

By: Representative Sanford

To: Judiciary B

HOUSE BILL NO. 413
(As Passed the House)

1 AN ACT TO AUTHORIZE A COURT TO AWARD REIMBURSEMENT OR PAYMENT
2 OF ACTUAL EXPENSES INCURRED AS A RESULT OF INJURIES CAUSED BY A
3 DOG BITE; TO AMEND SECTION 97-41-16, MISSISSIPPI CODE OF 1972,
4 WHICH PROVIDES FOR THE DOG AND CAT PROTECTION LAW TO CONFORM TO
5 THE PRECEDING SECTION; TO BRING FORWARD SECTION 97-41-3,
6 MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES LAW ENFORCEMENT TO KILL
7 NEGLECTED DOGS, FOR PURPOSES OF AMENDMENT WHICH AUTHORIZES; TO
8 BRING FORWARD SECTION 95-5-21, MISSISSIPPI CODE OF 1972, WHICH
9 ALLOWS AN OWNER OF POULTRY TO KILL A DOG THAT HAS HARMED ITS
10 POULTRY OR LIVESTOCK, FOR PURPOSES OF AMENDMENT; TO BRING FORWARD
11 SECTION 41-53-11, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES ANY
12 SHERIFF TO KILL A DOG THAT IS RUNNING AT LARGE, FOR PURPOSES OF
13 AMENDMENT; TO BRING FORWARD SECTIONS 21-19-9 AND 19-5-50,
14 MISSISSIPPI CODE OF 1972, WHICH AUTHORIZE MUNICIPALITIES TO
15 REGULATE ANIMALS RUNNING AT LARGE, FOR PURPOSES OF AMENDMENT; AND
16 FOR RELATED PURPOSES.

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

18 **SECTION 1.** In any legal action to obtain damages as a remedy
19 for any injury caused by a dog bite, the court may award
20 reimbursement and/or payment of actual expenses incurred as a
21 result of the injury regardless of the propensity of the dog. The
22 court may also order the:

- 23 (a) Owner to chain the dog at all times;
- 24 (b) Owner to euthanize the dog;



25 (c) Local law enforcement agency to euthanize the dog;
26 or

27 (d) Local agency or department of a political
28 subdivision that is charged with the control, protection or
29 welfare of domesticated or feral dogs to euthanize the dog.

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

32 97-41-16. (1) (a) The provisions of this section shall be
33 known and may be cited as the "Mississippi Dog and Cat Pet
34 Protection Law of 2011."

35 (b) The intent of the Legislature in enacting this law
36 is to provide only for the protection of domesticated dogs and
37 cats, as these are the animals most often serving as the loyal and
38 beloved pets of the citizens of this state. Animals other than
39 domesticated dogs and cats are specifically excluded from the
40 enhanced protection described in this section for dogs and cats.
41 The provisions of this section do not apply, and shall not be
42 construed as applying, to any animal other than a domesticated dog
43 or cat.

44 (2) (a) If a person shall intentionally or with criminal
45 negligence wound, deprive of adequate shelter, food or water, or
46 carry or confine in a cruel manner, any domesticated dog or cat,
47 or cause any person to do the same, then he or she shall be guilty
48 of the offense of simple cruelty to a domesticated dog or cat. A
49 person who is convicted of the offense of simple cruelty to a



50 domesticated dog or cat shall be guilty of a misdemeanor and fined
51 not more than One Thousand Dollars (\$1,000.00), or imprisoned not
52 more than six (6) months, or both. Each act of simple cruelty
53 that is committed against more than one (1) domesticated dog or
54 cat constitutes a separate offense.

55 (b) (i) If a person with malice shall intentionally
56 torture, mutilate, maim, burn, starve to death, crush, disfigure,
57 drown, suffocate or impale any domesticated dog or cat, or cause
58 any person to do the same, then he or she shall be guilty of the
59 offense of aggravated cruelty to a domesticated dog or cat. Each
60 act of aggravated cruelty that is committed against more than one
61 (1) domesticated dog or cat shall constitute a separate offense.

62 (ii) A person who is convicted of a first offense
63 of aggravated cruelty to a domesticated dog or cat shall be guilty
64 of a felony and fined not more than Five Thousand Dollars
65 (\$5,000.00), or committed to the custody of the Department of
66 Corrections for not more than three (3) years, or both.

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



74 For purposes of calculating previous offenses of aggravated
75 cruelty under this subparagraph (iii), commission of one or more
76 acts of aggravated cruelty against one or more domesticated dogs
77 or cats within a twenty-four-hour period shall be considered one
78 (1) offense.

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

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

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

91 (b) The court may order that:

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

- 96 1. Any law enforcement agency; or
97 2. Any agency or department of a political
98 subdivision that is charged with the control, protection or



99 welfare of domesticated or feral dogs or cats within the
100 subdivision. The agency or department may reimburse a
101 nongovernmental organization for such costs, if the organization
102 possesses nonprofit status under the United States Internal
103 Revenue Code and has the purpose of protecting the welfare of, or
104 preventing cruelty to, dogs or cats whether domesticated or feral.

105 (ii) The person convicted:

106 1. Receives a psychiatric or psychological
107 evaluation and counseling or treatment for a length of time as
108 prescribed by the court. The cost of any evaluation, counseling
109 and treatment shall be paid by the offender upon order of the
110 court, up to a maximum amount that is no more than the
111 jurisdictional limit of the sentencing court.

112 2. Performs community service for a period
113 not exceeding the applicable maximum term of imprisonment that may
114 be imposed for conviction of the offense.

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

119 4. If convicted of simple cruelty under this
120 section, be prohibited from owning or possessing or residing with
121 a domesticated dog or cat for any period of time not exceeding
122 five (5) years from the date of sentencing, or any period of time



123 not exceeding fifteen (15) years from the date of sentencing if
124 the conviction involved four (4) or more counts of simple cruelty.

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

130 (d) A person found in violation of a court order
131 incorporating the provisions of paragraph (b) (ii) 4. or (c) of this
132 subsection may, in addition to any other punishment provided by
133 law, be fined in an amount not exceeding One Thousand Dollars
134 (\$1,000.00) for each domesticated dog or cat unlawfully owned or
135 possessed.

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

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

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

144 (ii) Injuring or killing an unconfined
145 domesticated or feral dog or cat on the property of the person, if
146 the unconfined dog or cat is believed to constitute a threat of



147 physical injury or damage to any domesticated animal under the
148 care or control of such person.

149 (iii) Acting under the provisions of Section
150 95-5-19 to protect poultry or livestock from a trespassing dog
151 that is in the act of chasing or killing the poultry or livestock,
152 or acting to protect poultry or livestock from a trespassing cat
153 that is in the act of chasing or killing the poultry or livestock.

154 (iv) Engaging in practices that are licensed or
155 lawful under the Mississippi Veterinary Practice Act, Section
156 73-39-51 et seq., or engaging in activities by any licensed
157 veterinarian while following accepted standards of practice of the
158 profession within the State of Mississippi, including the
159 euthanizing of a dog or cat.

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

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

- 168 1. Using dogs in such practices.
- 169 2. Raising, managing and using animals to
170 provide food, fiber or transportation.
- 171 3. Butchering animals and processing food.



172 (vii) Training for, or participating in, a rodeo,
173 equine activity, dog show, event sponsored by a kennel club or
174 other bona fide organization that promotes the breeding or showing
175 of dogs or cats, or any other competitive event which involves the
176 lawful use of dogs or cats.

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

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

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

187 1. Regulated under the provisions of the
188 Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1,
189 2011;

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

192 3. Subject to any other applicable state or
193 federal law or regulation governing animal research as in effect
194 on July 1, 2011.

195 (xi) Disposing of or destroying certain dogs under
196 authority of Sections 19-5-50, 21-19-9 and 41-53-11, which allow



197 counties, municipalities and certain law enforcement officers to
198 destroy dogs running at large without proper identification
199 indicating that such dogs have been vaccinated for rabies.

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

207 (xiii) Performing the humane euthanization of a
208 dog or cat pursuant to Section 97-41-3, or as otherwise authorized
209 by law.

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

212 (xv) Killing or chaining a dog as authorized by
213 Section 1 of this act.

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



222 of God, declarations of disaster, emergencies, acts of war,
223 earthquakes, hurricanes, tornadoes, fires, floods or other natural
224 disasters.

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

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

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

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

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



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

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

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

268 **SECTION 3.** Section 97-41-3, Mississippi Code of 1972, is
269 brought forward as follows:

270 97-41-3. (1) Any sheriff, constable, policeman, or agent of
271 a society for the prevention of cruelty to animals may kill, or



272 cause to be killed, any animal other than a dog or cat found
273 neglected or abandoned, if in the opinion of three (3) respectable
274 citizens it is injured or diseased past recovery, or by age has
275 become useless.

276 (2) (a) After all reasonable attempts have been made to
277 locate the legal owner of a dog or cat that is found maimed,
278 wounded, injured or diseased, the dog or cat may be euthanized, or
279 caused to be euthanized, by:

280 (i) A law enforcement officer;

281 (ii) A veterinarian licensed in Mississippi;

282 (iii) An employee of an agency or department of a
283 political subdivision that is charged with the control or welfare
284 of dogs or cats within the subdivision; or

285 (iv) An employee or agent of an organization that
286 has the purpose of protecting the welfare of or preventing cruelty
287 to dogs or cats and that possesses nonprofit status under the
288 United States Internal Revenue Code.

289 (b) The provisions of this subsection (2) shall not be
290 construed to prevent the immediate euthanasia by the persons
291 enumerated in this subsection or by any other person, if it is
292 necessary to prevent unrelievable suffering of the dog or cat.

293 (3) Any person acting in good faith and without malice
294 pursuant to this section shall be immune from civil and criminal
295 liability for that action.



296 **SECTION 4.** Section 95-5-21, Mississippi Code of 1972, is
297 brought forward as follows:

298 95-5-21. If any dog shall kill or injure any poultry or any
299 livestock, including cattle, horses, mules, jacks, jennets, sheep,
300 goats and hogs, the owner of the dog shall pay to the owner of
301 such poultry or livestock any loss suffered as a result of such
302 injury and the value of the poultry or livestock killed and all
303 costs of collection, including court costs and reasonable
304 attorney's fees.

305 **SECTION 5.** Section 41-53-11, Mississippi Code of 1972, is
306 brought forward as follows:

307 41-53-11. (1) It shall be lawful and it shall be their duty
308 for any sheriff, conservation officer or peace officer of a county
309 or municipality to kill any dog above the age of three (3) months
310 found running at large on whose neck there is no such collar and
311 tag. No action shall be maintained by the owner for such killing.
312 However, it shall be the duty of said officer who finds a dog or
313 dogs running at large to first keep said dog or dogs for a period
314 of five (5) days and notify the sheriff of said county that he has
315 said dog or dogs, giving the sheriff a description of same. If
316 anyone proves himself to be the owner of same, he shall pay said
317 officer the sum of Fifty Cents (50¢) before the dog is delivered
318 to the owner.

319 (2) It shall be the duty of any sheriff, conservation
320 officer or peace officer of a county or municipality to kill or



321 otherwise destroy any and all dogs above the age of three (3)
322 months which are running at large and have not been inoculated
323 (vaccinated) as required in this chapter.

324 **SECTION 6.** Section 21-19-9, Mississippi Code of 1972, is
325 brought forward as follows:

326 21-19-9. The governing authorities of municipalities shall
327 have the power to prevent or regulate the running at large of
328 animals of all kinds, and to cause such as may be running at large
329 to be impounded and sold to discharge the costs and penalties
330 provided for the violation of such regulations and the expense of
331 impounding and keeping and selling the same; to regulate and
332 provide for the taxing of owners and harborers of dogs, and to
333 destroy dogs running at large, unless such dogs have proper
334 identification indicating that said dogs have been vaccinated for
335 rabies; and to provide for the erection of all needful pens,
336 pounds and buildings for the use of the municipality, within or
337 without the municipal limits, and to appoint and confirm keepers
338 thereof, and to establish and enforce rules governing the same.

339 The governing authorities of municipalities may enter into
340 pacts, agreements or contracts with other municipalities to
341 provide for cooperation in the use or erection of all pens, pounds
342 and buildings to prevent or regulate the running at large of
343 animals of all kinds.

344 **SECTION 7.** Section 19-5-50, Mississippi Code of 1972, is
345 amended as follows:



346 19-5-50. (1) The governing authorities of any county
347 bordering on the Gulf of Mexico and having within its boundaries
348 two (2) cities having in excess of forty thousand (40,000)
349 population each, according to the 1970 United States decennial
350 census and of any county bordering on the Pearl River having two
351 (2) judicial districts, wherein is housed the seat of state
352 government, wherein U.S. Interstates 55 and 20 interchange and
353 having a population in excess of two hundred thousand (200,000),
354 according to the 1970 federal decennial census, shall have the
355 power to prevent or regulate the running at large of animals of
356 all kinds, and to cause such as may be running at large to be
357 impounded and sold to discharge the costs and penalties provided
358 for the violation of such regulations and the expense of
359 impounding and keeping and selling the same; to regulate and
360 provide for the taxing of owners and harborers of dogs, and to
361 destroy dogs running at large, unless such dogs have proper
362 identification indicating that said dogs have been vaccinated for
363 rabies; and to provide for the erection of all needful pens,
364 pounds, and buildings for the use of the county, and to appoint
365 and confirm keepers thereof, and to establish and enforce rules
366 governing the same.

367 (2) The governing authorities of any county bordering on the
368 Gulf of Mexico and having within its boundaries two (2) cities
369 having in excess of forty thousand (40,000) population each,
370 according to the 1970 federal decennial census, and of any county



371 bordering on the Gulf of Mexico and the State of Alabama in which
372 there is a shipyard which constructs oceangoing vessels, and any
373 county bordering on the Gulf of Mexico and the State of Louisiana
374 and through which U.S. Interstate Highway 10 runs, shall have the
375 power to prevent or regulate the running at large of animals of
376 all kinds, and to cause such as may be running at large to be
377 impounded and sold to discharge the costs and penalties provided
378 for the violation of such regulations and the expense of
379 impounding and keeping and selling the same; to regulate and
380 provide for the taxing of owners and harborers of dogs, and to
381 destroy dogs running at large unless such dogs have proper
382 identification indicating that said dogs have been vaccinated for
383 rabies; and to provide for the erection of all needful pens,
384 pounds and buildings for the use of the county, and to appoint and
385 confirm keepers thereof, and to establish and enforce rules
386 governing the same.

387 **SECTION 8.** This act shall take effect and be in force from
388 and after its passage.

