

77 (ii) The person convicted:

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

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

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

91 4. If convicted of simple cruelty under this
92 section, be prohibited from owning or possessing or residing with



93 a domesticated dog or cat for any period of time not exceeding
94 five (5) years from the date of sentencing, or any period of time
95 not exceeding fifteen (15) years from the date of sentencing if
96 the conviction involved four (4) or more counts of simple cruelty.

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

102 (d) A person found in violation of a court order
103 incorporating the provisions of paragraph (b)(ii)4. or (c) of this
104 subsection may, in addition to any other punishment provided by
105 law, be fined in an amount not exceeding One Thousand Dollars
106 (\$1,000.00) for each domesticated dog or cat unlawfully owned or
107 possessed.

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

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

113 (i) Defending himself or herself or another person
114 from physical * * * injury being threatened or caused by a
115 domesticated or feral dog or cat.

116 (ii) Injuring or killing an unconfined
117 domesticated or feral dog or cat on the property of the person, if



the unconfined dog or cat is believed to constitute a threat of physical injury or damage to any domesticated animal under the care or control of such person.

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

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

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

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

1. Using dogs in such practices.
2. Raising, managing and using animals to provide food, fiber or transportation.



143 3. Butchering animals and processing food.

144 (vii) Training for, or participating in, a rodeo,
145 equine activity, dog show, event sponsored by a kennel club or
146 other bona fide organization that promotes the breeding or showing
147 of dogs or cats, or any other competitive event which involves the
148 lawful use of dogs or cats.

149 (viii) Engaging in accepted practices of dog or
150 cat identification.

151 (ix) Engaging in lawful activities that are
152 regulated by the Mississippi Department of Wildlife, Fisheries and
153 Parks or the Mississippi Department of Marine Resources, including
154 without limitation, hunting, trapping, fishing, and wildlife and
155 seafood management.

156 (x) Performing scientific, research, medical and
157 zoological activities undertaken by research and education
158 facilities or institutions that are:

159 1. Regulated under the provisions of the
160 Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1,
161 2011;

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

164 3. Subject to any other applicable state or
165 federal law or regulation governing animal research as in effect
166 on July 1, 2011.



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

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

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

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

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



earthquakes, hurricanes, tornadoes, fires, floods or other natural disasters.

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

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

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

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

(b) A veterinarian licensed in Mississippi or a person acting at the direction of a veterinarian licensed in Mississippi, who in good faith and acting without malice, participates in the investigation of an alleged offense of simple or aggravated cruelty to a domesticated dog or cat, or makes a decision or renders services regarding the care of a domesticated or feral dog



or cat that is involved in the investigation, shall be immune from civil and criminal liability for those acts.

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

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

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

