

Adopted
AMENDMENT NO 1 TO COMMITTEE AMENDMENT NO 1 PROPOSED
TO

House Bill No. 1065

BY: Senator(s) Hill, Whaley, Parker, Blackwell,
McLendon

1 **AMEND by inserting the following after line 102 and**
2 **renumbering subsequent sections accordingly:**

3 **SECTION *.** Section 97-41-16, Mississippi Code of 1972, is
4 amended as follows:

5 97-41-16. (1) (a) The provisions of this section shall be
6 known and may be cited as * * * " * * *Buddy's Law * * *."

7 (b) The intent of the Legislature in enacting this law
8 is to provide only for the protection of domesticated dogs and
9 cats, as these are the animals most often serving as the loyal and
10 beloved pets of the citizens of this state. Animals other than
11 domesticated dogs and cats are specifically excluded from the
12 enhanced protection described in this section for dogs and cats.



13 The provisions of this section do not apply, and shall not be
14 construed as applying, to any animal other than a domesticated dog
15 or cat.

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

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

34 (ii) A person who is convicted of a first offense
35 of aggravated cruelty to a domesticated dog or cat shall be guilty
36 of a felony and fined not more than Five Thousand Dollars



37 (\$5,000.00), or committed to the custody of the Department of
38 Corrections for not more than three (3) years, or both.

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

46 For purposes of calculating previous offenses of aggravated
47 cruelty under this subparagraph (iii), commission of one or more
48 acts of aggravated cruelty against one or more domesticated dogs
49 or cats within a twenty-four-hour period shall be considered one
50 (1) offense.

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

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

57 (a) The court shall order that restitution be made to
58 the owner of such domesticated dog or cat. The measure for
59 restitution in money shall be the current replacement value of
60 such loss and the actual veterinarian fees, medicine, special



61 supplies, loss of income and other costs incurred as a result of
62 actions in violation of subsection (2) of this section * * *.

63 (b) The court may order that:

64 (i) The reasonable costs of sheltering,
65 transporting and rehabilitating the domesticated dog or cat, and
66 any other costs directly related to the care of the domesticated
67 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. Receives 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. Performs community service for a period
85 not exceeding the applicable maximum term of imprisonment that may
86 be 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) For a child adjudicated delinquent under this
98 section, the youth court shall order under Section 43-21-603 that
99 the child adjudicated delinquent receives a psychiatric evaluation
100 and counseling or treatment for a length of time as prescribed by
101 the youth court. The cost of any evaluation, counseling and
102 treatment shall be paid by the offender's parent or guardian, or
103 by the state if the offender is a ward of the state, upon order of
104 the youth court, up to a maximum amount that is no more than the
105 jurisdictional limit of the sentencing court. The youth court
106 shall hold the offender's parent or guardian in contempt under
107 Section 43-21-509 if the parent or guardian willfully does not
108 follow the recommended treatment for the offender.



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

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

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

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

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

(ii) Injuring or killing an unconfined 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.
3. Butchering animals and processing food.

(vii) Training for, or participating in, a rodeo, equine activity, dog show, event sponsored by a kennel club or



other bona fide organization that promotes the breeding or showing of dogs or cats, or any other competitive event which involves the lawful use of dogs or cats.

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

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

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

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

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

3. Subject to any other applicable state or federal law or regulation governing animal research as in effect 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 *. Section 43-21-603, Mississippi Code of 1972, is amended as follows:

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



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

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

- 263 (a) The nature of the offense;
- 264 (b) The manner in which the offense was committed;
- 265 (c) The nature and number of a child's prior
266 adjudicated offenses;
- 267 (d) The child's need for care and assistance;
- 268 (e) The child's current medical history, including
269 medication and diagnosis;
- 270 (f) The child's mental health history, which may
271 include, but not be limited to, the Massachusetts Youth Screening
272 Instrument version 2 (MAYSI-2);
- 273 (g) Copies of the child's cumulative record from the
274 last school of record, including special education records, if
275 applicable;
- 276 (h) Recommendation from the school of record based on
277 areas of remediation needed;
- 278 (i) Disciplinary records from the school of record; and



(j) Records of disciplinary actions outside of the school setting.

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

(a) The nature and history of the child's conduct;

(b) The family and home situation; and

(c) The child's need of care and assistance.

(5) If the child has been adjudicated a neglected child or an abused child, before entering a disposition order, the youth court shall consider, among others, the following relevant factors:

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

(b) The child's need of assistance;

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

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

(e) Relevant testimony and recommendations, where available, from the foster parent of the child, the grandparents of the child, the guardian ad litem of the child, representatives of any private care agency that has cared for the child, the family protection worker or family protection specialist assigned



to the case, and any other relevant testimony pertaining to the case.

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

(7) If the youth court orders that the custody or supervision of a child who has been adjudicated abused or neglected be placed with the Department of Human Services or any other person or public or private agency, other than the child's parent, guardian or custodian, the youth court shall find and the disposition order shall recite that:

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

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

(b) That the effect of the continuation of the child's residence within his own home would be contrary to the welfare of



the child and that the placement of the child in foster care is in the best interests of the child; or

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

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

(ii) The parent has been convicted of murder of another child of that parent, voluntary manslaughter of another child of that parent, aided or abetted, attempted, conspired or solicited to commit that murder or voluntary manslaughter, or a felony assault that results in the serious bodily injury to the surviving child or another child of that parent; or

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

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

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

(8) Upon a written motion by a party, the youth court shall make written findings of fact and conclusions of law upon which it relies for the disposition order. If the disposition ordered by



the youth court includes placing the child in the custody of a training school, an admission packet shall be prepared for the child that contains the following information:

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

(b) The child's mental health history;

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

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

(e) Disciplinary records from the school of record; and

(f) Records of disciplinary actions outside of the school setting, if reasonably available.

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

(9) When a child in the jurisdiction of the Youth Court is committed to the custody of the Mississippi Department of Human Services and is believed to be in need of treatment for a mental



or emotional disability or infirmity, the Department of Human Services shall file an affidavit alleging that the child is in need of mental health services with the Youth Court. The Youth Court shall refer the child to the appropriate community mental health center for evaluation pursuant to Section 41-21-67. If the prescreening evaluation recommends residential care, the Youth Court shall proceed with civil commitment pursuant to Sections 41-21-61 et seq., 43-21-315 and 43-21-611, and the Department of Mental Health, once commitment is ordered, shall provide appropriate care, treatment and services for at least as many adolescents as were provided services in fiscal year 2004 in its facilities.

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

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

FURTHER, AMEND the title after the semicolon on line 4 by inserting the following:

TO AMEND SECTION 97-41-16, MISSISSIPPI CODE OF 1972, TO RENAME THE SECTION "BUDDY'S LAW"; TO REQUIRE A CHILD ADJUDICATED DELINQUENT UNDER THIS SECTION TO RECEIVE A PSYCHIATRIC EVALUATION AND



403 COUNSELING OR TREATMENT FOR A LENGTH OF TIME PRESCRIBED BY THE
404 YOUTH COURT; TO AMEND SECTION 43-21-603, MISSISSIPPI CODE OF 1972,
405 TO CONFORM;

