

By: Senator(s) Hill, Fillingane, England,
Wiggins, McCaughn, Chism, Suber, Parker,
Jackson (11th)

To: Judiciary, Division B

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2261

1 AN ACT TO AMEND SECTION 97-41-16, MISSISSIPPI CODE OF 1972,
2 TO RENAME THE SECTION "BUDDY'S LAW"; TO REQUIRE A CHILD
3 ADJUDICATED DELINQUENT UNDER THIS SECTION TO RECEIVE A PSYCHIATRIC
4 EVALUATION AND COUNSELING OR TREATMENT FOR A LENGTH OF TIME
5 PRESCRIBED BY THE YOUTH COURT; TO AMEND SECTION 43-21-603,
6 MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

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

10 97-41-16. (1) (a) The provisions of this section shall be
11 known and may be cited as * * * " * * * Buddy's Law * * * ."

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



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

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

39 (ii) A person who is convicted of a first offense
40 of aggravated cruelty to a domesticated dog or cat shall be guilty
41 of a felony and fined not more than Five Thousand Dollars
42 (\$5,000.00), or committed to the custody of the Department of
43 Corrections for not more than three (3) years, or both.

44 (iii) A person who is convicted of a second or
45 subsequent offense of aggravated cruelty to a domesticated dog or



46 cat, the offenses being committed within a period of five (5)
47 years, shall be guilty of a felony and fined not more than Ten
48 Thousand Dollars (\$10,000.00) and imprisoned in the custody of the
49 Department of Corrections for not less than one (1) year nor more
50 than ten (10) years.

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

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

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

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

68 (b) The court may order that:

69 (i) The reasonable costs of sheltering,
70 transporting and rehabilitating the domesticated dog or cat, and



71 any other costs directly related to the care of the domesticated
72 dog or cat, be reimbursed to:

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

82 (ii) The person convicted:

- 83 1. Receives a psychiatric or psychological
84 evaluation and counseling or treatment for a length of time as
85 prescribed by the court. The cost of any evaluation, counseling
86 and treatment shall be paid by the offender upon order of the
87 court, up to a maximum amount that is no more than the
88 jurisdictional limit of the sentencing court.
- 89 2. Performs community service for a period
90 not exceeding the applicable maximum term of imprisonment that may
91 be imposed for conviction of the offense.
- 92 3. Be enjoined from employment in any
93 position that involves the care of a domesticated dog or cat, or
94 in any place where domesticated dogs or cats are kept or confined,
95 for a period which the court deems appropriate.



96 4. If convicted of simple cruelty under this
97 section, be prohibited from owning or possessing or residing with
98 a domesticated dog or cat for any period of time not exceeding
99 five (5) years from the date of sentencing, or any period of time
100 not exceeding fifteen (15) years from the date of sentencing if
101 the conviction involved four (4) or more counts of simple cruelty.

102 (c) For a child adjudicated delinquent under this
103 section, the youth court shall order under Section 43-21-603 that
104 the child adjudicated delinquent receives a psychiatric evaluation
105 and counseling or treatment for a length of time as prescribed by
106 the youth court. The cost of any evaluation, counseling and
107 treatment shall be paid by the offender's parent or guardian, or
108 by the state if the offender is a ward of the state, upon order of
109 the youth court, up to a maximum amount that is no more than the
110 jurisdictional limit of the sentencing court. The youth court
111 shall hold the offender's parent or guardian in contempt under
112 Section 43-21-509 if the parent or guardian willfully does not
113 follow the recommended treatment for the offender.

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

119 (* * *e) A person found in violation of a court order
120 incorporating the provisions of paragraph (b) (ii) 4. or (* * *d)



121 of this subsection may, in addition to any other punishment
122 provided by law, be fined in an amount not exceeding One Thousand
123 Dollars (\$1,000.00) for each domesticated dog or cat unlawfully
124 owned or possessed.

125 (* * *f) Any domesticated dog or cat involved in a
126 violation of a court order described in paragraph (* * *e) of
127 this subsection shall be forfeited to the state.

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

130 (i) Defending himself or herself or another person
131 from physical injury being threatened or caused by a domesticated
132 or feral dog or cat.

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

138 (iii) Acting under the provisions of Section
139 95-5-19 to protect poultry or livestock from a trespassing dog
140 that is in the act of chasing or killing the poultry or livestock,
141 or acting to protect poultry or livestock from a trespassing cat
142 that is in the act of chasing or killing the poultry or livestock.

143 (iv) Engaging in practices that are licensed or
144 lawful under the Mississippi Veterinary Practice Act, Section
145 73-39-51 et seq., or engaging in activities by any licensed



146 veterinarian while following accepted standards of practice of the
147 profession within the State of Mississippi, including the
148 euthanizing of a dog or cat.

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

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

- 157 1. Using dogs in such practices.
- 158 2. Raising, managing and using animals to
159 provide food, fiber or transportation.
- 160 3. Butchering animals and processing food.

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

166 (viii) Engaging in accepted practices of dog or
167 cat identification.

168 (ix) Engaging in lawful activities that are
169 regulated by the Mississippi Department of Wildlife, Fisheries and
170 Parks or the Mississippi Department of Marine Resources,



171 including, without limitation, hunting, trapping, fishing, and
172 wildlife and seafood management.

173 (x) Performing scientific, research, medical and
174 zoological activities undertaken by research and education
175 facilities or institutions that are:

176 1. Regulated under the provisions of the
177 Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1,
178 2011;

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

181 3. Subject to any other applicable state or
182 federal law or regulation governing animal research as in effect
183 on July 1, 2011.

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

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



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

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

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

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

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

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

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



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

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

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



246 regardless of whether the organization also protects animals other
247 than domesticated dogs or cats.

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

254 **SECTION 2.** Section 43-21-603, Mississippi Code of 1972, is
255 amended as follows:

256 43-21-603. (1) At the beginning of each disposition
257 hearing, the judge shall inform the parties of the purpose of the
258 hearing.

259 (2) All testimony shall be under oath unless waived by all
260 parties and may be in narrative form. The court may consider any
261 evidence that is material and relevant to the disposition of the
262 cause, including hearsay and opinion evidence. At the conclusion
263 of the evidence, the youth court shall give the parties an
264 opportunity to present oral argument.

265 (3) If the child has been adjudicated a delinquent child,
266 before entering a disposition order, the youth court should
267 consider, among others, the following relevant factors:

- 268 (a) The nature of the offense;
- 269 (b) The manner in which the offense was committed;



- 270 (c) The nature and number of a child's prior
271 adjudicated offenses;
- 272 (d) The child's need for care and assistance;
- 273 (e) The child's current medical history, including
274 medication and diagnosis;
- 275 (f) The child's mental health history, which may
276 include, but not be limited to, the Massachusetts Youth Screening
277 Instrument version 2 (MAYSI-2);
- 278 (g) Copies of the child's cumulative record from the
279 last school of record, including special education records, if
280 applicable;
- 281 (h) Recommendation from the school of record based on
282 areas of remediation needed;
- 283 (i) Disciplinary records from the school of record; and
284 (j) Records of disciplinary actions outside of the
285 school setting.

286 (4) If the child has been adjudicated a child in need of
287 supervision, before entering a disposition order, the youth court
288 should consider, among others, the following relevant factors:

- 289 (a) The nature and history of the child's conduct;
290 (b) The family and home situation; and
291 (c) The child's need of care and assistance.

292 (5) If the child has been adjudicated a neglected child or
293 an abused child, before entering a disposition order, the youth



294 court shall consider, among others, the following relevant
295 factors:

296 (a) The child's physical and mental conditions;

297 (b) The child's need of assistance;

298 (c) The manner in which the parent, guardian or
299 custodian participated in, tolerated or condoned the abuse,
300 neglect or abandonment of the child;

301 (d) The ability of a child's parent, guardian or
302 custodian to provide proper supervision and care of a child; and

303 (e) Relevant testimony and recommendations, where
304 available, from the foster parent of the child, the grandparents
305 of the child, the guardian ad litem of the child, representatives
306 of any private care agency that has cared for the child, the
307 family protection worker or family protection specialist assigned
308 to the case, and any other relevant testimony pertaining to the
309 case.

310 (6) After consideration of all the evidence and the relevant
311 factors, the youth court shall enter a disposition order that
312 shall not recite any of the facts or circumstances upon which the
313 disposition is based, nor shall it recite that a child has been
314 found guilty; but it shall recite that a child is found to be a
315 delinquent child, a child in need of supervision, a neglected
316 child or an abused child.

317 (7) If the youth court orders that the custody or
318 supervision of a child who has been adjudicated abused or



319 neglected be placed with the Department of Human Services or any
320 other person or public or private agency, other than the child's
321 parent, guardian or custodian, the youth court shall find and the
322 disposition order shall recite that:

323 (a) (i) Reasonable efforts have been made to maintain
324 the child within his own home, but that the circumstances warrant
325 his removal and there is no reasonable alternative to custody; or

326 (ii) The circumstances are of such an emergency
327 nature that no reasonable efforts have been made to maintain the
328 child within his own home, and that there is no reasonable
329 alternative to custody; and

330 (b) That the effect of the continuation of the child's
331 residence within his own home would be contrary to the welfare of
332 the child and that the placement of the child in foster care is in
333 the best interests of the child; or

334 (c) Reasonable efforts to maintain the child within his
335 home shall not be required if the court determines that:

336 (i) The parent has subjected the child to
337 aggravated circumstances, including, but not limited to,
338 abandonment, torture, chronic abuse and sexual abuse; or

339 (ii) The parent has been convicted of murder of
340 another child of that parent, voluntary manslaughter of another
341 child of that parent, aided or abetted, attempted, conspired or
342 solicited to commit that murder or voluntary manslaughter, or a



343 felony assault that results in the serious bodily injury to the
344 surviving child or another child of that parent; or

345 (iii) The parental rights of the parent to a
346 sibling have been terminated involuntarily; and

347 (iv) That the effect of the continuation of the
348 child's residence within his own home would be contrary to the
349 welfare of the child and that placement of the child in foster
350 care is in the best interests of the child.

351 Once the reasonable efforts requirement is bypassed, the
352 court shall have a permanency hearing under Section 43-21-613
353 within thirty (30) days of the finding.

354 (8) Upon a written motion by a party, the youth court shall
355 make written findings of fact and conclusions of law upon which it
356 relies for the disposition order. If the disposition ordered by
357 the youth court includes placing the child in the custody of a
358 training school, an admission packet shall be prepared for the
359 child that contains the following information:

360 (a) The child's current medical history, including
361 medications and diagnosis;

362 (b) The child's mental health history;

363 (c) Copies of the child's cumulative record from the
364 last school of record, including special education records, if
365 reasonably available;

366 (d) Recommendation from the school of record based on
367 areas of remediation needed;



368 (e) Disciplinary records from the school of record; and
369 (f) Records of disciplinary actions outside of the
370 school setting, if reasonably available.

371 Only individuals who are permitted under the Health Insurance
372 Portability and Accountability Act of 1996 (HIPAA) shall have
373 access to a child's medical records which are contained in an
374 admission packet. The youth court shall provide the admission
375 packet to the training school at or before the child's arrival at
376 the training school. The admittance of any child to a training
377 school shall take place between the hours of 8:00 a.m. and 3:00
378 p.m. on designated admission days.

379 (9) When a child in the jurisdiction of the Youth Court is
380 committed to the custody of the Mississippi Department of Human
381 Services and is believed to be in need of treatment for a mental
382 or emotional disability or infirmity, the Department of Human
383 Services shall file an affidavit alleging that the child is in
384 need of mental health services with the Youth Court. The Youth
385 Court shall refer the child to the appropriate community mental
386 health center for evaluation pursuant to Section 41-21-67. If the
387 prescreening evaluation recommends residential care, the Youth
388 Court shall proceed with civil commitment pursuant to Sections
389 41-21-61 et seq., 43-21-315 and 43-21-611, and the Department of
390 Mental Health, once commitment is ordered, shall provide
391 appropriate care, treatment and services for at least as many



392 adolescents as were provided services in fiscal year 2004 in its
393 facilities.

394 (10) Any screening and assessment examinations ordered by
395 the court may aid in dispositions related to delinquency, but no
396 statements or admissions made during the course thereof may be
397 admitted into evidence against the child on the issue of whether
398 the child committed a delinquent act.

399 (11) For a child adjudicated delinquent for an offense under
400 Section 97-41-16, the youth court shall order a psychiatric
401 evaluation and counseling or treatment pursuant to Section
402 97-41-16(3) (c) .

403 **SECTION 3.** This act shall take effect and be in force from
404 and after July 1, 2022.

