

By: Senator(s) McMahan

To: Municipalities;  
Judiciary, Division B

SENATE BILL NO. 2500  
(As Passed the Senate)

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, including homeless and mental health services or homeless  
57 shelters in 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 (7) In order to enforce the provisions of this section, the  
103 local municipal governing authority may establish a dilapidated  
104 property fund and make annual expenditures into the fund for the  
105 legal removal of homeless encampments on public and private  
106 property. The local municipal governing authority establishing  
107 such fund shall prescribe rules and regulations for the  
108 administration of the fund and expenditures from the fund and  
109 shall spread these prescribed amounts and procedures on its  
110 minutes.

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

113 21-19-11. (1) To determine whether property or parcel of  
114 land located within a municipality is in such a state of  
115 uncleanliness as to be a menace to the public health, safety and  
116 welfare of the community, a governing authority of any  
117 municipality shall conduct a hearing, on its own motion, or upon  
118 the receipt of a petition signed by a majority of the residents  
119 residing within four hundred (400) feet of any property or parcel  
120 of land alleged to be in need of the cleaning. Notice shall be  
121 provided to the property owner by:

122 (a) United States mail two (2) weeks before the date of  
123 the hearing mailed to the address of the subject property, except



124 where the land or structure(s) is apparently vacant, and to the  
125 address where the ad valorem tax notice for such property is sent  
126 by the office charged with collecting ad valorem tax; and

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

131 Any notice required by this section shall include language  
132 that informs the property owner that an adjudication at the  
133 hearing that the property or parcel of land is in need of cleaning  
134 will authorize the municipality to reenter the property or parcel  
135 of land for a period of two (2) years after final adjudication  
136 without any further hearing if notice is posted on the property or  
137 parcel of land and at city hall or another place in the  
138 municipality where such notices are generally posted at least  
139 seven (7) days before the property or parcel of land is reentered  
140 for cleaning. A copy of the required notice mailed and posted as  
141 required by this section shall be recorded in the minutes of the  
142 governing authority in conjunction with the hearing required by  
143 this section.

144 If, at such hearing, the governing authority shall adjudicate  
145 the property or parcel of land in its then condition to be a  
146 menace to the public health, safety and welfare of the community,  
147 the governing authority, if the owner does not do so himself,  
148 shall proceed to clean the land, by the use of municipal employees



149 or by contract, by cutting grass and weeds; filling cisterns;  
150 securing abandoned or dilapidated buildings; removing rubbish,  
151 abandoned or dilapidated fences, outside toilets, abandoned or  
152 dilapidated buildings, slabs, personal property \* \* \* which  
153 removal of personal property shall not be subject to the  
154 provisions of Section 21-39-21, and other debris; removal of  
155 homeless encampments; and draining cesspools and standing water  
156 therefrom. The governing authority may by resolution adjudicate  
157 the actual cost of cleaning the property and/or removal of  
158 homeless encampments and may also impose a penalty not to  
159 exceed \* \* \* Ten Thousand Dollars (\$10,000.00) or fifty percent  
160 (50%) of the actual cost, whichever is more. The cost and any  
161 penalty may become a civil debt against the property owner,  
162 and/or, at the option of the governing authority, an assessment  
163 against the property. The "cost assessed against the property"  
164 means either the cost to the municipality of using its own  
165 employees to do the work or the cost to the municipality of any  
166 contract executed by the municipality to have the work done, and  
167 administrative costs and legal costs of the municipality. For  
168 subsequent cleaning within the one-year period after the date of  
169 the hearing at which the property or parcel of land was  
170 adjudicated in need of cleaning, upon seven (7) days' notice  
171 posted both on the property or parcel of land adjudicated in need  
172 of cleaning and at city hall or another place in the municipality  
173 where such notices are generally posted, and consistent with the



174 municipality's adjudication as authorized in this subsection (1),  
175 a municipality may reenter the property or parcel of land to  
176 maintain cleanliness without further notice or hearing no more  
177 than six (6) times in any twelve-month period with respect to  
178 removing or securing abandoned or dilapidated buildings, slabs,  
179 dilapidated fences and outside toilets, and no more than twelve  
180 (12) times in any twenty-four-month period with respect to cutting  
181 grass and weeds and removing rubbish, personal property and other  
182 debris on the land, and the expense of cleaning of the property,  
183 except as otherwise provided in this section for removal of  
184 hazardous substances, shall not exceed an aggregate amount of  
185 Twenty Thousand Dollars (\$20,000.00) per year, or the fair market  
186 value of the property subsequent to cleaning, whichever is more.  
187 The aggregate cost of removing hazardous substances will be the  
188 actual cost of such removal to the municipality and shall not be  
189 subject to the cost limitations provided in this subsection. The  
190 governing authority may assess the same penalty for each time the  
191 property or land is cleaned as otherwise provided in this section.  
192 The penalty provided herein shall not be assessed against the  
193 State of Mississippi upon request for reimbursement under Section  
194 29-1-145, nor shall a municipality clean a parcel owned by the  
195 State of Mississippi without first giving notice. Upon written  
196 authority from the Secretary of State's office, for state-owned  
197 properties, a municipality may forgo the notification process that  
198 is prescribed in this subsection and proceed to clean the





199 properties and assess costs as prescribed in this subsection,  
200 except that penalties shall not be assessed against the State of  
201 Mississippi.

202 (2) When the fee or cost to clean property or a parcel of  
203 land that is one (1) acre or less does not exceed Two Hundred  
204 Fifty Dollars (\$250.00), excluding administrative costs, and the  
205 property or parcel is located within a municipality having a  
206 population over one thousand five hundred (1,500), the governing  
207 authority of the municipality may authorize one or more of its  
208 employees to determine whether the property or parcel of land is  
209 in such a state of uncleanliness as to be a menace to the public  
210 health, safety and welfare of the community and the determination  
211 made by the authorized municipal employee shall be set forth and  
212 recorded in the minutes of the governing authority. Notice of  
213 this determination shall be provided to the property owner by:

214 (a) United States mail seven (7) days before the date  
215 of cleaning of the property or parcel of land mailed to the  
216 address of the subject property, except where the land or  
217 structure(s) is apparently vacant, and to the address where the ad  
218 valorem tax notice for such property is sent by the office charged  
219 with collecting ad valorem tax; and

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



223 Any notice required by this subsection shall include language  
224 that informs the property owner that the appropriate municipal  
225 official has determined that the property or parcel of land is a  
226 menace to the public health, safety and welfare of the community  
227 and in need of cleaning and the municipality is authorized to  
228 enter the property for cleaning and that the municipality is  
229 further authorized to reenter the property or parcel of land for a  
230 period of two (2) years after this cleaning without any further  
231 hearing or action if notice is posted on the property or parcel of  
232 land and at city hall or another place in the municipality where  
233 such notices are generally posted at least seven (7) days before  
234 the property or parcel of land is reentered for cleaning. A copy  
235 of the required notice mailed and posted as required by this  
236 subsection shall be recorded in the minutes of the governing  
237 authority in conjunction with the determination made by the  
238 municipal employee in this subsection (2).

239 If an authorized municipal employee determines that the  
240 condition of property or parcel of land or the existence of a  
241 homeless encampment is a menace to the public health, safety and  
242 welfare of the community, the governing authority, if the owner  
243 does not do so himself, shall proceed to clean the land, or remove  
244 the homeless encampment by the use of municipal employees or by  
245 contract, by cutting grass and weeds; filling cisterns; securing  
246 abandoned or dilapidated buildings; removing rubbish, abandoned or  
247 dilapidated fences, outside toilets, abandoned or dilapidated



248 buildings, slabs, personal property, which removal of personal  
249 property shall not be subject to the provisions of Section  
250 21-39-21, and other debris; removal of the homeless encampment;  
251 and draining cesspools and standing water therefrom. The  
252 governing authority shall by resolution adjudicate the actual cost  
253 of cleaning the property under this provision, provided the same  
254 does not exceed \* \* \* Ten Thousand Dollars (\$10,000.00) and may  
255 also impose a penalty not to exceed One Hundred Dollars (\$100.00)  
256 or one hundred percent (100%) of the actual cost of cleaning the  
257 property, whichever is more. Provided, however, that the cost and  
258 any penalty imposed for the removal of a homeless encampment on  
259 private property may be waived in the discretion of the  
260 municipality. The cost and any penalty imposed may become a civil  
261 debt against the property owner, and/or, at the option of the  
262 governing authority, an assessment against the property. The  
263 "cost assessed against the property" means either the cost to the  
264 municipality of using its own employees to do the work or the cost  
265 to the municipality of any contract executed by the municipality  
266 to have the work done, and additionally may include administrative  
267 costs of the municipality not to exceed Fifty Dollars (\$50.00).  
268 For subsequent cleaning within the one-year period set forth in  
269 this subsection (2), upon seven (7) days' notice posted both on  
270 the property or parcel of land adjudicated in need of cleaning and  
271 at city hall or another place in the municipality where such  
272 notices are generally posted, and consistent with the municipal



273 official's determination as authorized in this subsection (2), a  
274 municipality may reenter the property or parcel of land to  
275 maintain cleanliness without further notice or hearing under this  
276 subsection (2) no more than six (6) times in any twelve-month  
277 period with respect to removing or securing abandoned or  
278 dilapidated buildings, slabs, dilapidated fences and outside  
279 toilets, and no more than twelve (12) times in any  
280 twenty-four-month period with respect to cutting grass and weeds  
281 and removing rubbish, personal property and other debris on the  
282 land, and the removal of homeless encampments, and the expense of  
283 cleaning of the property shall not exceed an aggregate amount of  
284 One Thousand Dollars (\$1,000.00) per year under this subsection  
285 (2). The governing authority may assess the same actual costs,  
286 administrative costs and penalty for each time the property or  
287 land is cleaned as otherwise provided in this subsection (2). The  
288 penalty provided herein shall not be assessed against the State of  
289 Mississippi upon request for reimbursement under Section 29-1-145,  
290 nor shall a municipality clean a parcel owned by the State of  
291 Mississippi without first giving notice. Upon written authority  
292 from the Secretary of State's office, for state-owned properties,  
293 a municipality may forgo the notification process that is  
294 prescribed in this subsection and proceed to clean the properties  
295 and assess costs as prescribed in this subsection, except that  
296 penalties shall not be assessed against the State of Mississippi.  
297 A determination made by an appropriate municipal employee under



298 this subsection (2) that the state or condition of property or a  
299 parcel of land is a menace to the public health, safety and  
300 welfare of the community shall not subsequently be used to replace  
301 a hearing if subsection (1) of this section is later utilized by a  
302 municipality when the prerequisites of this subsection (2) are not  
303 satisfied.

304 (3) If the governing authority declares, by resolution, that  
305 the cost and any penalty shall be collected as a civil debt, the  
306 governing authority may authorize the institution of a suit on  
307 open account against the owner of the property in a court of  
308 competent jurisdiction in the manner provided by law for the cost  
309 and any penalty, plus court costs, reasonable attorney's fees and  
310 interest from the date that the property was cleaned.

311 (4) (a) If the governing authority declares that the cost  
312 and any penalty shall be collected as an assessment against the  
313 property, then the assessment above provided for shall be a lien  
314 against the property and may be enrolled in the office of the  
315 chancery clerk of the county as other liens and encumbrances are  
316 enrolled, and the tax collector of the municipality shall, upon  
317 order of the board of governing authorities, proceed to sell the  
318 land to satisfy the lien as now provided by law for the sale of  
319 lands for delinquent municipal taxes. The lien against the  
320 property shall be an encumbrance upon the property and shall  
321 follow title of the property.



322 (b) (i) All assessments levied under the provisions of  
323 this section shall be included with municipal ad valorem taxes and  
324 payment shall be enforced in the same manner in which payment is  
325 enforced for municipal ad valorem taxes, and all statutes  
326 regulating the collection of other taxes in a municipality shall  
327 apply to the enforcement and collection of the assessments levied  
328 under the provisions of this section, including utilization of the  
329 procedures authorized under Sections 17-13-9(2) and 27-41-2.

330 (ii) All assessments levied under the provisions  
331 of this section shall become delinquent at the same time municipal  
332 ad valorem taxes become delinquent. Delinquencies shall be  
333 collected in the same manner and at the same time delinquent ad  
334 valorem taxes are collected and shall bear the same penalties as  
335 those provided for delinquent taxes. If the property is sold for  
336 the nonpayment of an assessment under this section, it shall be  
337 sold in the manner that property is sold for the nonpayment of  
338 delinquent ad valorem taxes. If the property is sold for  
339 delinquent ad valorem taxes, the assessment under this section  
340 shall be added to the delinquent tax and collected at the same  
341 time and in the same manner.

342 (5) All decisions rendered under the provisions of this  
343 section may be appealed in the same manner as other appeals from  
344 municipal boards or courts are taken. However, an appeal from a  
345 decision of a municipal officer or official shall be made to the  
346 governing authority and such appeal shall be in writing, state the



347 basis for the appeal and be filed with the city clerk no later  
348 than seven (7) days from the latest date of notice required under  
349 this section.

350 (6) Nothing contained under this section shall prevent any  
351 municipality from enacting criminal penalties for failure to  
352 maintain property so as not to constitute a menace to public  
353 health, safety and welfare, or for enforcing the provisions of  
354 Section 1 of this act relating to the abatement of homeless  
355 encampments.

356 (7) Notwithstanding any provision to the contrary in this  
357 section, the decision to remove a homeless encampment on private  
358 property shall be discretionary by the governing authorities of  
359 the municipality.

360 ( \* \* \*8) (a) If private property or a parcel of land  
361 located within a municipality is a perpetual care cemetery subject  
362 to Section 41-43-1 et seq., the governing authority of the  
363 municipality may proceed pursuant to the same provisions of this  
364 section used to determine whether a property is a public health  
365 menace to instead determine if the perpetual care cemetery and all  
366 structures on the cemetery are not being properly maintained and  
367 have become detrimental to the public health and welfare. A  
368 perpetual care cemetery that is "not being properly maintained and  
369 has become detrimental to the public health and welfare" means a  
370 perpetual care cemetery that shows signs of neglect, including,  
371 without limitation, the unchecked growth of vegetation, repeated



372 and unchecked acts of vandalism, unusable entrances and exits,  
373 excess rubbish or debris, or the disintegration of grave markers  
374 or boundaries. Upon notice and opportunity to be heard as  
375 provided in subsection (1) of this section, the governing  
376 authority of the municipality may adjudicate the property or  
377 parcel of land in its then condition to be not properly maintained  
378 and detrimental to the public health and welfare, and if the owner  
379 does not do so itself, may proceed to clean the property or parcel  
380 of land as provided in subsection (1) of this section. When  
381 cleaning the property or parcel of land of a perpetual care  
382 cemetery pursuant to this subsection ( \* \* \*8), the penalty or  
383 penalties provided in subsection (1) of this section shall not be  
384 assessed against owners of the perpetual care cemeteries.

385 (b) The governing authority of a municipality that  
386 cleans the property or parcel of land of a perpetual care cemetery  
387 pursuant to this subsection ( \* \* \*8) may make application to the  
388 Secretary of State for an order directing the trustee of the  
389 perpetual care cemetery trust fund to release accrued interest or  
390 principal of the trust fund sufficient to reimburse the  
391 municipality for only the actual cleanup costs incurred by the  
392 municipality. The application to the Secretary of State shall  
393 include a statement by the municipality that all of the  
394 requirements of this section have been met.

395 (c) If the Secretary of State is satisfied that the  
396 notice and hearing requirements of this section have been met, and





397 that the application for an order directing the trustee to release  
398 accrued interest of the perpetual care cemetery trust fund does  
399 not threaten the ability of the trust fund to provide for the care  
400 and maintenance of the cemetery, the Secretary of State may order  
401 the trustee to release accrued interest of the trust fund  
402 sufficient to reimburse the municipality for the actual costs of  
403 cleanup performed by the municipality.

404 (d) If the Secretary of State is satisfied that the  
405 notice and hearing requirements of this section have been met, but  
406 makes a determination that the accrued interest of the perpetual  
407 care cemetery trust fund is insufficient to reimburse the  
408 municipality for the actual costs of cleanup performed by the  
409 municipality, or that an order to release accrued interest would  
410 threaten the ability of the trust fund to provide for the care and  
411 maintenance of the cemetery, the Secretary of State may consider  
412 an order directing the trustee to reimburse the municipality from  
413 the principal of the trust fund. If the Secretary of State  
414 determines that an order to the trustee to release principal from  
415 the trust fund will not threaten the solvency of the trust fund,  
416 the Secretary of State may order the trustee to release principal  
417 of the trust fund in an amount sufficient to reimburse the  
418 municipality for the actual costs of cleanup performed by the  
419 municipality.

420 (i) The Secretary of State may not order the  
421 trustee to release an amount of more than fifteen percent (15%) of



422 principal of the trust fund to reimburse the municipality for the  
423 actual costs of cleanup performed by the municipality.

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

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

