

Senate Amendments to House Bill No. 1203

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

43 SECTION 1. (1) As used in this act, the following terms
44 shall have the meaning ascribed herein:

45 (a) "Critical infrastructure" means public or private
46 real property or facilities that the local governing authority or
47 board of supervisors designate as being so vital and integral to
48 the operation or functioning of the municipality or county or in
49 need of protection that its damage, incapacity, disruption or
50 destruction would have a debilitating impact on the public health,
51 safety or welfare. The term "critical infrastructure" includes
52 without designation by the local governing authority, but is
53 limited to, roads, railroad rights-of-way, bridges, underpasses,
54 canals and other waterways, sewer plants, police and fire
55 stations, drainage systems, financial institutions, electrical and
56 natural gas pipelines or public utility easements.

57 (b) "Camp" means, within any tent, motor vehicle,
58 trailer, camper, or temporary structure without the provision of
59 services by utilities, any of the following activities:

60 (i) Cooking upon a stove;
61 (ii) Bathing, when using a shower or tub-type
62 device;
63 (iii) The elimination of human digestive wastes;
64 or
65 (iv) Using any tent, motor vehicle, trailer,
66 camper, or temporary structure or covering as the person's place
67 of sleep for one or more nights or days. The term "camp" includes
68 personal property placed and maintained in a location with the
69 intent to camp and personal property abandoned in a location after
70 camping.

71 (c) "Encampment" means an outdoor location where one or
72 more people camp in an unsheltered area.

73 (d) "Law enforcement officer" means a member of the
74 municipal police department, the sheriff's department or the
75 Department of Public Safety wherein the applicable property is
76 located.

77 (2) It is unlawful for a person to camp upon any street,
78 sidewalk, public right-of-way, any public property, or within one
79 thousand (1,000) feet of critical infrastructure unless the
80 location is designated by the local governing authority or real
81 property owner for the purpose of camping.

82 (3) A violation of this section shall be a misdemeanor.
83 Upon conviction of a first offense, a fine not exceeding One
84 Hundred Dollars (\$100.00) shall be imposed. Upon conviction of a
85 second or subsequent offense, a fine not exceeding Two Hundred and

Fifty Dollars (\$250.00) or imprisonment in the county jail for a term of not less than five (5) days nor exceeding four (4) months, or both such fine and imprisonment shall be imposed.

(4) A person shall not be found to be in violation of this section unless a law enforcement officer has provided that person written or oral notice, or posted notice within the encampment in a prominent location at least forty-eight (48) hours before commencement of any enforcement action under this section. The notice shall provide that the person or persons are prohibited from camping or placing personal property in a manner that violates this section.

SECTION 2. (1) A violation of Section 1 of this act is a public nuisance that may be enjoined, abated, prevented, and removed. Any prosecuting attorney of the applicable jurisdiction, in the name of the citizens of that jurisdiction, may maintain an action to abate and prevent the nuisance. Before pursuing abatement authorized by this subsection, the prosecuting attorney shall confirm that the notice required by this section has been provided.

(2) The owner of real property located in a municipality or county has the right to request the assistance of law enforcement officers with jurisdiction to remove an encampment or to set up any barriers or other methods to prevent encampments. Persons living in encampments shall receive notice at least forty-eight (48) hours before the removal. Posted notice in a prominent location within the encampment shall satisfy the requirements of

112 this section. The removal of encampments on private property
113 shall be done in a humane manner. It is unlawful to inflict harm
114 on a person or willfully damage a person's personal property while
115 enforcing this section. A tent or temporary structure or covering
116 shall not be considered the personal property of any trespasser
117 who has received the proper notice under this section. If an
118 encampment is on public property, only law enforcement officers
119 may remove the encampment or set up barriers.

120 (3) In order to enforce the provisions of this section, the
121 local municipal governing authority or the county board of
122 supervisors may establish a Dilapidated Property Fund and make
123 annual expenditures into the fund for the legal removal of
124 homeless encampments on public and private property. The local
125 municipal governing authority or county board of supervisors
126 establishing such fund shall prescribe rules and regulations for
127 the administration of the fund and expenditures from the fund and
128 shall spread these prescribed amounts and procedures on its
129 minutes.

130 **SECTION 3.** (1) As used in this section:

131 (a) "Local governing authority" means the municipality,
132 county, or state agency when soliciting within the jurisdiction of
133 such entity.

134 (b) "Solicit" means the in-person request of an
135 immediate contribution or donation.

136 (2) It shall be unlawful to solicit in a street, sidewalk,
137 public right-of-way, or any portion thereof without obtaining a

138 permit from the appropriate local governing authority and keeping
139 the permit on one's person while soliciting.

140 (3) The local governing authority shall issue a permit to
141 any eligible person who presents at the local governing authority,
142 states his or her true name, presents a photo identification or
143 signs a declaration under penalty of perjury that he or she has no
144 such identification, permits himself or herself to be photographed
145 and fingerprinted and is eligible for the permit. A person is
146 ineligible for a permit if, within the past five (5) years, the
147 person:

148 (a) Has been convicted of two (2) or more violations of
149 this section;

150 (b) Has had a permit revoked within the last six (6)
151 months; or

152 (c) Has been convicted of a violation of Section 4 or 5
153 of this act.

154 (4) The permit authorized under this section shall be valid
155 for three (3) years from the date of issuance and shall only
156 permit soliciting from sunrise until sunset. The local governing
157 authority shall revoke the permit for a violation of this section
158 or Section 4 or 5 of this act.

159 (5) A violation of the provisions of this section shall be a
160 misdemeanor. Upon conviction of a first offense, a person shall
161 be fined not more than One Hundred Dollars (\$100.00). Upon
162 conviction of a second or subsequent offense, a person shall be
163 imprisoned in the county jail for a term of not less than five (5)

days nor more than four (4) months and fined not more than Two Hundred Fifty Dollars (\$250.00), or both.

SECTION 4. (1) A person commits aggressive panhandling who solicits a donation of money or goods in the following manner:

(a) By intentionally touching the person being solicited without the person's consent;

(b) By intentionally obstructing the path of the person, or of the vehicle of the person, being solicited;

(c) By following a person who is walking away from the person soliciting the donation, unless that person has indicated that the person wishes to make a donation; or

(d) By making any statement, gesture, or other communication that would cause a reasonable person to feel fear of personal harm for refusing a solicitation of a donation.

(2) (a) Upon conviction for a first violation of this section, a person shall be sentenced to imprisonment in the county jail for a term of not more than thirty (30) days, or a fine of not more than Five Hundred Dollars (\$500.00), or by both.

(b) Upon conviction for a second or subsequent violation of this section, a person shall be sentenced to imprisonment in the county jail for a term of not less than fifteen (15) days nor more than ninety (90) days, or a fine of not more than One Thousand Dollars (\$1,000.00), or by both.

SECTION 5. (1) A person commits the offense of loitering if he or she:

189 (a) Lingers, remains, or prowls in a public place or
190 the premises of another person without apparent reason and under
191 circumstances that warrant alarm or concern for the safety of
192 persons or property in the vicinity and, upon inquiry by a law
193 enforcement officer, refuses to identify himself or herself and
194 give a reasonably credible account of his or her presence and
195 purpose;

196 (b) Lingers, remains, or prowls in or near a school
197 building, not having any reason or relationship involving custody
198 of or responsibility for a student and not having written
199 permission from anyone authorized to grant permission;

200 (c) Lingers or remains on a sidewalk, roadway, or
201 public right-of-way, in a public parking lot or public
202 transportation vehicle or facility, or on private property:

203 (i) In a harassing or threatening manner;
204 (ii) In a way likely to cause alarm to another
205 person; or

206 (iii) Under circumstances that create a traffic
207 hazard or impediment;

208 (d) Lingers or remains in a public place for the
209 purpose of unlawful gambling;

210 (e) Lingers or remains in a public place for the
211 purpose of engaging or soliciting another person to engage in
212 prostitution or deviate sexual activity;

(f) Lingers or remains in a public place for the purpose of unlawfully buying, distributing, or using a controlled substance;

(g) Lingers or remains in a public place for the purpose of unlawfully buying, distributing, or consuming an alcoholic beverage;

(h) Lingers or remains on or about the premises of another person for the purpose of spying upon or invading the privacy of another person; or

(i) Lingers or remains on or about the premises of any off-site customer-bank communication terminal without any legitimate purpose.

(2) Among the circumstances that may be considered in determining whether a person is loitering are that the person:

(a) Takes flight upon the appearance of a law enforcement officer;

(b) Refuses to identify himself or herself;

(c) Manifestly endeavors to conceal himself or herself or any object; or

(d) Has acted in a harassing or threatening manner or in a way likely to cause alarm to another person after sunset or before sunrise.

(3) Unless flight by the actor or another circumstance makes it impracticable, prior to an arrest for an offense under subsection (1)(a) of this section, a law enforcement officer shall afford the actor an opportunity to dispel any alarm that would

otherwise be warranted by requesting the actor to identify himself or herself and explain his or her presence and conduct.

(4) It is a defense to a prosecution under subsection (1)(a) of this section if:

(a) The law enforcement officer did not afford the defendant an opportunity to identify himself or herself and explain his or her presence and conduct; or

(b) It appears at trial that an explanation given by the defendant to the law enforcement officer was true and, if believed by the law enforcement officer at that time, would have dispelled the alarm.

(5) Upon conviction, a person shall be:

(a) For a first offense, fined not more than One Hundred Dollars (\$100.00).

(b) For a second or subsequent offense, imprisoned in the county jail for a term of not less than two (2) days nor more than fifteen (15) days, fined not more than Two Hundred Fifty Dollars (\$250.00), or by both.

SECTION 6. Convictions under Section 1, Section 3, Section 4 or Section 5 of this act shall not appear on a person's public record. The court of conviction and law enforcement authorities may keep a confidential record for purposes related to enforcement of the sentence and for charging purposes for subsequent offenses.

SECTION 7. Any person arrested under Section 1, Section 3, Section 4 or Section 5 of this act and transported to a county or municipal jail who appears to be in need of mental health and/or

substance abuse issues shall be evaluated for the need for such services. If the evaluation reveals that the person is in need of such services, the person shall be provided the services by an appropriate entity, authority, commission or agency.

SECTION 8. Section 21-19-11, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

If, at such hearing, the governing authority shall adjudicate the property or parcel of land in its then condition to be a menace to the public health, safety and welfare of the community, the governing authority, if the owner does not do so himself, shall proceed to clean the land, by the use of municipal employees or by contract, by cutting grass and weeds; filling cisterns; securing abandoned or dilapidated buildings; removing rubbish, abandoned or dilapidated fences, outside toilets, abandoned or dilapidated buildings, slabs, personal property * * * which removal of personal property shall not be subject to the provisions of Section 21-39-21, and other debris; removing encampments as defined in Section 1(1)(c) of this act; and draining cesspools and standing water therefrom. The governing authority may by resolution adjudicate the actual cost of cleaning the property and/or removal of encampments and may also impose a

penalty not to exceed * * * Ten Thousand Dollars (\$10,000.00) or
fifty percent (50%) of the actual cost, whichever is more. The
cost and any penalty may become a civil debt against the property
owner, and/or, at the option of the governing authority, an
assessment against the property. The "cost assessed against the
property" means either the cost to the municipality of using its
own employees to do the work or the cost to the municipality of
any contract executed by the municipality to have the work done,
and administrative costs and legal costs of the municipality. For
subsequent cleaning within the one-year period after the date of
the hearing at which the property or parcel of land was
adjudicated in need of cleaning, upon seven (7) days' notice
posted both on the property or parcel of land adjudicated in need
of cleaning and at city hall or another place in the municipality
where such notices are generally posted, and consistent with the
municipality's adjudication as authorized in this subsection (1),
a municipality may reenter the property or parcel of land to
maintain cleanliness without further notice or hearing no more
than six (6) times in any twelve-month period with respect to
removing or securing abandoned or dilapidated buildings, slabs,
dilapidated fences and outside toilets, and no more than twelve
(12) times in any twenty-four-month period with respect to cutting
grass and weeds and removing rubbish, personal property and other
debris on the land, and the expense of cleaning of the property,
except as otherwise provided in this section for removal of
hazardous substances, shall not exceed an aggregate amount of

343 Twenty Thousand Dollars (\$20,000.00) per year, or the fair market
344 value of the property subsequent to cleaning, whichever is more.
345 The aggregate cost of removing hazardous substances will be the
346 actual cost of such removal to the municipality and shall not be
347 subject to the cost limitations provided in this subsection. The
348 governing authority may assess the same penalty for each time the
349 property or land is cleaned as otherwise provided in this section.
350 The penalty provided herein shall not be assessed against the
351 State of Mississippi upon request for reimbursement under Section
352 29-1-145, nor shall a municipality clean a parcel owned by the
353 State of Mississippi without first giving notice. Upon written
354 authority from the Secretary of State's office, for state-owned
355 properties, a municipality may forgo the notification process that
356 is prescribed in this subsection and proceed to clean the
357 properties and assess costs as prescribed in this subsection,
358 except that penalties shall not be assessed against the State of
359 Mississippi.

360 (2) When the fee or cost to clean property or a parcel of
361 land that is one (1) acre or less does not exceed Two Hundred
362 Fifty Dollars (\$250.00), excluding administrative costs, and the
363 property or parcel is located within a municipality having a
364 population over one thousand five hundred (1,500), the governing
365 authority of the municipality may authorize one or more of its
366 employees to determine whether the property or parcel of land is
367 in such a state of uncleanness as to be a menace to the public
368 health, safety and welfare of the community and the determination

made by the authorized municipal employee shall be set forth and recorded in the minutes of the governing authority. Notice of this determination shall be provided to the property owner by:

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

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

Any notice required by this subsection shall include language that informs the property owner that the appropriate municipal official has determined that the property or parcel of land is a menace to the public health, safety and welfare of the community and in need of cleaning and the municipality is authorized to enter the property for cleaning and that the municipality is further authorized to reenter the property or parcel of land for a period of two (2) years after this cleaning without any further hearing or action if notice is posted on the property or parcel of land and at city hall or another place in the municipality where such notices are generally posted at least seven (7) days before the property or parcel of land is reentered for cleaning. A copy of the required notice mailed and posted as required by this subsection shall be recorded in the minutes of the governing

authority in conjunction with the determination made by the
municipal employee in this subsection (2).

If an authorized municipal employee determines that the
condition of property or parcel of land or the existence of an
encampment as defined in Section 1(1)(c) of this act is a menace
to the public health, safety and welfare of the community, the
governing authority, if the owner does not do so himself, shall
proceed to clean the land, by the use of municipal employees or by
contract, by cutting grass and weeds; filling cisterns; securing
abandoned or dilapidated buildings; removing rubbish, abandoned or
dilapidated fences, outside toilets, abandoned or dilapidated
buildings, slabs, personal property, which removal of personal
property shall not be subject to the provisions of Section
21-39-21, and other debris; removing encampments as defined in
Section 1(1)(c) of this act; and draining cesspools and standing
water therefrom. The governing authority shall by resolution
adjudicate the actual cost of cleaning the property under this
provision, provided the same does not exceed * * * Ten Thousand
Dollars (\$10,000.00) and may also impose a penalty not to
exceed * * * One Thousand Five Hundred Dollars (\$1,500.00) or one
hundred percent (100%) of the actual cost of cleaning the
property, whichever is more. The cost and any penalty imposed may
become a civil debt against the property owner, and/or, at the
option of the governing authority, an assessment against the
property. The "cost assessed against the property" means either
the cost to the municipality of using its own employees to do the

work or the cost to the municipality of any contract executed by the municipality to have the work done, and additionally may include administrative costs of the municipality not to exceed Fifty Dollars (\$50.00). For subsequent cleaning within the one-year period set forth in this subsection (2), upon seven (7) days' notice posted both on the property or parcel of land adjudicated in need of cleaning and at city hall or another place in the municipality where such notices are generally posted, and consistent with the municipal official's determination as authorized in this subsection (2), a municipality may reenter the property or parcel of land to maintain cleanliness without further notice or hearing under this subsection (2) no more than six (6) times in any twelve-month period with respect to removing or securing abandoned or dilapidated buildings, slabs, dilapidated fences and outside toilets, and no more than twelve (12) times in any twenty-four-month period with respect to cutting grass and weeds and removing rubbish, personal property and other debris on the land, and removing encampments on the land, and the expense of cleaning of the property shall not exceed an aggregate amount of One Thousand Dollars (\$1,000.00) per year under this subsection (2). The governing authority may assess the same actual costs, administrative costs and penalty for each time the property or land is cleaned as otherwise provided in this subsection (2). The penalty provided herein shall not be assessed against the State of Mississippi upon request for reimbursement under Section 29-1-145, nor shall a municipality clean a parcel owned by the State of

Mississippi without first giving notice. Upon written authority from the Secretary of State's office, for state-owned properties, a municipality may forgo the notification process that is prescribed in this subsection and proceed to clean the properties and assess costs as prescribed in this subsection, except that penalties shall not be assessed against the State of Mississippi. A determination made by an appropriate municipal employee under this subsection (2) that the state or condition of property or a parcel of land is a menace to the public health, safety and welfare of the community shall not subsequently be used to replace a hearing if subsection (1) of this section is later utilized by a municipality when the prerequisites of this subsection (2) are not satisfied.

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

(4) (a) If the governing authority declares that the cost and any penalty shall be collected as an assessment against the property, then the assessment above provided for shall be a lien against the property and may be enrolled in the office of the chancery clerk of the county as other liens and encumbrances are enrolled, and the tax collector of the municipality shall, upon

order of the board of governing authorities, proceed to sell the land to satisfy the lien as now provided by law for the sale of lands for delinquent municipal taxes. The lien against the property shall be an encumbrance upon the property and shall follow title of the property.

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

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

498 (5) All decisions rendered under the provisions of this
499 section may be appealed in the same manner as other appeals from
500 municipal boards or courts are taken. However, an appeal from a
501 decision of a municipal officer or official shall be made to the
502 governing authority and such appeal shall be in writing, state the
503 basis for the appeal and be filed with the city clerk no later
504 than seven (7) days from the latest date of notice required under
505 this section.

506 (6) Nothing contained under this section shall prevent any
507 municipality from:

508 (a) Enacting criminal penalties for failure to maintain
509 property so as not to constitute a menace to public health, safety
510 and welfare * * *; or

511 (b) Enforcing the provisions of Section 2 of this act
512 relating to the abatement of encampments.

513 (7) Notwithstanding any provision to the contrary in this
514 section, the decision to remove an encampment on private property
515 shall be discretionary by the governing authorities of the
516 municipality.

517 (* * *8) (a) If private property or a parcel of land
518 located within a municipality is a perpetual care cemetery subject
519 to Section 41-43-1 et seq., the governing authority of the
520 municipality may proceed pursuant to the same provisions of this
521 section used to determine whether a property is a public health
522 menace to instead determine if the perpetual care cemetery and all
523 structures on the cemetery are not being properly maintained and

524 have become detrimental to the public health and welfare. A
525 perpetual care cemetery that is "not being properly maintained and
526 has become detrimental to the public health and welfare" means a
527 perpetual care cemetery that shows signs of neglect, including,
528 without limitation, the unchecked growth of vegetation, repeated
529 and unchecked acts of vandalism, unusable entrances and exits,
530 excess rubbish or debris, or the disintegration of grave markers
531 or boundaries. Upon notice and opportunity to be heard as
532 provided in subsection (1) of this section, the governing
533 authority of the municipality may adjudicate the property or
534 parcel of land in its then condition to be not properly maintained
535 and detrimental to the public health and welfare, and if the owner
536 does not do so itself, may proceed to clean the property or parcel
537 of land as provided in subsection (1) of this section. When
538 cleaning the property or parcel of land of a perpetual care
539 cemetery pursuant to this subsection (* * *8), the penalty or
540 penalties provided in subsection (1) of this section shall not be
541 assessed against owners of the perpetual care cemeteries.

542 (b) The governing authority of a municipality that
543 cleans the property or parcel of land of a perpetual care cemetery
544 pursuant to this subsection (* * *8) may make application to the
545 Secretary of State for an order directing the trustee of the
546 perpetual care cemetery trust fund to release accrued interest or
547 principal of the trust fund sufficient to reimburse the
548 municipality for only the actual cleanup costs incurred by the
549 municipality. The application to the Secretary of State shall

include a statement by the municipality that all of the requirements of this section have been met.

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

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

municipality for the actual costs of cleanup performed by the municipality.

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

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

SECTION 9. Section 19-5-105, Mississippi Code of 1972, is amended as follows:

19-5-105. (1) To determine whether property or a parcel of land located within a county is in such a state of uncleanness as to be a menace to the public health, safety and welfare of the community, the board of supervisors of any county is authorized and empowered to conduct a hearing on its own motion, or upon the receipt of a petition requesting the board of supervisors to act signed by a majority of the residents eighteen (18) years of age or older, residing upon any street or alley, within reasonable proximity of any property alleged to be in need of cleaning, or within seven hundred fifty (750) feet of the precise location of the alleged menace situated on any parcel of land which is located in a populated area or in a housing subdivision and alleged to be in need of cleaning.

Notice shall be provided to the property owner by:

(a) United States mail two (2) weeks before the date of the hearing mailed to the address of the subject property and to

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

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

The notice required by this subsection (1) shall include language that informs the property owner that an adjudication at the hearing that the property or parcel of land is in need of cleaning will authorize the board of supervisors to reenter the property or parcel of land for a period of one (1) year after the hearing without any further hearing, if notice is posted on the property or parcel of land and at the county courthouse or another place in the county where such notices are generally posted at least seven (7) days before the property or parcel of land is reentered for cleaning. A copy of the required notice mailed and posted as required by this subsection (1) shall be recorded in the minutes of the board of supervisors in conjunction with the hearing required by this subsection.

If at such hearing the board of supervisors shall in its resolution adjudicate such parcel of land in its then condition or the existence of an encampment as defined in Section 1(1)(c) of this act to be a menace to the public health and safety of the community, the board of supervisors may, if the owner not do so himself, proceed to have the land cleaned by cutting weeds, filling cisterns, and removing rubbish, dilapidated fences,

627 outside toilets, dilapidated buildings and other debris, and
628 draining cesspools and standing water, or removing encampment.
629 Thereafter, the board of supervisors may at its next regular
630 meeting by resolution adjudicate the actual cost of cleaning the
631 land and may also impose a penalty not to exceed One Thousand Five
632 Hundred Dollars (\$1,500.00) or * * * one hundred percent (100%) of
633 the actual cost, whichever is more. The cost and any penalty
634 shall become an assessment against the property. The "cost
635 assessed against the property" means either the cost to the county
636 of using its own employees to do the work or the cost to the
637 county of any contract executed by the county to have the work
638 done, and administrative costs and legal costs of the county.

639 A county may reenter the property or parcel of land to
640 maintain cleanliness without further notice of hearing no more
641 than six (6) times in any twelve-month period with respect to
642 removing dilapidated buildings, dilapidated fences and outside
643 toilets, and no more than twelve (12) times in any
644 twenty-four-month period with respect to cutting grass and weeds
645 and removing rubbish, personal property and other debris on the
646 land, and the removal of encampments as defined in Section 1(1)(c)
647 of this act. The expense of cleaning the property shall not
648 exceed an aggregate amount of Twenty Thousand Dollars (\$20,000.00)
649 per year, or the fair market value of the property subsequent to
650 cleaning, whichever is less. The board of supervisors may assess
651 the same penalty each time the property or land is cleaned as
652 otherwise provided in this subsection (1).

653 The penalty provided in this subsection (1) shall not be
654 assessed against the State of Mississippi upon request for
655 reimbursement under Section 29-1-145, nor shall a county clean a
656 parcel owned by the State of Mississippi without first giving
657 notice.

658 The assessment authorized by this subsection (1) shall be a
659 lien against the property and may be enrolled in the office of the
660 circuit clerk of the county as other judgments are enrolled, and
661 the tax collector of the county shall, upon order of the board of
662 supervisors, proceed to sell the land to satisfy the lien as now
663 provided by law for the sale of lands for delinquent taxes.
664 Furthermore, the property owner whose land has been sold pursuant
665 to this subsection (1) shall have the same right of redemption as
666 now provided by law for the sale of lands for delinquent taxes.
667 All decisions rendered under the provisions of this subsection may
668 be appealed in the same manner as other appeals from county
669 boards.

670 (2) (a) If private property or a parcel of land located
671 within a county is a perpetual care cemetery subject to Section
672 41-43-1 et seq., the board of supervisors of the county may
673 proceed pursuant to the same provisions of subsection (1) of this
674 section used to determine whether a property is a public health
675 menace to instead determine if the perpetual care cemetery and all
676 structures on the cemetery are not being properly maintained and
677 have become detrimental to the public health and welfare. A
678 perpetual care cemetery that is "not being properly maintained and

679 has become detrimental to the public health and welfare" means a
680 perpetual care cemetery that shows signs of neglect, including,
681 without limitation, the unchecked growth of vegetation, repeated
682 and unchecked acts of vandalism, unusable entrances and exits,
683 excess rubbish or debris, or the disintegration of grave markers
684 or boundaries. Upon notice and opportunity to be heard as
685 provided in subsection (1) of this section, the board of
686 supervisors of the county may adjudicate the property or parcel of
687 land in its then condition to be not properly maintained and
688 detrimental to the public health and welfare, and if the owner
689 does not do so itself, may proceed to clean the property or parcel
690 of land as provided in subsection (1) of this section. When
691 cleaning the property or parcel of land of a perpetual care
692 cemetery pursuant to this subsection (2), the penalty or penalties
693 provided in subsection (1) of this section shall not be assessed
694 against owners of the perpetual care cemeteries.

695 (b) The board of supervisors of a county that cleans
696 property or parcel of land of a perpetual care cemetery pursuant
697 to this subsection (2) may make application to the Secretary of
698 State for an order directing the trustee of the perpetual care
699 cemetery trust fund to release accrued interest or principal of
700 the trust fund sufficient to reimburse the county for only the
701 actual cleanup costs incurred by the county. The application to
702 the Secretary of State shall include a statement by the county
703 that all of the requirements of this section have been met.

704 (c) If the Secretary of State is satisfied that the
705 notice and hearing requirements of this section have been met, and
706 that the application for an order directing the trustee to release
707 accrued interest of the perpetual care cemetery trust fund does
708 not threaten the ability of the trust fund to provide for the care
709 and maintenance of the cemetery, the Secretary of State may order
710 the trustee to release up to the total amount of accrued interest
711 of the trust fund in an amount sufficient to reimburse the county
712 for the actual costs of cleanup performed by the county.

713 (d) If the Secretary of State is satisfied that the
714 notice and hearing requirements of this section have been met, but
715 makes a determination that the accrued interest of the perpetual
716 care cemetery trust fund is insufficient to reimburse the county
717 for the actual costs of cleanup performed by the county, or that
718 an order to release accrued interest would threaten the ability of
719 the trust fund to provide for the care and maintenance of the
720 cemetery, the Secretary of State may consider an order directing
721 the trustee to reimburse the county from the principal of the
722 trust fund. If the Secretary of State determines that an order to
723 the trustee to release principal from the trust fund will not
724 threaten the solvency of the trust fund, the Secretary of State
725 may order the trustee to release principal of the trust fund in an
726 amount sufficient to reimburse the county for the actual costs of
727 cleanup performed by the county.

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

principal of the trust fund to reimburse the county for the actual costs of cleanup performed by the county.

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

(3) Nothing contained under this section shall prevent any county from enforcing the provisions of Section 2 of this act relating to the abatement and prevention of encampments.

SECTION 10. This act shall be severable as provided in Section 1-3-77.

SECTION 11. This act shall take effect and be in force from and after July 1, 2025, and shall stand repealed on June 30, 2025.

Further, amend by striking the title in its entirety and inserting in lieu thereof the following:

AN ACT TO PROHIBIT A PERSON FROM CAMPING UPON ANY STREET, SIDEWALK, PUBLIC RIGHT-OF-WAY, ANY OTHER PUBLIC PROPERTY OR WITHIN 1,000 FEET OF A DEFINED CRITICAL INFRASTRUCTURE AREA THAT IS NOT DESIGNATED FOR THE PURPOSE OF CAMPING; TO PROVIDE THAT A VIOLATION OF THIS PROHIBITION SHALL BE CHARGED AS A MISDEMEANOR; TO REQUIRE NOTICE AT LEAST 48 HOURS BEFORE COMMENCEMENT OF ANY ENFORCEMENT ACTION; TO PROVIDE THAT VIOLATION OF THIS PROHIBITION IS A PUBLIC NUISANCE THAT CAN BE ENJOINED, ABATED, PREVENTED AND REMOVED; TO AUTHORIZE THE REMOVAL OF ENCAMPMENTS ON PRIVATE PROPERTY IN A HUMANE MANNER AFTER AT LEAST 48 HOURS BEFORE THE RENEWAL NOTICE; TO PROVIDE THAT THE LOCAL GOVERNING AUTHORITIES MAY ESTABLISH A DILAPIDATED PROPERTY FUND AND MAKE EXPENDITURES FOR THE LEGAL REMOVAL OF ENCAMPMENTS ON PUBLIC AND PRIVATE PROPERTY; TO PROHIBIT SOLICITING FOR A CONTRIBUTION OR DONATION WITHOUT A PERMIT FROM THE LOCAL GOVERNING AUTHORITY; TO CREATE THE CRIME OF AGGRESSIVE PANHANDLING WHERE A PERSON SOLICITS A DONATION OF MONEY OR GOODS IN CERTAIN CIRCUMSTANCES; TO CREATE THE CRIME OF LOITERING WHERE A PERSON LINGERS, REMAINS, OR PROWLs IN CERTAIN PLACES; TO ENUMERATE CERTAIN CIRCUMSTANCES THAT MAY BE CONSIDERED TO DETERMINE IF THAT PERSON IS LOITERING; TO REQUIRE A LAW ENFORCEMENT OFFICER TO AFFORD THE ACTOR AN OPPORTUNITY TO DISPEL ANY ALARM THAT WOULD OTHERWISE BE WARRANTED BY REQUESTING THE ACTOR TO IDENTIFY HIMSELF OR HERSELF AND EXPLAIN HIS OR HER PRESENCE AND CONDUCT; TO PROVIDE CERTAIN DEFENSES TO PROSECUTION; TO PROVIDE CRIMINAL PENALTIES FOR

25 THE CRIME OF LOITERING; TO PROVIDE CRIMINAL PENALTIES FOR THE
26 CRIME OF AGGRESSIVE PANHANDLING; TO PROVIDE THAT CONVICTIONS UNDER
27 THIS ACT SHALL NOT APPEAR ON A PERSON'S PUBLIC RECORD; TO PROVIDE
28 THAT ANY PERSON ARRESTED UNDER THIS ACT AND TRANSPORTED TO A
29 COUNTY OR MUNICIPAL JAIL WHO APPEARS TO BE IN NEED OF MENTAL
30 HEALTH AND/OR SUBSTANCE ABUSE ISSUES SHALL BE EVALUATED FOR THE
31 NEED FOR SUCH SERVICES; TO PROVIDE THAT IF THE EVALUATION REVEALS
32 THAT THE PERSON IS IN NEED OF SUCH SERVICES, THE PERSON SHALL BE
33 PROVIDED SUCH SERVICES BY AN APPROPRIATE ENTITY, AUTHORITY,
34 COMMISSION OR AGENCY; TO AMEND SECTIONS 21-19-11 AND 19-5-105,
35 MISSISSIPPI CODE OF 1972, TO INCLUDE THE REMOVAL OF ENCAMPMENTS ON
36 PRIVATE PROPERTY WITHIN THE PROVISIONS OF LAW AUTHORIZING A
37 MUNICIPALITY OR COUNTY TO CLEAN PRIVATE PROPERTY; TO PROVIDE THAT
38 THE COST OF REMOVING SUCH ENCAMPMENTS ON PRIVATE PROPERTY SHALL BE
39 A LIEN ON THE PRIVATE PROPERTY; TO INCREASE CERTAIN PENALTIES; TO
40 PROVIDE THAT THE PROVISIONS OF THIS ACT ARE SEVERABLE; AND FOR
41 RELATED PURPOSES.

SS36\HB1203A.J

Amanda White
Secretary of the Senate