

By: Senator(s) Hill, Gollott, Parker,
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To: Agriculture; Judiciary,
Division A

SENATE BILL NO. 2172

1 AN ACT TO AMEND SECTION 97-41-16, MISSISSIPPI CODE OF 1972,
2 TO CREATE A FIRST-OFFENSE FELONY OF AGGRAVATED ABUSE OF A DOG OR
3 CAT; TO ENACT DEFINITIONS; TO LIMIT THE NUMBER OF COUNTS THAT CAN
4 BE CHARGED ARISING FROM A SINGLE INCIDENT; TO REQUIRE THAT
5 REPORTING OF ALL OFFENSES AGAINST DOGS OR CATS WILL CONFORM TO FBI
6 REPORTING GUIDELINES; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 97-41-16, Mississippi Code of 1972, is
9 amended as follows:

10 97-41-16. (1) (a) The provisions of this section shall be
11 known and may be cited as the "Mississippi Dog and Cat Pet
12 Protection Law of 2011."

13 (b) The intent of the Legislature in enacting this law
14 is to provide only for the protection of domesticated dogs and
15 cats, as these are the animals most often serving as the loyal and
16 beloved pets of the citizens of this state. Animals other than
17 domesticated dogs and cats are specifically excluded from the
18 enhanced protection described in this section for dogs and cats.
19 The provisions of this section do not apply, and shall not be



20 construed as applying, to any animal other than a domesticated dog
21 or cat.

22 (2) (a) If a person shall intentionally or with criminal
23 negligence wound, deprive of food, water, or adequate
24 shelter, * * * or carry or confine in a cruel or unsanitary
25 manner, any domesticated dog or cat, or cause any person to do the
26 same, then he or she shall be guilty of the offense of simple
27 cruelty to a dog or cat. A person who is convicted of the offense
28 of simple cruelty to a dog or cat shall be guilty of a misdemeanor
29 and fined not less than Three Hundred Dollars (\$300.00) nor more
30 than One Thousand Dollars (\$1,000.00), or imprisoned not more than
31 six (6) months, or both, for each count of which convicted.

32 (b) If a person with malice shall intentionally
33 torture, mutilate, maim, burn, scald, suffocate, drown, starve to
34 death or disfigure any domesticated dog or cat, or cause any
35 person to do the same, then he or she shall be guilty of the
36 offense of aggravated cruelty to a dog or cat. * * * A person who
37 is convicted of * * * aggravated cruelty to a dog or cat * * *
38 shall be guilty of a felony and fined not * * * less than One
39 Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars
40 (\$5,000.00) and imprisoned for not less than one (1) year nor more
41 than five (5) years. A second or subsequent conviction under this
42 subsection (2) (b) shall be punished by imprisonment for not less
43 than three (3) nor more than five (5) years in the custody of the
44 Department of Corrections.



45 * * *

46 (* * *c) For purposes of this section, * * * if
47 more * * * than one (1) act of the offenses of simple cruelty to a
48 dog or cat or aggravated cruelty to a dog or cat, committed
49 against one or more domesticated dogs or cats, or any combination
50 thereof is alleged, each act shall constitute a * * * separate
51 offense if the alleged acts occurred at the same time and arose
52 out of the same set of circumstances, but not to exceed ten (10)
53 counts of simple or aggravated cruelty to a dog or cat; conviction
54 upon a plea of nolo contendere counts as a conviction.

55 (3) In addition to such fine or imprisonment which may be
56 imposed or any conditions placed upon a youth adjudicated
57 delinquent:

58 (a) The court shall order that:

59 (i) Restitution be made to the owner of such dog
60 or cat. The measure for restitution in money shall be the current
61 replacement value of such loss and the actual veterinarian fees,
62 medicine, special supplies, loss of income and other costs
63 incurred as a result of actions in violation of subsection (2) of
64 this section; and

65 (ii) The person convicted of or adjudicated
66 delinquent for aggravated cruelty to a dog or cat shall receive a
67 psychiatric or psychological evaluation and counseling or
68 treatment for a length of time as prescribed by the court. The
69 cost of any evaluation, counseling and treatment shall be paid by



70 the offender upon order of the court, up to a maximum amount that
71 is no more than the jurisdictional limit of the sentencing court;
72 and

73 (b) The court may order that:

74 (i) The reasonable costs of sheltering,
75 transporting and rehabilitating the dog or cat, and any other
76 costs directly related to the care of the dog or cat, be
77 reimbursed to:

78 1. Any law enforcement agency; or

79 2. Any agency or department of a political
80 subdivision that is charged with the control, protection or
81 welfare of dogs or cats within the subdivision. The agency or
82 department may reimburse a nongovernmental organization for such
83 costs, if the organization possesses nonprofit status under the
84 United States Internal Revenue Code and has the purpose of
85 protecting the welfare of, or preventing cruelty to, dogs or cats.

86 (ii) The person convicted:

87 * * *

88 * * *1. Perform community service for a
89 period not exceeding the applicable maximum term of imprisonment
90 that may be imposed for conviction of the offense.

91 * * *2. Be enjoined from employment in any
92 position that involves the care of a dog or cat, or in any place
93 where dogs or cats are kept or confined, for a period which the
94 court deems appropriate.



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

97 (i) Defending himself or herself or another person
98 from physical or economic injury being threatened or caused by a
99 dog or cat.

100 (ii) Injuring or killing an unconfined dog or cat
101 on the property of the person, if the unconfined dog or cat is
102 believed to constitute a threat of physical injury or damage to
103 any domesticated animal under the care or control of such person.

104 (iii) Acting under the provisions of Section
105 95-5-19 to protect poultry or livestock from a trespassing dog
106 that is in the act of chasing or killing the poultry or livestock,
107 or acting to protect poultry or livestock from a trespassing cat
108 that is in the act of chasing or killing the poultry or livestock.

109 (iv) Engaging in practices that are licensed or
110 lawful under the Mississippi Veterinary Practice Act, Section
111 73-39-51 et seq., or engaging in activities by any licensed
112 veterinarian while following accepted standards of practice of the
113 profession within the State of Mississippi, including the
114 euthanizing of a dog or cat.

115 (v) Rendering emergency care, treatment, or
116 assistance to a dog or cat that is abandoned, ill, injured, or in
117 distress, if the person rendering the care, treatment, or
118 assistance is acting in good faith.



119 (vi) Performing activities associated with
120 accepted agricultural and animal husbandry practices with regard
121 to livestock, poultry or other animals, including those activities
122 which involve:

- 123 1. Using dogs in such practices.
- 124 2. Raising, managing and using animals to
125 provide food, fiber or transportation.
- 126 3. Butchering animals and processing food.

127 (vii) Training for, or participating in, a rodeo,
128 equine activity, dog show, event sponsored by a kennel club or
129 other bona fide organization that promotes the breeding or showing
130 of dogs or cats, or any other competitive event which involves the
131 lawful use of dogs or cats.

132 (viii) Engaging in accepted practices of dog or
133 cat identification.

134 (ix) Engaging in lawful activities that are
135 regulated by the Mississippi Department of Wildlife, Fisheries and
136 Parks or the Mississippi Department of Marine Resources, including
137 without limitation, hunting, trapping, fishing, and wildlife and
138 seafood management.

139 (x) Performing scientific, research, medical and
140 zoological activities undertaken by research and education
141 facilities or institutions that are:



142 1. Regulated under the provisions of the
143 Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1,
144 2011;

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

147 3. Subject to any other applicable state or
148 federal law or regulation governing animal research as in effect
149 on July 1, 2011.

150 (xi) Disposing of or destroying certain dogs under
151 authority of Sections 19-5-50, 21-19-9 and 41-53-11, which allow
152 counties, municipalities and certain law enforcement officers to
153 destroy dogs running at large without proper identification
154 indicating that such dogs have been vaccinated for rabies.

155 (xii) Engaging in professional pest control
156 activities, including those activities governed by the Mississippi
157 Pesticide Law of 1975, Section 69-23-1 et seq.; professional
158 services related to entomology, plant pathology, horticulture,
159 tree surgery, weed control or soil classification, as regulated
160 under Section 69-19-1 et seq.; and any other pest control
161 activities conducted in accordance with state law.

162 (xiii) Performing the humane euthanization of a
163 dog or cat pursuant to Section 97-41-3.

164 (b) If the owner or person in control of a dog or cat
165 is precluded, by natural or other causes beyond his reasonable
166 control, from acting to prevent an act or omission that might



167 otherwise constitute an allegation of the offense of simple
168 cruelty to a dog or cat or the offense of aggravated cruelty to a
169 dog or cat, then that person shall not be guilty of the offense.
170 Natural or other causes beyond the reasonable control of the
171 person include, without limitation, acts of God, declarations of
172 disaster, emergencies, acts of war, earthquakes, hurricanes,
173 tornadoes, fires, floods or other natural disasters.

174 (5) The provisions of this section shall not be construed
175 to:

176 (a) Apply to any animal other than a dog or cat.

177 (b) Create any civil or criminal liability on the part
178 of the driver of a motor vehicle if the driver unintentionally
179 injures or kills a dog or cat as a result of the dog or cat being
180 accidentally hit by the vehicle.

181 (6) (a) Except as otherwise provided in Section 97-35-47
182 for the false reporting of a crime, a person, who in good faith
183 and acting without malice, reports a suspected incident of simple
184 cruelty to a dog or cat, or aggravated cruelty to a dog or cat, to
185 a local animal control, protection or welfare organization, a
186 local law enforcement agency, or the Mississippi Department of
187 Public Safety, shall be immune from civil and criminal liability
188 for reporting the incident.

189 (b) A veterinarian licensed in Mississippi or a person
190 acting at the direction of a veterinarian licensed in Mississippi,
191 who in good faith and acting without malice, participates in the



192 investigation of an alleged offense of simple or aggravated
193 cruelty to a dog or cat, or makes a decision or renders services
194 regarding the care of a dog or cat that is involved in the
195 investigation, shall be immune from civil and criminal liability
196 for those acts.

197 (7) Other than an agency or department of a political
198 subdivision that is charged with the control, protection or
199 welfare of dogs or cats within the subdivision, any organization
200 that has the purpose of protecting the welfare of, or preventing
201 cruelty to, dogs or cats, shall register the organization with the
202 sheriff of the county in which the organization operates a
203 physical facility for the protection, welfare or shelter of dogs
204 or cats, on or before the first day of October each year. The
205 provisions of this subsection (7) shall apply to any organization
206 that has the purpose of protecting the welfare of dogs or cats, or
207 preventing cruelty to dogs or cats, regardless of whether the
208 organization also protects animals other than dogs or cats.

209 (8) Nothing in this section shall limit the authority of a
210 municipality or board of supervisors to adopt ordinances, rules,
211 regulations or resolutions which may be, in whole or in part, more
212 restrictive than the provisions of this section, and in those
213 cases, the more restrictive ordinances, rules, regulations or
214 resolutions will govern.

215 (9) (a) When investigating allegations of a violation of
216 this section, whether or not an arrest results, law enforcement



217 officers must utilize the form prescribed for investigation of
218 simple or aggravated abuse of a dog or cat by the Mississippi
219 Bureau of Investigation in consultation with the sheriffs' and
220 police chiefs' associations. Failure by a law enforcement officer
221 to utilize the uniform offense report is not a defense to a crime
222 charged under this section.

223 (b) In any conviction under this section, the
224 sentencing order shall include the designation of "animal abuse."
225 The court clerk must enter the disposition of the matter into the
226 corresponding uniform offense report.

227 (c) The Mississippi Bureau of Investigation, sheriffs'
228 association, and police chiefs' association are responsible in
229 devising the uniform report form to conform to the rules of the
230 Federal Bureau of Investigation to facilitate entry of animal
231 abuse offenses into the National Incident-Based Reporting System.

232 **SECTION 2.** This act shall take effect and be in force from
233 and after July 1, 2018.

