

By: Representative Turner

To: Judiciary A

HOUSE BILL NO. 1264

1 AN ACT TO PROHIBIT A PERSON FROM SITTING, LYING, SLEEPING, OR
 2 STORING, USING, MAINTAINING OR PLACING PERSONAL PROPERTY UPON ANY
 3 STREET, SIDEWALK OR OTHER PUBLIC RIGHT-OF-WAY WITHIN 1,000 FEET OF
 4 A DEFINED SENSITIVE AREA OR A CRITICAL INFRASTRUCTURE AREA AND TO
 5 PROVIDE THAT VIOLATION OF THIS PROHIBITION IS A PUBLIC NUISANCE
 6 THAT CAN BE ABATED AND PREVENTED; TO PROVIDE THAT A VIOLATION OF
 7 THIS PROHIBITION MAY BE CHARGED AS A MISDEMEANOR; TO REQUIRE AT
 8 LEAST 48 HOURS' NOTICE BEFORE COMMENCEMENT OF ANY ENFORCEMENT
 9 ACTION; TO AMEND SECTION 21-19-11, MISSISSIPPI CODE OF 1972, TO
 10 INCLUDE HOMELESS ENCAMPMENTS ON PRIVATE PROPERTY IN THE PUBLIC
 11 NUISANCE LAW AND TO PROVIDE THAT THE COST OF ABATING SUCH
 12 ENCAMPMENT NUISANCES ON PRIVATE PROPERTY IS A LIEN ON THE PROPERTY
 13 WHICH MAY BE WAIVED BY THE MUNICIPALITY; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** (1) As used in this section, the following terms
 16 shall have the meaning ascribed herein:

17 (a) "Law enforcement officer" means a member of the
 18 municipal police department wherein the applicable property is
 19 located or a member of the local sheriff's department wherein the
 20 applicable property is located.

21 (b) "Sensitive area" means a public or private school,
 22 community college or university, a daycare or other residential
 23 facility, a public park, or a library.



24 (c) "Critical infrastructure" means real property or a
25 facility, whether privately or publicly owned, that the local
26 governing authority or board of supervisors designates as being so
27 vital and integral to the operation or functioning of the
28 municipality or county or in need of protection that its damage,
29 incapacity, disruption or destruction would have a debilitating
30 impact on the public health, safety or welfare, including, but not
31 limited to, roads, railroad rights-of-way, bridges, canals and
32 other waterways, sewer plants, police and fire stations, drainage
33 systems, electrical and natural gas pipelines or public utility
34 easements.

35 (d) "Homeless encampment" means an outdoor location
36 where one or more homeless people live in an unsheltered area,
37 including tents, shacks, vehicles or other structures which are
38 not provided utility services paid by the person(s) living in the
39 area.

40 (2) A person shall not sit, lie, sleep or store, use,
41 maintain, or place personal property upon any street, sidewalk or
42 other public right-of-way within one thousand (1,000) feet of a
43 sensitive area or critical infrastructure.

44 (3) A violation of this is a public nuisance that may be
45 enjoined, abated, and prevented. The local district, county
46 attorney, or the city attorney of the applicable jurisdiction, in
47 the name of the citizens of that jurisdiction, may maintain an
48 action to abate and prevent the nuisance. Before pursuing



49 abatement authorized by this subsection, the district attorney,
50 county attorney or city attorney, as applicable, shall ensure that
51 the person found to be in violation of this section has received
52 verbal or written information regarding alternative locations to
53 sleep, homeless and mental health services or homeless shelter in
54 the area.

55 (4) A violation of this section may be charged as a
56 misdemeanor, at the discretion of the city attorney or district
57 attorney, punishable upon conviction thereof, by a fine not
58 exceeding Five Thousand Dollars (\$5,000.00), and/or incarceration
59 in the county jail for not exceeding six (6) months.

60 (5) A person shall not be found to be in violation of this
61 section unless a law enforcement officer employed by the county or
62 city, as applicable, with jurisdiction, has provided that person
63 written notice, at least forty-eight (48) hours before
64 commencement of any enforcement action, that the person is
65 prohibited from sitting, lying, sleeping or storing, using,
66 maintaining or placing personal property upon a street, sidewalk
67 or other public right-of-way within one thousand (1,000) feet of a
68 sensitive area or critical infrastructure area pursuant to this
69 section. A written notice shall only be deemed to have been
70 provided for the purposes of this paragraph if the notice is given
71 in a language understood by the person receiving the notice.

72 (6) The owner of real property located in a municipality or
73 county has the right to request the assistance of law enforcement



74 officers with jurisdiction to remove a homeless encampment or to
75 set up any barriers or other methods to prevent homeless
76 encampments. The removal of homeless persons or homeless
77 encampments on private property shall be done in a humane manner.
78 It is illegal to inflict harm on the trespassers or damage their
79 personal property. A tent or temporary structure shall not be
80 considered their personal property. If a homeless encampment is
81 on public property, only local law enforcement officers or
82 officers of the sheriff department may remove the encampment or
83 set up barriers.

84 **SECTION 2.** Section 21-19-11, Mississippi Code of 1972, is
85 amended as follows:

86 21-19-11. (1) To determine whether property or parcel of
87 land located within a municipality is in such a state of
88 uncleanliness as to be a menace to the public health, safety and
89 welfare of the community, a governing authority of any
90 municipality * * * may conduct a hearing, on its own motion, or
91 upon the receipt of a petition signed by a majority of the
92 residents residing within four hundred (400) feet of any property
93 or parcel of land alleged to be in need of the cleaning. Notice
94 shall be provided to the property owner by:

95 (a) United States mail two (2) weeks before the date of
96 the hearing mailed to the address of the subject property, except
97 where the land or structure(s) is apparently vacant, and to the



98 address where the ad valorem tax notice for such property is sent
99 by the office charged with collecting ad valorem tax; and

100 (b) Posting notice for at least two (2) weeks before
101 the date of a hearing on the property or parcel of land alleged to
102 be in need of cleaning and at city hall or another place in the
103 municipality where such notices are posted.

104 Any notice required by this section shall include language
105 that informs the property owner that an adjudication at the
106 hearing that the property or parcel of land is in need of cleaning
107 will authorize the municipality to reenter the property or parcel
108 of land for a period of two (2) years after final adjudication
109 without any further hearing if notice is posted on the property or
110 parcel of land and at city hall or another place in the
111 municipality where such notices are generally posted at least
112 seven (7) days before the property or parcel of land is reentered
113 for cleaning. A copy of the required notice mailed and posted as
114 required by this section shall be recorded in the minutes of the
115 governing authority in conjunction with the hearing required by
116 this section.

117 If, at such hearing, the governing authority shall adjudicate
118 the property or parcel of land in its then condition to be a
119 menace to the public health, safety and welfare of the community,
120 the governing authority, if the owner does not do so
121 himself, * * * may proceed to clean the land, by the use of
122 municipal employees or by contract, by cutting grass and weeds;



123 filling cisterns; securing abandoned or dilapidated buildings;
124 removing rubbish, abandoned or dilapidated fences, outside
125 toilets, abandoned or dilapidated buildings, slabs, personal
126 property * * * which removal of personal property shall not be
127 subject to the provisions of Section 21-39-21, and other debris;
128 removal of homeless encampments; and draining cesspools and
129 standing water therefrom. The governing authority may by
130 resolution adjudicate the actual cost of cleaning the property
131 and/or removal of homeless encampments and may also impose a
132 penalty not to exceed * * * Ten Thousand Dollars (\$10,000.00) or
133 fifty percent (50%) of the actual cost, whichever is more. The
134 cost and any penalty may become a civil debt against the property
135 owner, and/or, at the option of the governing authority, an
136 assessment against the property. The "cost assessed against the
137 property" means either the cost to the municipality of using its
138 own employees to do the work or the cost to the municipality of
139 any contract executed by the municipality to have the work done,
140 and administrative costs and legal costs of the municipality. For
141 subsequent cleaning within the one-year period after the date of
142 the hearing at which the property or parcel of land was
143 adjudicated in need of cleaning, upon seven (7) days' notice
144 posted both on the property or parcel of land adjudicated in need
145 of cleaning and at city hall or another place in the municipality
146 where such notices are generally posted, and consistent with the
147 municipality's adjudication as authorized in this subsection (1),



148 a municipality may reenter the property or parcel of land to
149 maintain cleanliness without further notice or hearing no more
150 than six (6) times in any twelve-month period with respect to
151 removing or securing abandoned or dilapidated buildings, slabs,
152 dilapidated fences and outside toilets, and no more than twelve
153 (12) times in any twenty-four-month period with respect to cutting
154 grass and weeds and removing rubbish, personal property and other
155 debris on the land, and the expense of cleaning of the property,
156 except as otherwise provided in this section for removal of
157 hazardous substances, shall not exceed an aggregate amount of
158 Twenty Thousand Dollars (\$20,000.00) per year, or the fair market
159 value of the property subsequent to cleaning, whichever is more.
160 The aggregate cost of removing hazardous substances will be the
161 actual cost of such removal to the municipality and shall not be
162 subject to the cost limitations provided in this subsection. The
163 governing authority may assess the same penalty for each time the
164 property or land is cleaned as otherwise provided in this section.
165 The penalty provided herein shall not be assessed against the
166 State of Mississippi upon request for reimbursement under Section
167 29-1-145, nor shall a municipality clean a parcel owned by the
168 State of Mississippi without first giving notice. Upon written
169 authority from the Secretary of State's office, for state-owned
170 properties, a municipality may forgo the notification process that
171 is prescribed in this subsection and proceed to clean the
172 properties and assess costs as prescribed in this subsection,



173 except that penalties shall not be assessed against the State of
174 Mississippi.

175 (2) When the fee or cost to clean property or a parcel of
176 land that is one (1) acre or less does not exceed Two Hundred
177 Fifty Dollars (\$250.00), excluding administrative costs, and the
178 property or parcel is located within a municipality having a
179 population over one thousand five hundred (1,500), the governing
180 authority of the municipality may authorize one or more of its
181 employees to determine whether the property or parcel of land is
182 in such a state of uncleanliness as to be a menace to the public
183 health, safety and welfare of the community and the determination
184 made by the authorized municipal employee shall be set forth and
185 recorded in the minutes of the governing authority. Notice of
186 this determination shall be provided to the property owner by:

187 (a) United States mail seven (7) days before the date
188 of cleaning of the property or parcel of land mailed to the
189 address of the subject property, except where the land or
190 structure(s) is apparently vacant, and to the address where the ad
191 valorem tax notice for such property is sent by the office charged
192 with collecting ad valorem tax; and

193 (b) Posting notice for at least seven (7) days before
194 the cleaning of the property or parcel of land and at city hall or
195 another place in the municipality where such notices are posted.

196 Any notice required by this subsection shall include language
197 that informs the property owner that the appropriate municipal



198 official has determined that the property or parcel of land is a
199 menace to the public health, safety and welfare of the community
200 and in need of cleaning and the municipality is authorized to
201 enter the property for cleaning and that the municipality is
202 further authorized to reenter the property or parcel of land for a
203 period of two (2) years after this cleaning without any further
204 hearing or action if notice is posted on the property or parcel of
205 land and at city hall or another place in the municipality where
206 such notices are generally posted at least seven (7) days before
207 the property or parcel of land is reentered for cleaning. A copy
208 of the required notice mailed and posted as required by this
209 subsection shall be recorded in the minutes of the governing
210 authority in conjunction with the determination made by the
211 municipal employee in this subsection (2).

212 If an authorized municipal employee determines that the
213 condition of property or parcel of land or the existence of a
214 homeless encampment is a menace to the public health, safety and
215 welfare of the community, the governing authority, if the owner
216 does not do so himself, * * * may proceed to clean the land, or
217 remove the homeless encampment by the use of municipal employees
218 or by contract, by cutting grass and weeds; filling cisterns;
219 securing abandoned or dilapidated buildings; removing rubbish,
220 abandoned or dilapidated fences, outside toilets, abandoned or
221 dilapidated buildings, slabs, personal property, which removal of
222 personal property shall not be subject to the provisions of



223 Section 21-39-21, and other debris; removal of the homeless
224 encampment and draining cesspools and standing water therefrom.
225 The governing authority * * * may by resolution adjudicate the
226 actual cost of cleaning the property under this provision,
227 provided the same does not exceed * * * Ten Thousand Dollars
228 (\$10,000.00) and may also impose a penalty not to exceed One
229 Hundred Dollars (\$100.00) or one hundred percent (100%) of the
230 actual cost of cleaning the property, whichever is more.
231 Provided, however, that the cost and any penalty imposed for the
232 removal of a homeless encampment on private property may be waived
233 in the discretion of the municipality. The cost and any penalty
234 imposed may become a civil debt against the property owner,
235 and/or, at the option of the governing authority, an assessment
236 against the property. The "cost assessed against the property"
237 means either the cost to the municipality of using its own
238 employees to do the work or the cost to the municipality of any
239 contract executed by the municipality to have the work done, and
240 additionally may include administrative costs of the municipality
241 not to exceed Fifty Dollars (\$50.00). For subsequent cleaning
242 within the one-year period set forth in this subsection (2), upon
243 seven (7) days' notice posted both on the property or parcel of
244 land adjudicated in need of cleaning and at city hall or another
245 place in the municipality where such notices are generally posted,
246 and consistent with the municipal official's determination as
247 authorized in this subsection (2), a municipality may reenter the



248 property or parcel of land to maintain cleanliness without further
249 notice or hearing under this subsection (2) no more than six (6)
250 times in any twelve-month period with respect to removing or
251 securing abandoned or dilapidated buildings, slabs, dilapidated
252 fences and outside toilets, and no more than twelve (12) times in
253 any twenty-four-month period with respect to cutting grass and
254 weeds and removing rubbish, personal property and other debris on
255 the land, and the removal of homeless encampments, and the expense
256 of cleaning of the property shall not exceed an aggregate amount
257 of One Thousand Dollars (\$1,000.00) per year under this subsection
258 (2). The governing authority may assess the same actual costs,
259 administrative costs and penalty for each time the property or
260 land is cleaned as otherwise provided in this subsection (2). The
261 penalty provided herein shall not be assessed against the State of
262 Mississippi upon request for reimbursement under Section 29-1-145,
263 nor shall a municipality clean a parcel owned by the State of
264 Mississippi without first giving notice. Upon written authority
265 from the Secretary of State's office, for state-owned properties,
266 a municipality may forgo the notification process that is
267 prescribed in this subsection and proceed to clean the properties
268 and assess costs as prescribed in this subsection, except that
269 penalties shall not be assessed against the State of Mississippi.
270 A determination made by an appropriate municipal employee under
271 this subsection (2) that the state or condition of property or a
272 parcel of land is a menace to the public health, safety and



273 welfare of the community shall not subsequently be used to replace
274 a hearing if subsection (1) of this section is later utilized by a
275 municipality when the prerequisites of this subsection (2) are not
276 satisfied.

277 (3) If the governing authority declares, by resolution, that
278 the cost and any penalty shall be collected as a civil debt, the
279 governing authority may authorize the institution of a suit on
280 open account against the owner of the property in a court of
281 competent jurisdiction in the manner provided by law for the cost
282 and any penalty, plus court costs, reasonable attorney's fees and
283 interest from the date that the property was cleaned.

284 (4) (a) If the governing authority declares that the cost
285 and any penalty shall be collected as an assessment against the
286 property, then the assessment above provided for shall be a lien
287 against the property and may be enrolled in the office of the
288 chancery clerk of the county as other liens and encumbrances are
289 enrolled, and the tax collector of the municipality shall, upon
290 order of the board of governing authorities, proceed to sell the
291 land to satisfy the lien as now provided by law for the sale of
292 lands for delinquent municipal taxes. The lien against the
293 property shall be an encumbrance upon the property and shall
294 follow title of the property.

295 (b) (i) All assessments levied under the provisions of
296 this section shall be included with municipal ad valorem taxes and
297 payment shall be enforced in the same manner in which payment is



298 enforced for municipal ad valorem taxes, and all statutes
299 regulating the collection of other taxes in a municipality shall
300 apply to the enforcement and collection of the assessments levied
301 under the provisions of this section, including utilization of the
302 procedures authorized under Sections 17-13-9(2) and 27-41-2.

303 (ii) All assessments levied under the provisions
304 of this section shall become delinquent at the same time municipal
305 ad valorem taxes become delinquent. Delinquencies shall be
306 collected in the same manner and at the same time delinquent ad
307 valorem taxes are collected and shall bear the same penalties as
308 those provided for delinquent taxes. If the property is sold for
309 the nonpayment of an assessment under this section, it shall be
310 sold in the manner that property is sold for the nonpayment of
311 delinquent ad valorem taxes. If the property is sold for
312 delinquent ad valorem taxes, the assessment under this section
313 shall be added to the delinquent tax and collected at the same
314 time and in the same manner.

315 (5) All decisions rendered under the provisions of this
316 section may be appealed in the same manner as other appeals from
317 municipal boards or courts are taken. However, an appeal from a
318 decision of a municipal officer or official shall be made to the
319 governing authority and such appeal shall be in writing, state the
320 basis for the appeal and be filed with the city clerk no later
321 than seven (7) days from the latest date of notice required under
322 this section.



323 (6) Nothing contained under this section shall prevent any
324 municipality from enacting criminal penalties for failure to
325 maintain property so as not to constitute a menace to public
326 health, safety and welfare, or for enforcing the provisions of
327 Section 1 of this act relating to the abatement of homeless
328 encampments.

329 (7) (a) If private property or a parcel of land located
330 within a municipality is a perpetual care cemetery subject to
331 Section 41-43-1 et seq., the governing authority of the
332 municipality may proceed pursuant to the same provisions of this
333 section used to determine whether a property is a public health
334 menace to instead determine if the perpetual care cemetery and all
335 structures on the cemetery are not being properly maintained and
336 have become detrimental to the public health and welfare. A
337 perpetual care cemetery that is "not being properly maintained and
338 has become detrimental to the public health and welfare" means a
339 perpetual care cemetery that shows signs of neglect, including,
340 without limitation, the unchecked growth of vegetation, repeated
341 and unchecked acts of vandalism, unusable entrances and exits,
342 excess rubbish or debris, or the disintegration of grave markers
343 or boundaries. Upon notice and opportunity to be heard as
344 provided in subsection (1) of this section, the governing
345 authority of the municipality may adjudicate the property or
346 parcel of land in its then condition to be not properly maintained
347 and detrimental to the public health and welfare, and if the owner



348 does not do so itself, may proceed to clean the property or parcel
349 of land as provided in subsection (1) of this section. When
350 cleaning the property or parcel of land of a perpetual care
351 cemetery pursuant to this subsection (7), the penalty or penalties
352 provided in subsection (1) of this section shall not be assessed
353 against owners of the perpetual care cemeteries.

354 (b) The governing authority of a municipality that
355 cleans the property or parcel of land of a perpetual care cemetery
356 pursuant to this subsection (7) may make application to the
357 Secretary of State for an order directing the trustee of the
358 perpetual care cemetery trust fund to release accrued interest or
359 principal of the trust fund sufficient to reimburse the
360 municipality for only the actual cleanup costs incurred by the
361 municipality. The application to the Secretary of State shall
362 include a statement by the municipality that all of the
363 requirements of this section have been met.

364 (c) If the Secretary of State is satisfied that the
365 notice and hearing requirements of this section have been met, and
366 that the application for an order directing the trustee to release
367 accrued interest of the perpetual care cemetery trust fund does
368 not threaten the ability of the trust fund to provide for the care
369 and maintenance of the cemetery, the Secretary of State may order
370 the trustee to release accrued interest of the trust fund
371 sufficient to reimburse the municipality for the actual costs of
372 cleanup performed by the municipality.



373 (d) If the Secretary of State is satisfied that the
374 notice and hearing requirements of this section have been met, but
375 makes a determination that the accrued interest of the perpetual
376 care cemetery trust fund is insufficient to reimburse the
377 municipality for the actual costs of cleanup performed by the
378 municipality, or that an order to release accrued interest would
379 threaten the ability of the trust fund to provide for the care and
380 maintenance of the cemetery, the Secretary of State may consider
381 an order directing the trustee to reimburse the municipality from
382 the principal of the trust fund. If the Secretary of State
383 determines that an order to the trustee to release principal from
384 the trust fund will not threaten the solvency of the trust fund,
385 the Secretary of State may order the trustee to release principal
386 of the trust fund in an amount sufficient to reimburse the
387 municipality for the actual costs of cleanup performed by the
388 municipality.

389 (i) The Secretary of State may not order the
390 trustee to release an amount of more than fifteen percent (15%) of
391 principal of the trust fund to reimburse the municipality for the
392 actual costs of cleanup performed by the municipality.

393 (ii) The provisions of this section may be
394 utilized no more than once in a four-year period.

395 **SECTION 3.** This act shall take effect and be in force from
396 and after July 1, 2024.

