

By: Senator(s) Hill, Boyd, England,
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Sojourner

To: Judiciary, Division B

SENATE BILL NO. 2658
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 97-41-16, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE OFFENSE OF ABUSE OF A DOMESTICATED DOG OR CAT; AND
3 FOR RELATED PURPOSES.

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

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

7 97-41-16. (1) (a) The provisions of this section shall be
8 known and may be cited as the "Mississippi Dog and Cat Pet
9 Protection Law of 2011."

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



19 (2) (a) If a person shall intentionally or with criminal
20 negligence wound, deprive of adequate shelter, food or water, or
21 carry or confine in a cruel manner, any domesticated dog or cat,
22 or cause any person to do the same, then he or she shall be guilty
23 of the offense of simple cruelty to a domesticated dog or cat. A
24 person who is convicted of the offense of simple cruelty to a
25 domesticated dog or cat shall be guilty of a misdemeanor and fined
26 not more than One Thousand Dollars (\$1,000.00), or imprisoned not
27 more than six (6) months, or both. Each act of simple cruelty
28 that is committed against more than one (1) domesticated dog or
29 cat constitutes a separate offense.

30 (b) (i) If a person with malice shall *intentionally*
31 *torture, mutilate, maim, burn, starve * * ** to death, crush,
32 disfigure, drown, suffocate or impale any domesticated dog or cat,
33 or cause any person to do the same, then he or she shall be guilty
34 of the offense of aggravated cruelty to a domesticated dog or cat.
35 Each act of aggravated cruelty that is committed against more than
36 one (1) domesticated dog or cat shall constitute a separate
37 offense.

38 (* * * ii) A person who is convicted of a first
39 offense of aggravated cruelty to a domesticated dog or cat shall
40 be guilty of a * * * felony and fined not more than * * * Five
41 Thousand Dollars (\$5,000.00), or * * * committed to the custody of
42 the Department of Corrections for not more than * * * three (3)
43 years, or both.



44 (* * * iii) A person who is convicted of a second
45 or subsequent offense of aggravated cruelty to a domesticated dog
46 or cat, the offenses being committed within a period of five (5)
47 years, shall be guilty of a felony and fined not more than * * *
48 Ten Thousand Dollars (\$10,000.00) and imprisoned in the custody of
49 the Department of Corrections for not less than one (1) year nor
50 more than * * * ten (10) years.

51 For purposes of calculating previous offenses of aggravated
52 cruelty under this subparagraph (iii), commission of one or more
53 acts of aggravated cruelty against one or more domesticated dogs
54 or cats within a twenty-four-hour period shall be considered one
55 (1) offense.

56 (c) A conviction entered upon a plea of nolo contendere
57 to a charge of aggravated cruelty to a domesticated dog or cat
58 shall be counted as a conviction for the purpose of determining
59 whether a later conviction is a first or subsequent offense.

60 * * *

61 (3) In addition to such fine or imprisonment which may be
62 imposed:

63 (a) The court shall order that restitution be made to
64 the owner of such domesticated dog or cat. The measure for
65 restitution in money shall be the current replacement value of
66 such loss and the actual veterinarian fees, medicine, special
67 supplies, loss of income and other costs incurred as a result of
68 actions in violation of subsection (2) of this section; and



69 (b) The court may order that:

70 (i) The reasonable costs of sheltering,
71 transporting and rehabilitating the domesticated dog or cat, and
72 any other costs directly related to the care of the domesticated
73 dog or cat, be reimbursed to:

74 1. Any law enforcement agency; or

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

83 (ii) The person convicted:

84 1. Receives a psychiatric or psychological
85 evaluation and counseling or treatment for a length of time as
86 prescribed by the court. The cost of any evaluation, counseling
87 and treatment shall be paid by the offender upon order of the
88 court, up to a maximum amount that is no more than the
89 jurisdictional limit of the sentencing court.

90 2. Performs community service for a period
91 not exceeding the applicable maximum term of imprisonment that may
92 be imposed for conviction of the offense.



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

97 4. If convicted of simple cruelty under this
98 section, be prohibited from owning or possessing or residing with
99 a domesticated dog or cat for any period of time not exceeding
100 five (5) years from the date of sentencing, or any period of time
101 not exceeding fifteen (15) years from the date of sentencing if
102 the conviction involved four (4) or more counts of simple cruelty.

103 (c) The court shall order that any person convicted of
104 an offense of aggravated cruelty under this section be prohibited
105 from owning or possessing or residing with a domesticated dog or
106 cat for a period not less than five (5) years nor more than
107 fifteen (15) years from the date of sentencing.

108 (d) A person found in violation of a court order
109 incorporating the provisions of paragraph (b) (ii)4. or (c) of this
110 subsection may, in addition to any other punishment provided by
111 law, be fined in an amount not exceeding One Thousand Dollars
112 (\$1,000.00) for each domesticated dog or cat unlawfully owned or
113 possessed.

114 (e) Any domesticated dog or cat involved in a violation
115 of a court order described in paragraph (d) of this subsection
116 shall be forfeited to the state.



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

119 (i) Defending himself or herself or another person
120 from physical * * * injury being threatened or caused by a
121 domesticated or feral dog or cat.

122 (ii) Injuring or killing an unconfined
123 domesticated or feral dog or cat on the property of the person, if
124 the unconfined dog or cat is believed to constitute a threat of
125 physical injury or damage to any domesticated animal under the
126 care or control of such person.

127 (iii) Acting under the provisions of Section
128 95-5-19 to protect poultry or livestock from a trespassing dog
129 that is in the act of chasing or killing the poultry or livestock,
130 or acting to protect poultry or livestock from a trespassing cat
131 that is in the act of chasing or killing the poultry or livestock.

132 (iv) Engaging in practices that are licensed or
133 lawful under the Mississippi Veterinary Practice Act, Section
134 73-39-51 et seq., or engaging in activities by any licensed
135 veterinarian while following accepted standards of practice of the
136 profession within the State of Mississippi, including the
137 euthanizing of a dog or cat.

138 (v) Rendering emergency care, treatment, or
139 assistance to a dog or cat that is abandoned, ill, injured, or in
140 distress, if the person rendering the care, treatment, or
141 assistance is acting in good faith.



142 (vi) Performing activities associated with
143 accepted agricultural and animal husbandry practices with regard
144 to livestock, poultry or other animals, including those activities
145 which involve:

- 146 1. Using dogs in such practices.
- 147 2. Raising, managing and using animals to
148 provide food, fiber or transportation.
- 149 3. Butchering animals and processing food.

150 (vii) Training for, or participating in, a rodeo,
151 equine activity, dog show, event sponsored by a kennel club or
152 other bona fide organization that promotes the breeding or showing
153 of dogs or cats, or any other competitive event which involves the
154 lawful use of dogs or cats.

155 (viii) Engaging in accepted practices of dog or
156 cat identification.

157 (ix) Engaging in lawful activities that are
158 regulated by the Mississippi Department of Wildlife, Fisheries and
159 Parks or the Mississippi Department of Marine Resources,
160 including, without limitation, hunting, trapping, fishing, and
161 wildlife and seafood management.

162 (x) Performing scientific, research, medical and
163 zoological activities undertaken by research and education
164 facilities or institutions that are:



165 1. Regulated under the provisions of the
166 Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1,
167 2011;

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

170 3. Subject to any other applicable state or
171 federal law or regulation governing animal research as in effect
172 on July 1, 2011.

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

178 (xii) Engaging in professional pest control
179 activities, including those activities governed by the Mississippi
180 Pesticide Law of 1975, Section 69-23-1 et seq.; professional
181 services related to entomology, plant pathology, horticulture,
182 tree surgery, weed control or soil classification, as regulated
183 under Section 69-19-1 et seq.; and any other pest control
184 activities conducted in accordance with state law.

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

187 (xiv) Engaging in the training of service dogs
188 used to assist those with physical or mental health conditions.



189 (b) If the owner or person in control of a domesticated
190 dog or cat is precluded, by natural or other causes beyond his
191 reasonable control, from acting to prevent an act or omission that
192 might otherwise constitute an allegation of the offense of simple
193 cruelty to a domesticated dog or cat or the offense of aggravated
194 cruelty to a domesticated dog or cat, then that person shall not
195 be guilty of the offense. Natural or other causes beyond the
196 reasonable control of the person include, without limitation, acts
197 of God, declarations of disaster, emergencies, acts of war,
198 earthquakes, hurricanes, tornadoes, fires, floods or other natural
199 disasters.

200 (5) The provisions of this section shall not be construed
201 to:

202 (a) Apply to any animal other than a domesticated dog
203 or cat.

204 (b) Create any civil or criminal liability on the part
205 of the driver of a motor vehicle if the driver unintentionally
206 injures or kills a domesticated dog or cat as a result of the
207 domesticated dog or cat being accidentally hit by the vehicle.

208 (6) (a) Except as otherwise provided in Section 97-35-47
209 for the false reporting of a crime, a person, who in good faith
210 and acting without malice, reports a suspected incident of simple
211 cruelty to a domesticated dog or cat, or aggravated cruelty to a
212 domesticated dog or cat, to a local animal control, protection or
213 welfare organization, a local law enforcement agency, or the



214 Mississippi Department of Public Safety, shall be immune from
215 civil and criminal liability for reporting the incident.

216 (b) A veterinarian licensed in Mississippi or a person
217 acting at the direction of a veterinarian licensed in Mississippi,
218 who in good faith and acting without malice, participates in the
219 investigation of an alleged offense of simple or aggravated
220 cruelty to a domesticated dog or cat, or makes a decision or
221 renders services regarding the care of a domesticated or feral dog
222 or cat that is involved in the investigation, shall be immune from
223 civil and criminal liability for those acts.

224 (7) Other than an agency or department of a political
225 subdivision that is charged with the control, protection or
226 welfare of dogs or cats within the subdivision, any organization
227 that has the purpose of protecting the welfare of, or preventing
228 cruelty to, domesticated dogs or cats, shall register the
229 organization with the sheriff of the county in which the
230 organization operates a physical facility for the protection,
231 welfare or shelter of dogs or cats, on or before the first day of
232 October each year. The provisions of this subsection (7) shall
233 apply to any organization that has the purpose of protecting the
234 welfare of dogs or cats, or preventing cruelty to dogs or cats,
235 regardless of whether the organization also protects animals other
236 than domesticated dogs or cats.

237 (8) Nothing in this section shall limit the authority of a
238 municipality or board of supervisors to adopt ordinances, rules,



239 regulations or resolutions which may be, in whole or in part, more
240 restrictive than the provisions of this section, and in those
241 cases, the more restrictive ordinances, rules, regulations or
242 resolutions will govern.

243 **SECTION 2.** This act shall take effect and be in force from
244 and after July 1, 2020.

