

By: Senator(s) Fillingane

To: Judiciary, Division B

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2334

1 AN ACT TO PROHIBIT A PERSON FROM CAMPING UPON ANY STREET,
2 SIDEWALK, PUBLIC RIGHT-OF-WAY, ANY OTHER PUBLIC PROPERTY OR WITHIN
3 1,000 FEET OF A DEFINED CRITICAL INFRASTRUCTURE AREA THAT IS NOT
4 DESIGNATED FOR THE PURPOSE OF CAMPING; TO PROVIDE THAT A VIOLATION
5 OF THIS PROHIBITION SHALL BE CHARGED AS A MISDEMEANOR; TO REQUIRE
6 NOTICE AT LEAST 48 HOURS BEFORE COMMENCEMENT OF ANY ENFORCEMENT
7 ACTION; TO PROVIDE THAT VIOLATION OF THIS PROHIBITION IS A PUBLIC
8 NUISANCE THAT CAN BE ABATED AND PREVENTED; TO AUTHORIZE THE
9 REMOVAL OF ENCAMPMENTS ON PRIVATE PROPERTY IN A HUMANE MANNER
10 AFTER AT LEAST 48 HOURS BEFORE THE RENEWAL NOTICE; TO PROHIBIT
11 SOLICITING FOR A CONTRIBUTION OR DONATION WITHOUT A PERMIT FROM
12 THE LOCAL GOVERNING AUTHORITY; TO CREATE THE CRIME OF AGGRESSIVE
13 PANHANDLING WHERE A PERSON SOLICITS A DONATION OF MONEY OR GOODS
14 IN CERTAIN CIRCUMSTANCES; TO CREATE THE CRIME OF LOITERING WHERE A
15 PERSON LINGERS, REMAINS, OR PROWLs IN CERTAIN PLACES; TO ENUMERATE
16 CERTAIN CIRCUMSTANCES THAT MAY BE CONSIDERED TO DETERMINE IF THAT
17 PERSON IS LOITERING; TO REQUIRE A LAW ENFORCEMENT OFFICER TO
18 AFFORD THE ACTOR AN OPPORTUNITY TO DISPEL ANY ALARM THAT WOULD
19 OTHERWISE BE WARRANTED BY REQUESTING THE ACTOR TO IDENTIFY HIMSELF
20 OR HERSELF AND EXPLAIN HIS OR HER PRESENCE AND CONDUCT; TO PROVIDE
21 CERTAIN DEFENSES TO PROSECUTION; TO PROVIDE CRIMINAL PENALTIES FOR
22 THE CRIME OF LOITERING; TO PROVIDE CRIMINAL PENALTIES FOR THE
23 CRIME OF AGGRESSIVE PANHANDLING; TO PROVIDE THAT CONVICTIONS UNDER
24 THIS ACT SHALL NOT APPEAR ON A PERSON'S PUBLIC RECORD; TO PROVIDE
25 THAT ANY PERSON ARRESTED UNDER THIS ACT AND TRANSPORTED TO A
26 COUNTY OR MUNICIPAL JAIL WHO APPEARS TO BE IN NEED OF MENTAL
27 HEALTH AND/OR SUBSTANCE ABUSE ISSUES SHALL BE EVALUATED FOR THE
28 NEED FOR SUCH SERVICES; TO PROVIDE THAT IF THE EVALUATION REVEALS
29 THAT THE PERSON IS IN NEED OF SUCH SERVICES, THE PERSON SHALL BE
30 PROVIDED SUCH SERVICES BY AN APPROPRIATE ENTITY, AUTHORITY,
31 COMMISSION OR AGENCY; TO AMEND SECTIONS 21-19-11 AND 19-5-105,
32 MISSISSIPPI CODE OF 1972, TO INCLUDE THE REMOVAL OF ENCAMPMENTS ON
33 PRIVATE PROPERTY WITHIN THE PROVISIONS OF LAW AUTHORIZING A
34 MUNICIPALITY OR COUNTY TO CLEAN PRIVATE PROPERTY; TO PROVIDE THAT



35 THE COST OF REMOVING SUCH ENCAMPMENTS ON PRIVATE PROPERTY SHALL BE
36 A LIEN ON THE PRIVATE PROPERTY; TO INCREASE CERTAIN PENALTIES; TO
37 PROVIDE THAT THE PROVISIONS OF THIS ACT ARE SEVERABLE; AND FOR
38 RELATED PURPOSES.

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

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

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

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

57 (i) Cooking upon a stove;

58 (ii) Bathing, when using a shower or tub-type
59 device;

60 (iii) The elimination of human digestive wastes;

61 or



62 (iv) Using any tent, motor vehicle, trailer,
63 camper, or temporary structure or covering as the person's place
64 of sleep for one or more nights or days. The term "camp" includes
65 personal property placed and maintained in a location with the
66 intent to camp and personal property abandoned in a location after
67 camping.

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

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

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

79 (3) A violation of this section shall be a misdemeanor.
80 Upon conviction of a first offense, a fine not exceeding One
81 Hundred Dollars (\$100.00) shall be imposed. Upon conviction of a
82 second or subsequent offense, a fine not exceeding Two Hundred and
83 Fifty Dollars (\$250.00) or imprisonment in the county jail for a
84 term of not less than five (5) days nor exceeding four (4) months,
85 or both such fine and imprisonment shall be imposed.



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

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

102 (2) The owner of real property located in a municipality or
103 county has the right to request the assistance of law enforcement
104 officers with jurisdiction to remove an encampment or to set up
105 any barriers or other methods to prevent encampments. Persons
106 living in encampments shall receive notice at least forty-eight
107 (48) hours before the removal. Posted notice in a prominent
108 location within the encampment shall satisfy the requirements of
109 this section. The removal of encampments on private property
110 shall be done in a humane manner. It is unlawful to inflict harm



111 on a person or willfully damage a person's personal property while
112 enforcing this section. A tent or temporary structure or covering
113 shall not be considered the personal property of any trespasser
114 who has received the proper notice under this section. If an
115 encampment is on public property, only law enforcement officers
116 may remove the encampment or set up barriers.

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

118 (a) "Local governing authority" means the municipality,
119 county, or state agency when soliciting within the jurisdiction of
120 such entity.

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

123 (2) It shall be unlawful to solicit in a street, sidewalk,
124 public right-of-way, or any portion thereof without obtaining a
125 permit from the appropriate local governing authority and keeping
126 the permit on one's person while soliciting.

127 (3) The local governing authority shall issue a permit to
128 any eligible person who presents at the local governing authority,
129 states his or her true name, presents a photo identification or
130 signs a declaration under penalty of perjury that he or she has no
131 such identification, permits himself or herself to be photographed
132 and fingerprinted and is eligible for the permit. A person is
133 ineligible for a permit if, within the past five (5) years, the
134 person:



135 (a) Has been convicted of two (2) or more violations of
136 this section;

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

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

141 (4) The permit authorized under this section shall be valid
142 for three (3) years from the date of issuance and shall only
143 permit soliciting from sunrise until sunset. The local governing
144 authority shall revoke the permit for a violation of this section
145 or Section 4 or 5 of this act.

146 (5) A violation of the provisions of this section shall be a
147 misdemeanor. Upon conviction of a first offense, a person shall
148 be fined not more than One Hundred Dollars (\$100.00). Upon
149 conviction of a second or subsequent offense, a person shall be
150 imprisoned in the county jail for a term of not less than five (5)
151 days nor more than four (4) months and fined not more than Two
152 Hundred Fifty Dollars (\$250.00), or both.

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

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

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



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

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

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

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

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

176 (a) Lingers, remains, or prowls in a public place or
177 the premises of another person without apparent reason and under
178 circumstances that warrant alarm or concern for the safety of
179 persons or property in the vicinity and, upon inquiry by a law
180 enforcement officer, refuses to identify himself or herself and
181 give a reasonably credible account of his or her presence and
182 purpose;



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

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

190 (i) In a harassing or threatening manner;

191 (ii) In a way likely to cause alarm to another
192 person; or

193 (iii) Under circumstances that create a traffic
194 hazard or impediment;

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

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

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

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



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

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

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

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

216 (b) Refuses to identify himself or herself;

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

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

222 (3) Unless flight by the actor or another circumstance makes
223 it impracticable, prior to an arrest for an offense under
224 subsection (1)(a) of this section, a law enforcement officer shall
225 afford the actor an opportunity to dispel any alarm that would
226 otherwise be warranted by requesting the actor to identify himself
227 or herself and explain his or her presence and conduct.

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



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

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

237 (5) Upon conviction, a person shall be:

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

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

244 **SECTION 6.** Convictions under Section 1, Section 3, Section
245 4, or Section 5 of this act shall not appear on a person's public
246 record. The court of conviction and law enforcement authorities
247 may keep a confidential record for purposes related to enforcement
248 of the sentence and for charging purposes for subsequent offenses.

249 **SECTION 7.** Any person arrested under Section 1, Section 3,
250 Section 4 or Section 5 of this act and transported to a county or
251 municipal jail who appears to be in need of mental health and/or
252 substance abuse issues shall be evaluated for the need for such
253 services. If the evaluation reveals that the person is in need of



254 such services, the person shall be provided the services by an
255 appropriate entity, authority, commission or agency.

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

258 21-19-11. (1) To determine whether property or parcel of
259 land located within a municipality is in such a state of
260 uncleanliness as to be a menace to the public health, safety and
261 welfare of the community, a governing authority of any
262 municipality shall conduct a hearing, on its own motion, or upon
263 the receipt of a petition signed by a majority of the residents
264 residing within four hundred (400) feet of any property or parcel
265 of land alleged to be in need of the cleaning. Notice shall be
266 provided to the property owner by:

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

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

276 Any notice required by this section shall include language
277 that informs the property owner that an adjudication at the
278 hearing that the property or parcel of land is in need of cleaning



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

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



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



329 hazardous substances, shall not exceed an aggregate amount of
330 Twenty Thousand Dollars (\$20,000.00) per year, or the fair market
331 value of the property subsequent to cleaning, whichever is more.
332 The aggregate cost of removing hazardous substances will be the
333 actual cost of such removal to the municipality and shall not be
334 subject to the cost limitations provided in this subsection. The
335 governing authority may assess the same penalty for each time the
336 property or land is cleaned as otherwise provided in this section.
337 The penalty provided herein shall not be assessed against the
338 State of Mississippi upon request for reimbursement under Section
339 29-1-145, nor shall a municipality clean a parcel owned by the
340 State of Mississippi without first giving notice. Upon written
341 authority from the Secretary of State's office, for state-owned
342 properties, a municipality may forgo the notification process that
343 is prescribed in this subsection and proceed to clean the
344 properties and assess costs as prescribed in this subsection,
345 except that penalties shall not be assessed against the State of
346 Mississippi.

347 (2) When the fee or cost to clean property or a parcel of
348 land that is one (1) acre or less does not exceed Two Hundred
349 Fifty Dollars (\$250.00), excluding administrative costs, and the
350 property or parcel is located within a municipality having a
351 population over one thousand five hundred (1,500), the governing
352 authority of the municipality may authorize one or more of its
353 employees to determine whether the property or parcel of land is



354 in such a state of uncleanliness as to be a menace to the public
355 health, safety and welfare of the community and the determination
356 made by the authorized municipal employee shall be set forth and
357 recorded in the minutes of the governing authority. Notice of
358 this determination shall be provided to the property owner by:

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

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

368 Any notice required by this subsection shall include language
369 that informs the property owner that the appropriate municipal
370 official has determined that the property or parcel of land is a
371 menace to the public health, safety and welfare of the community
372 and in need of cleaning and the municipality is authorized to
373 enter the property for cleaning and that the municipality is
374 further authorized to reenter the property or parcel of land for a
375 period of two (2) years after this cleaning without any further
376 hearing or action if notice is posted on the property or parcel of
377 land and at city hall or another place in the municipality where
378 such notices are generally posted at least seven (7) days before



379 the property or parcel of land is reentered for cleaning. A copy
380 of the required notice mailed and posted as required by this
381 subsection shall be recorded in the minutes of the governing
382 authority in conjunction with the determination made by the
383 municipal employee in this subsection (2).

384 If an authorized municipal employee determines that the
385 condition of property or parcel of land or the existence of an
386 encampment as defined in Section 1(1)(c) of this act is a menace
387 to the public health, safety and welfare of the community, the
388 governing authority, if the owner does not do so himself, shall
389 proceed to clean the land, by the use of municipal employees or by
390 contract, by cutting grass and weeds; filling cisterns; securing
391 abandoned or dilapidated buildings; removing rubbish, abandoned or
392 dilapidated fences, outside toilets, abandoned or dilapidated
393 buildings, slabs, personal property, which removal of personal
394 property shall not be subject to the provisions of Section
395 21-39-21, and other debris; removing encampments as defined in
396 Section 1(1)(c) of this act; and draining cesspools and standing
397 water therefrom. The governing authority shall by resolution
398 adjudicate the actual cost of cleaning the property under this
399 provision, provided the same does not exceed * * * Ten Thousand
400 Dollars (\$10,000.00) and may also impose a penalty not to
401 exceed * * * One Thousand Five Hundred Dollars (\$1,500.00) or one
402 hundred percent (100%) of the actual cost of cleaning the
403 property, whichever is more. The cost and any penalty imposed may



404 become a civil debt against the property owner, and/or, at the
405 option of the governing authority, an assessment against the
406 property. The "cost assessed against the property" means either
407 the cost to the municipality of using its own employees to do the
408 work or the cost to the municipality of any contract executed by
409 the municipality to have the work done, and additionally may
410 include administrative costs of the municipality not to exceed
411 Fifty Dollars (\$50.00). For subsequent cleaning within the
412 one-year period set forth in this subsection (2), upon seven (7)
413 days' notice posted both on the property or parcel of land
414 adjudicated in need of cleaning and at city hall or another place
415 in the municipality where such notices are generally posted, and
416 consistent with the municipal official's determination as
417 authorized in this subsection (2), a municipality may reenter the
418 property or parcel of land to maintain cleanliness without further
419 notice or hearing under this subsection (2) no more than six (6)
420 times in any twelve-month period with respect to removing or
421 securing abandoned or dilapidated buildings, slabs, dilapidated
422 fences and outside toilets, and no more than twelve (12) times in
423 any twenty-four-month period with respect to cutting grass and
424 weeds and removing rubbish, personal property and other debris on
425 the land, and removing encampments on the land, and the expense of
426 cleaning of the property shall not exceed an aggregate amount of
427 One Thousand Dollars (\$1,000.00) per year under this subsection
428 (2). The governing authority may assess the same actual costs,



429 administrative costs and penalty for each time the property or
430 land is cleaned as otherwise provided in this subsection (2). The
431 penalty provided herein shall not be assessed against the State of
432 Mississippi upon request for reimbursement under Section 29-1-145,
433 nor shall a municipality clean a parcel owned by the State of
434 Mississippi without first giving notice. Upon written authority
435 from the Secretary of State's office, for state-owned properties,
436 a municipality may forgo the notification process that is
437 prescribed in this subsection and proceed to clean the properties
438 and assess costs as prescribed in this subsection, except that
439 penalties shall not be assessed against the State of Mississippi.
440 A determination made by an appropriate municipal employee under
441 this subsection (2) that the state or condition of property or a
442 parcel of land is a menace to the public health, safety and
443 welfare of the community shall not subsequently be used to replace
444 a hearing if subsection (1) of this section is later utilized by a
445 municipality when the prerequisites of this subsection (2) are not
446 satisfied.

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



454 (4) (a) If the governing authority declares that the cost
455 and any penalty shall be collected as an assessment against the
456 property, then the assessment above provided for shall be a lien
457 against the property and may be enrolled in the office of the
458 chancery clerk of the county as other liens and encumbrances are
459 enrolled, and the tax collector of the municipality shall, upon
460 order of the board of governing authorities, proceed to sell the
461 land to satisfy the lien as now provided by law for the sale of
462 lands for delinquent municipal taxes. The lien against the
463 property shall be an encumbrance upon the property and shall
464 follow title of the property.

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

473 (ii) All assessments levied under the provisions
474 of this section shall become delinquent at the same time municipal
475 ad valorem taxes become delinquent. Delinquencies shall be
476 collected in the same manner and at the same time delinquent ad
477 valorem taxes are collected and shall bear the same penalties as
478 those provided for delinquent taxes. If the property is sold for



479 the nonpayment of an assessment under this section, it shall be
480 sold in the manner that property is sold for the nonpayment of
481 delinquent ad valorem taxes. If the property is sold for
482 delinquent ad valorem taxes, the assessment under this section
483 shall be added to the delinquent tax and collected at the same
484 time and in the same manner.

485 (5) All decisions rendered under the provisions of this
486 section may be appealed in the same manner as other appeals from
487 municipal boards or courts are taken. However, an appeal from a
488 decision of a municipal officer or official shall be made to the
489 governing authority and such appeal shall be in writing, state the
490 basis for the appeal and be filed with the city clerk no later
491 than seven (7) days from the latest date of notice required under
492 this section.

493 (6) Nothing contained under this section shall prevent any
494 municipality from:

495 (a) Enacting criminal penalties for failure to maintain
496 property so as not to constitute a menace to public health, safety
497 and welfare; or

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

500 (7) Notwithstanding any provision to the contrary in this
501 section, the decision to remove an encampment on private property
502 shall be discretionary by the governing authorities of the
503 municipality.



504 (* * *8) (a) If private property or a parcel of land
505 located within a municipality is a perpetual care cemetery subject
506 to Section 41-43-1 et seq., the governing authority of the
507 municipality may proceed pursuant to the same provisions of this
508 section used to determine whether a property is a public health
509 menace to instead determine if the perpetual care cemetery and all
510 structures on the cemetery are not being properly maintained and
511 have become detrimental to the public health and welfare. A
512 perpetual care cemetery that is "not being properly maintained and
513 has become detrimental to the public health and welfare" means a
514 perpetual care cemetery that shows signs of neglect, including,
515 without limitation, the unchecked growth of vegetation, repeated
516 and unchecked acts of vandalism, unusable entrances and exits,
517 excess rubbish or debris, or the disintegration of grave markers
518 or boundaries. Upon notice and opportunity to be heard as
519 provided in subsection (1) of this section, the governing
520 authority of the municipality may adjudicate the property or
521 parcel of land in its then condition to be not properly maintained
522 and detrimental to the public health and welfare, and if the owner
523 does not do so itself, may proceed to clean the property or parcel
524 of land as provided in subsection (1) of this section. When
525 cleaning the property or parcel of land of a perpetual care
526 cemetery pursuant to this subsection (* * *8), the penalty or
527 penalties provided in subsection (1) of this section shall not be
528 assessed against owners of the perpetual care cemeteries.



529 (b) The governing authority of a municipality that
530 cleans the property or parcel of land of a perpetual care cemetery
531 pursuant to this subsection (* * *8) may make application to the
532 Secretary of State for an order directing the trustee of the
533 perpetual care cemetery trust fund to release accrued interest or
534 principal of the trust fund sufficient to reimburse the
535 municipality for only the actual cleanup costs incurred by the
536 municipality. The application to the Secretary of State shall
537 include a statement by the municipality that all of the
538 requirements of this section have been met.

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

548 (d) If the Secretary of State is satisfied that the
549 notice and hearing requirements of this section have been met, but
550 makes a determination that the accrued interest of the perpetual
551 care cemetery trust fund is insufficient to reimburse the
552 municipality for the actual costs of cleanup performed by the
553 municipality, or that an order to release accrued interest would



554 threaten the ability of the trust fund to provide for the care and
555 maintenance of the cemetery, the Secretary of State may consider
556 an order directing the trustee to reimburse the municipality from
557 the principal of the trust fund. If the Secretary of State
558 determines that an order to the trustee to release principal from
559 the trust fund will not threaten the solvency of the trust fund,
560 the Secretary of State may order the trustee to release principal
561 of the trust fund in an amount sufficient to reimburse the
562 municipality for the actual costs of cleanup performed by the
563 municipality.

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

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

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

572 19-5-105. (1) To determine whether property or a parcel of
573 land located within a county is in such a state of uncleanliness
574 as to be a menace to the public health, safety and welfare of the
575 community, the board of supervisors of any county is authorized
576 and empowered to conduct a hearing on its own motion, or upon the
577 receipt of a petition requesting the board of supervisors to act
578 signed by a majority of the residents eighteen (18) years of age



579 or older, residing upon any street or alley, within reasonable
580 proximity of any property alleged to be in need of cleaning, or
581 within seven hundred fifty (750) feet of the precise location of
582 the alleged menace situated on any parcel of land which is located
583 in a populated area or in a housing subdivision and alleged to be
584 in need of cleaning.

585 Notice shall be provided to the property owner by:

586 (a) United States mail two (2) weeks before the date of
587 the hearing mailed to the address of the subject property and to
588 the address where the ad valorem tax notice for such property is
589 sent by the office charged with collecting ad valorem tax; and

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

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



604 posted as required by this subsection (1) shall be recorded in the
605 minutes of the board of supervisors in conjunction with the
606 hearing required by this subsection.

607 If at such hearing the board of supervisors shall in its
608 resolution adjudicate such parcel of land in its then condition or
609 the existence of an encampment as defined in Section 1(1)(c) of
610 this act to be a menace to the public health and safety of the
611 community, the board of supervisors may, if the owner not do so
612 himself, proceed to have the land cleaned by cutting weeds,
613 filling cisterns, and removing rubbish, dilapidated fences,
614 outside toilets, dilapidated buildings and other debris, and
615 draining cesspools and standing water, or removing encampment.
616 Thereafter, the board of supervisors may at its next regular
617 meeting by resolution adjudicate the actual cost of cleaning the
618 land and may also impose a penalty not to exceed One Thousand Five
619 Hundred Dollars (\$1,500.00) or * * * one hundred percent (100%) of
620 the actual cost, whichever is more. The cost and any penalty
621 shall become an assessment against the property. The "cost
622 assessed against the property" means either the cost to the county
623 of using its own employees to do the work or the cost to the
624 county of any contract executed by the county to have the work
625 done, and administrative costs and legal costs of the county.

626 A county may reenter the property or parcel of land to
627 maintain cleanliness without further notice of hearing no more
628 than six (6) times in any twelve-month period with respect to



629 removing dilapidated buildings, dilapidated fences and outside
630 toilets, and no more than twelve (12) times in any
631 twenty-four-month period with respect to cutting grass and weeds
632 and removing rubbish, personal property and other debris on the
633 land, and the removal of encampments as defined in Section 1(1)(c)
634 of this act. The expense of cleaning the property shall not
635 exceed an aggregate amount of Twenty Thousand Dollars (\$20,000.00)
636 per year, or the fair market value of the property subsequent to
637 cleaning, whichever is less. The board of supervisors may assess
638 the same penalty each time the property or land is cleaned as
639 otherwise provided in this subsection (1).

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

645 The assessment authorized by this subsection (1) shall be a
646 lien against the property and may be enrolled in the office of the
647 circuit clerk of the county as other judgments are enrolled, and
648 the tax collector of the county shall, upon order of the board of
649 supervisors, proceed to sell the land to satisfy the lien as now
650 provided by law for the sale of lands for delinquent taxes.
651 Furthermore, the property owner whose land has been sold pursuant
652 to this subsection (1) shall have the same right of redemption as
653 now provided by law for the sale of lands for delinquent taxes.



654 All decisions rendered under the provisions of this subsection may
655 be appealed in the same manner as other appeals from county
656 boards.

657 (2) (a) If private property or a parcel of land located
658 within a county is a perpetual care cemetery subject to Section
659 41-43-1 et seq., the board of supervisors of the county may
660 proceed pursuant to the same provisions of subsection (1) of this
661 section used to determine whether a property is a public health
662 menace to instead determine if the perpetual care cemetery and all
663 structures on the cemetery are not being properly maintained and
664 have become detrimental to the public health and welfare. A
665 perpetual care cemetery that is "not being properly maintained and
666 has become detrimental to the public health and welfare" means a
667 perpetual care cemetery that shows signs of neglect, including,
668 without limitation, the unchecked growth of vegetation, repeated
669 and unchecked acts of vandalism, unusable entrances and exits,
670 excess rubbish or debris, or the disintegration of grave markers
671 or boundaries. Upon notice and opportunity to be heard as
672 provided in subsection (1) of this section, the board of
673 supervisors of the county may adjudicate the property or parcel of
674 land in its then condition to be not properly maintained and
675 detrimental to the public health and welfare, and if the owner
676 does not do so itself, may proceed to clean the property or parcel
677 of land as provided in subsection (1) of this section. When
678 cleaning the property or parcel of land of a perpetual care



679 cemetery pursuant to this subsection (2), the penalty or penalties
680 provided in subsection (1) of this section shall not be assessed
681 against owners of the perpetual care cemeteries.

682 (b) The board of supervisors of a county that cleans
683 property or parcel of land of a perpetual care cemetery pursuant
684 to this subsection (2) may make application to the Secretary of
685 State for an order directing the trustee of the perpetual care
686 cemetery trust fund to release accrued interest or principal of
687 the trust fund sufficient to reimburse the county for only the
688 actual cleanup costs incurred by the county. The application to
689 the Secretary of State shall include a statement by the county
690 that all of the requirements of this section have been met.

691 (c) If the Secretary of State is satisfied that the
692 notice and hearing requirements of this section have been met, and
693 that the application for an order directing the trustee to release
694 accrued interest of the perpetual care cemetery trust fund does
695 not threaten the ability of the trust fund to provide for the care
696 and maintenance of the cemetery, the Secretary of State may order
697 the trustee to release up to the total amount of accrued interest
698 of the trust fund in an amount sufficient to reimburse the county
699 for the actual costs of cleanup performed by the county.

700 (d) If the Secretary of State is satisfied that the
701 notice and hearing requirements of this section have been met, but
702 makes a determination that the accrued interest of the perpetual
703 care cemetery trust fund is insufficient to reimburse the county



704 for the actual costs of cleanup performed by the county, or that
705 an order to release accrued interest would threaten the ability of
706 the trust fund to provide for the care and maintenance of the
707 cemetery, the Secretary of State may consider an order directing
708 the trustee to reimburse the county from the principal of the
709 trust fund. If the Secretary of State determines that an order to
710 the trustee to release principal from the trust fund will not
711 threaten the solvency of the trust fund, the Secretary of State
712 may order the trustee to release principal of the trust fund in an
713 amount sufficient to reimburse the county for the actual costs of
714 cleanup performed by the county.

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

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

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

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

726 **SECTION 11.** This act shall take effect and be in force from
727 and after July 1, 2025.

