

By: Senator(s) McMahan

To: Municipalities;
Judiciary, Division B

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2500

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 PROVIDE THAT CONVICTIONS UNDER THIS SECTION SHALL NOT
10 APPEAR ON A PERSON'S PUBLIC RECORD; TO AUTHORIZE THE REMOVAL OF
11 HOMELESS ENCAMPMENTS ON PRIVATE PROPERTY IN A HUMANE MANNER AFTER
12 72 HOURS' NOTICE; TO AMEND SECTION 21-19-11, MISSISSIPPI CODE OF
13 1972, TO INCLUDE HOMELESS ENCAMPMENTS ON PRIVATE PROPERTY IN THE
14 PUBLIC NUISANCE LAW AND TO PROVIDE THAT THE COST OF ABATING SUCH
15 ENCAMPMENT NUISANCES ON PRIVATE PROPERTY IS A LIEN ON THE PROPERTY
16 WHICH MAY BE WAIVED BY THE MUNICIPALITY; AND FOR RELATED PURPOSES.

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

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

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



24 (b) "Sensitive area" means a public or private school,
25 community college or university, a daycare or other residential
26 facility, a public park or a library.

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

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

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

47 (3) A violation of this is a public nuisance that may be
48 enjoined, abated, and prevented. The local district, county



49 attorney, or the city attorney of the applicable jurisdiction, in
50 the name of the citizens of that jurisdiction, may maintain an
51 action to abate and prevent the nuisance. Before pursuing
52 abatement authorized by this subsection, the district attorney,
53 county attorney or city attorney, as applicable, shall ensure that
54 the person found to be in violation of this section has received
55 verbal or written information regarding alternative locations to
56 sleep, homeless and mental health services or homeless shelters in
57 the area.

58 (4) (a) A violation of this section may be charged as a
59 misdemeanor, at the discretion of the city attorney, county
60 attorney or district attorney, punishable upon conviction thereof,
61 by a fine not exceeding One Thousand Dollars (\$1,000.00) or
62 incarceration in the county jail for a term not exceeding four (4)
63 months or both.

64 (b) Convictions and citations under this section shall
65 not appear on a person's public record and shall not be submitted
66 to the National Crime Information Center or any public accessible
67 state database. The court of conviction may keep a confidential
68 record for purposes related to enforcement of the sentence. The
69 court of jurisdiction shall ensure that any citation or conviction
70 does not appear on a person's public record.

71 (5) A person shall not be found to be in violation of this
72 section unless a law enforcement officer employed by the county or
73 city, as applicable, with jurisdiction, has provided that person



74 written notice, at least forty-eight (48) hours before
75 commencement of any enforcement action, that the person is
76 prohibited from sitting, lying, sleeping or storing, using,
77 maintaining or placing personal property upon a street, sidewalk
78 or other public right-of-way within one thousand (1,000) feet of a
79 sensitive area or critical infrastructure area pursuant to this
80 section. A written notice shall only be deemed to have been
81 provided for the purposes of this paragraph if the notice:

82 (a) Is given in a language understood by the person
83 receiving the notice; and

84 (b) Contains information regarding alternative
85 locations to sleep, homeless and mental health services, homeless
86 shelters in the area, and any relevant information about services
87 offered at Community Mental Health Centers.

88 (6) The owner of real property located in a municipality or
89 county has the right to request the assistance of law enforcement
90 officers with jurisdiction to remove a homeless encampment or to
91 set up any barriers or other methods to prevent homeless
92 encampments. Persons living in homeless encampments shall receive
93 seventy-two (72) hours notice of the removal. The removal of
94 homeless persons or homeless encampments on private property shall
95 be done in a humane manner. It is illegal to inflict harm on the
96 trespassers or damage their personal property. A tent or
97 temporary structure shall not be considered the personal property
98 of any trespasser who has received the proper notice under this



99 section. If a homeless encampment is on public property, only
100 local law enforcement officers or officers of the sheriff's
101 department may remove the encampment or set up barriers.

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

104 21-19-11. (1) To determine whether property or parcel of
105 land located within a municipality is in such a state of
106 uncleanliness as to be a menace to the public health, safety and
107 welfare of the community, a governing authority of any
108 municipality shall conduct a hearing, on its own motion, or upon
109 the receipt of a petition signed by a majority of the residents
110 residing within four hundred (400) feet of any property or parcel
111 of land alleged to be in need of the cleaning. Notice shall be
112 provided to the property owner by:

113 (a) United States mail two (2) weeks before the date of
114 the hearing mailed to the address of the subject property, except
115 where the land or structure(s) is apparently vacant, and to the
116 address where the ad valorem tax notice for such property is sent
117 by the office charged with collecting ad valorem tax; and

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

122 Any notice required by this section shall include language
123 that informs the property owner that an adjudication at the



124 hearing that the property or parcel of land is in need of cleaning
125 will authorize the municipality to reenter the property or parcel
126 of land for a period of two (2) years after final adjudication
127 without any further hearing if notice is posted on the property or
128 parcel of land and at city hall or another place in the
129 municipality where such notices are generally posted at least
130 seven (7) days before the property or parcel of land is reentered
131 for cleaning. A copy of the required notice mailed and posted as
132 required by this section shall be recorded in the minutes of the
133 governing authority in conjunction with the hearing required by
134 this section.

135 If, at such hearing, the governing authority shall adjudicate
136 the property or parcel of land in its then condition to be a
137 menace to the public health, safety and welfare of the community,
138 the governing authority, if the owner does not do so himself,
139 shall proceed to clean the land, by the use of municipal employees
140 or by contract, by cutting grass and weeds; filling cisterns;
141 securing abandoned or dilapidated buildings; removing rubbish,
142 abandoned or dilapidated fences, outside toilets, abandoned or
143 dilapidated buildings, slabs, personal property * * * which
144 removal of personal property shall not be subject to the
145 provisions of Section 21-39-21, and other debris; removal of
146 homeless encampments; and draining cesspools and standing water
147 therefrom. The governing authority may by resolution adjudicate
148 the actual cost of cleaning the property and/or removal of



149 homeless encampments and may also impose a penalty not to
150 exceed * * * Ten Thousand Dollars (\$10,000.00) or fifty percent
151 (50%) of the actual cost, whichever is more. The cost and any
152 penalty may become a civil debt against the property owner,
153 and/or, at the option of the governing authority, an assessment
154 against the property. The "cost assessed against the property"
155 means either the cost to the municipality of using its own
156 employees to do the work or the cost to the municipality of any
157 contract executed by the municipality to have the work done, and
158 administrative costs and legal costs of the municipality. For
159 subsequent cleaning within the one-year period after the date of
160 the hearing at which the property or parcel of land was
161 adjudicated in need of cleaning, upon seven (7) days' notice
162 posted both on the property or parcel of land adjudicated in need
163 of cleaning and at city hall or another place in the municipality
164 where such notices are generally posted, and consistent with the
165 municipality's adjudication as authorized in this subsection (1),
166 a municipality may reenter the property or parcel of land to
167 maintain cleanliness without further notice or hearing no more
168 than six (6) times in any twelve-month period with respect to
169 removing or securing abandoned or dilapidated buildings, slabs,
170 dilapidated fences and outside toilets, and no more than twelve
171 (12) times in any twenty-four-month period with respect to cutting
172 grass and weeds and removing rubbish, personal property and other
173 debris on the land, and the expense of cleaning of the property,



174 except as otherwise provided in this section for removal of
175 hazardous substances, shall not exceed an aggregate amount of
176 Twenty Thousand Dollars (\$20,000.00) per year, or the fair market
177 value of the property subsequent to cleaning, whichever is more.
178 The aggregate cost of removing hazardous substances will be the
179 actual cost of such removal to the municipality and shall not be
180 subject to the cost limitations provided in this subsection. The
181 governing authority may assess the same penalty for each time the
182 property or land is cleaned as otherwise provided in this section.
183 The penalty provided herein shall not be assessed against the
184 State of Mississippi upon request for reimbursement under Section
185 29-1-145, nor shall a municipality clean a parcel owned by the
186 State of Mississippi without first giving notice. Upon written
187 authority from the Secretary of State's office, for state-owned
188 properties, a municipality may forgo the notification process that
189 is prescribed in this subsection and proceed to clean the
190 properties and assess costs as prescribed in this subsection,
191 except that penalties shall not be assessed against the State of
192 Mississippi.

193 (2) When the fee or cost to clean property or a parcel of
194 land that is one (1) acre or less does not exceed Two Hundred
195 Fifty Dollars (\$250.00), excluding administrative costs, and the
196 property or parcel is located within a municipality having a
197 population over one thousand five hundred (1,500), the governing
198 authority of the municipality may authorize one or more of its



199 employees to determine whether the property or parcel of land is
200 in such a state of uncleanliness as to be a menace to the public
201 health, safety and welfare of the community and the determination
202 made by the authorized municipal employee shall be set forth and
203 recorded in the minutes of the governing authority. Notice of
204 this determination shall be provided to the property owner by:

205 (a) United States mail seven (7) days before the date
206 of cleaning of the property or parcel of land mailed to the
207 address of the subject property, except where the land or
208 structure(s) is apparently vacant, and to the address where the ad
209 valorem tax notice for such property is sent by the office charged
210 with collecting ad valorem tax; and

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

214 Any notice required by this subsection shall include language
215 that informs the property owner that the appropriate municipal
216 official has determined that the property or parcel of land is a
217 menace to the public health, safety and welfare of the community
218 and in need of cleaning and the municipality is authorized to
219 enter the property for cleaning and that the municipality is
220 further authorized to reenter the property or parcel of land for a
221 period of two (2) years after this cleaning without any further
222 hearing or action if notice is posted on the property or parcel of
223 land and at city hall or another place in the municipality where



224 such notices are generally posted at least seven (7) days before
225 the property or parcel of land is reentered for cleaning. A copy
226 of the required notice mailed and posted as required by this
227 subsection shall be recorded in the minutes of the governing
228 authority in conjunction with the determination made by the
229 municipal employee in this subsection (2).

230 If an authorized municipal employee determines that the
231 condition of property or parcel of land or the existence of a
232 homeless encampment is a menace to the public health, safety and
233 welfare of the community, the governing authority, if the owner
234 does not do so himself, shall proceed to clean the land, or remove
235 the homeless encampment by the use of municipal employees or by
236 contract, by cutting grass and weeds; filling cisterns; securing
237 abandoned or dilapidated buildings; removing rubbish, abandoned or
238 dilapidated fences, outside toilets, abandoned or dilapidated
239 buildings, slabs, personal property, which removal of personal
240 property shall not be subject to the provisions of Section
241 21-39-21, and other debris; removal of the homeless encampment and
242 draining cesspools and standing water therefrom. The governing
243 authority shall by resolution adjudicate the actual cost of
244 cleaning the property under this provision, provided the same does
245 not exceed * * * Ten Thousand Dollars (\$10,000.00) and may also
246 impose a penalty not to exceed One Hundred Dollars (\$100.00) or
247 one hundred percent (100%) of the actual cost of cleaning the
248 property, whichever is more. Provided, however, that the cost and



249 any penalty imposed for the removal of a homeless encampment on
250 private property may be waived in the discretion of the
251 municipality. The cost and any penalty imposed may become a civil
252 debt against the property owner, and/or, at the option of the
253 governing authority, an assessment against the property. The
254 "cost assessed against the property" means either the cost to the
255 municipality of using its own employees to do the work or the cost
256 to the municipality of any contract executed by the municipality
257 to have the work done, and additionally may include administrative
258 costs of the municipality not to exceed Fifty Dollars (\$50.00).
259 For subsequent cleaning within the one-year period set forth in
260 this subsection (2), upon seven (7) days' notice posted both on
261 the property or parcel of land adjudicated in need of cleaning and
262 at city hall or another place in the municipality where such
263 notices are generally posted, and consistent with the municipal
264 official's determination as authorized in this subsection (2), a
265 municipality may reenter the property or parcel of land to
266 maintain cleanliness without further notice or hearing under this
267 subsection (2) no more than six (6) times in any twelve-month
268 period with respect to removing or securing abandoned or
269 dilapidated buildings, slabs, dilapidated fences and outside
270 toilets, and no more than twelve (12) times in any
271 twenty-four-month period with respect to cutting grass and weeds
272 and removing rubbish, personal property and other debris on the
273 land, and the removal of homeless encampments, and the expense of



274 cleaning of the property shall not exceed an aggregate amount of
275 One Thousand Dollars (\$1,000.00) per year under this subsection
276 (2). The governing authority may assess the same actual costs,
277 administrative costs and penalty for each time the property or
278 land is cleaned as otherwise provided in this subsection (2). The
279 penalty provided herein shall not be assessed against the State of
280 Mississippi upon request for reimbursement under Section 29-1-145,
281 nor shall a municipality clean a parcel owned by the State of
282 Mississippi without first giving notice. Upon written authority
283 from the Secretary of State's office, for state-owned properties,
284 a municipality may forgo the notification process that is
285 prescribed in this subsection and proceed to clean the properties
286 and assess costs as prescribed in this subsection, except that
287 penalties shall not be assessed against the State of Mississippi.
288 A determination made by an appropriate municipal employee under
289 this subsection (2) that the state or condition of property or a
290 parcel of land is a menace to the public health, safety and
291 welfare of the community shall not subsequently be used to replace
292 a hearing if subsection (1) of this section is later utilized by a
293 municipality when the prerequisites of this subsection (2) are not
294 satisfied.

295 (3) If the governing authority declares, by resolution, that
296 the cost and any penalty shall be collected as a civil debt, the
297 governing authority may authorize the institution of a suit on
298 open account against the owner of the property in a court of



299 competent jurisdiction in the manner provided by law for the cost
300 and any penalty, plus court costs, reasonable attorney's fees and
301 interest from the date that the property was cleaned.

302 (4) (a) If the governing authority declares that the cost
303 and any penalty shall be collected as an assessment against the
304 property, then the assessment above provided for shall be a lien
305 against the property and may be enrolled in the office of the
306 chancery clerk of the county as other liens and encumbrances are
307 enrolled, and the tax collector of the municipality shall, upon
308 order of the board of governing authorities, proceed to sell the
309 land to satisfy the lien as now provided by law for the sale of
310 lands for delinquent municipal taxes. The lien against the
311 property shall be an encumbrance upon the property and shall
312 follow title of the property.

313 (b) (i) All assessments levied under the provisions of
314 this section shall be included with municipal ad valorem taxes and
315 payment shall be enforced in the same manner in which payment is
316 enforced for municipal ad valorem taxes, and all statutes
317 regulating the collection of other taxes in a municipality shall
318 apply to the enforcement and collection of the assessments levied
319 under the provisions of this section, including utilization of the
320 procedures authorized under Sections 17-13-9(2) and 27-41-2.

321 (ii) All assessments levied under the provisions
322 of this section shall become delinquent at the same time municipal
323 ad valorem taxes become delinquent. Delinquencies shall be



324 collected in the same manner and at the same time delinquent ad
325 valorem taxes are collected and shall bear the same penalties as
326 those provided for delinquent taxes. If the property is sold for
327 the nonpayment of an assessment under this section, it shall be
328 sold in the manner that property is sold for the nonpayment of
329 delinquent ad valorem taxes. If the property is sold for
330 delinquent ad valorem taxes, the assessment under this section
331 shall be added to the delinquent tax and collected at the same
332 time and in the same manner.

333 (5) All decisions rendered under the provisions of this
334 section may be appealed in the same manner as other appeals from
335 municipal boards or courts are taken. However, an appeal from a
336 decision of a municipal officer or official shall be made to the
337 governing authority and such appeal shall be in writing, state the
338 basis for the appeal and be filed with the city clerk no later
339 than seven (7) days from the latest date of notice required under
340 this section.

341 (6) Nothing contained under this section shall prevent any
342 municipality from enacting criminal penalties for failure to
343 maintain property so as not to constitute a menace to public
344 health, safety and welfare, or for enforcing the provisions of
345 Section 1 of this act relating to the abatement of homeless
346 encampments.

347 (7) Notwithstanding any provision to the contrary in this
348 section, the decision to remove a homeless encampment on private



349 property shall be discretionary by the governing authorities of
350 the municipality.

351 (* * *8) (a) If private property or a parcel of land
352 located within a municipality is a perpetual care cemetery subject
353 to Section 41-43-1 et seq., the governing authority of the
354 municipality may proceed pursuant to the same provisions of this
355 section used to determine whether a property is a public health
356 menace to instead determine if the perpetual care cemetery and all
357 structures on the cemetery are not being properly maintained and
358 have become detrimental to the public health and welfare. A
359 perpetual care cemetery that is "not being properly maintained and
360 has become detrimental to the public health and welfare" means a
361 perpetual care cemetery that shows signs of neglect, including,
362 without limitation, the unchecked growth of vegetation, repeated
363 and unchecked acts of vandalism, unusable entrances and exits,
364 excess rubbish or debris, or the disintegration of grave markers
365 or boundaries. Upon notice and opportunity to be heard as
366 provided in subsection (1) of this section, the governing
367 authority of the municipality may adjudicate the property or
368 parcel of land in its then condition to be not properly maintained
369 and detrimental to the public health and welfare, and if the owner
370 does not do so itself, may proceed to clean the property or parcel
371 of land as provided in subsection (1) of this section. When
372 cleaning the property or parcel of land of a perpetual care
373 cemetery pursuant to this subsection (7), the penalty or penalties



374 provided in subsection (1) of this section shall not be assessed
375 against owners of the perpetual care cemeteries.

376 (b) The governing authority of a municipality that
377 cleans the property or parcel of land of a perpetual care cemetery
378 pursuant to this subsection (7) may make application to the
379 Secretary of State for an order directing the trustee of the
380 perpetual care cemetery trust fund to release accrued interest or
381 principal of the trust fund sufficient to reimburse the
382 municipality for only the actual cleanup costs incurred by the
383 municipality. The application to the Secretary of State shall
384 include a statement by the municipality that all of the
385 requirements of this section have been met.

386 (c) If the Secretary of State is satisfied that the
387 notice and hearing requirements of this section have been met, and
388 that the application for an order directing the trustee to release
389 accrued interest of the perpetual care cemetery trust fund does
390 not threaten the ability of the trust fund to provide for the care
391 and maintenance of the cemetery, the Secretary of State may order
392 the trustee to release accrued interest of the trust fund
393 sufficient to reimburse the municipality for the actual costs of
394 cleanup performed by the municipality.

395 (d) If the Secretary of State is satisfied that the
396 notice and hearing requirements of this section have been met, but
397 makes a determination that the accrued interest of the perpetual
398 care cemetery trust fund is insufficient to reimburse the



399 municipality for the actual costs of cleanup performed by the
400 municipality, or that an order to release accrued interest would
401 threaten the ability of the trust fund to provide for the care and
402 maintenance of the cemetery, the Secretary of State may consider
403 an order directing the trustee to reimburse the municipality from
404 the principal of the trust fund. If the Secretary of State
405 determines that an order to the trustee to release principal from
406 the trust fund will not threaten the solvency of the trust fund,
407 the Secretary of State may order the trustee to release principal
408 of the trust fund in an amount sufficient to reimburse the
409 municipality for the actual costs of cleanup performed by the
410 municipality.

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

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

417 **SECTION 3.** This act shall take effect and be in force from
418 and after July 1, 2024, and shall stand repealed on June 30, 2024.

