

**Pending
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2821

BY: Committee

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

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

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

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

23 (2) (a) If a person * * * shall intentionally or with
24 criminal negligence wound, deprive of adequate shelter, food and
25 water, carry or confine in a cruel manner, or poison any
26 domesticated dog or cat, or cause any person to do the same, then
27 he or she shall be guilty of the offense of simple cruelty to a
28 dog or cat. A person who pleads guilty or nolo contendere to, or



29 is convicted of, the offense of simple cruelty to a dog or cat
30 shall be guilty of a misdemeanor and fined not more than One
31 Thousand Dollars (\$1,000.00), or * * * imprisoned not more than
32 six (6) months, or both.

33 (b) If a person with malice shall intentionally
34 torture, mutilate, maim, burn, starve or disfigure any
35 domesticated dog or cat, then he or she shall be guilty of the
36 offense of aggravated cruelty to a dog or cat.

37 (i) A person who pleads guilty or nolo contendere
38 to, or is convicted of, a first offense of aggravated cruelty to a
39 dog or cat shall be guilty of a misdemeanor and fined not more
40 than Two Thousand Five Hundred Dollars (\$2,500.00), or imprisoned
41 for not more than six (6) months, or both.

42 (ii) A person who pleads guilty or nolo contendere
43 to, or is convicted of, a second or subsequent offense of
44 aggravated cruelty to a dog or cat, the offenses being committed
45 within a period of five (5) years, shall be guilty of a felony and
46 fined not more than Five Thousand Dollars (\$5,000.00) and
47 imprisoned for not less than one (1) year nor more than five (5)
48 years.

49 (c) For purposes of this section, one or more alleged
50 acts of the offenses of simple cruelty to a dog or cat or
51 aggravated cruelty to a dog or cat, committed against one or more
52 domesticated dogs or cats, or any combination thereof, shall
53 constitute a single offense if the alleged acts occurred at the
54 same time.

55 (3) In addition to such fine or imprisonment which may be
56 imposed, the court shall order that:

57 (a) Restitution be made to the owner of such dog or
58 cat. The measure for restitution in money shall be the current
59 replacement value of such loss and the actual veterinarian fees,
60 medicine, special supplies, loss of income and other costs



61 incurred as a result of actions in violation of subsection (2) of
62 this section.

63 (b) The reasonable costs of sheltering, transporting
64 and rehabilitating the dog or cat, and any other costs directly
65 related to the care of the dog or cat, be reimbursed to:

66 (i) Any law enforcement agency; or

67 (ii) Any agency or department of a political
68 subdivision that is charged with the control, protection or
69 welfare of dogs or cats within the subdivision. The agency or
70 department may reimburse a nongovernmental organization for such
71 costs, if the organization possesses nonprofit status under the
72 United States Internal Revenue Code and has the purpose of
73 protecting the welfare of, or preventing cruelty to, dogs or cats.

74 (4) (a) The court may order a person who pleads guilty or
75 nolo contendere to, or is convicted of, the offense of aggravated
76 cruelty to a dog or cat, to:

77 (i) Receive a psychiatric or psychological
78 evaluation and counseling or treatment for a length of time as
79 prescribed by the court. The cost of any evaluation, counseling
80 and treatment shall be paid by the offender upon order of the
81 court, up to a maximum amount that is no more than the
82 jurisdictional limit of the sentencing court.

83 (ii) Perform community service for a period not
84 exceeding the applicable maximum term of imprisonment that may be
85 imposed for conviction of the offense.

86 (b) The court may enjoin a person who pleads guilty or
87 nolo contendere to, or is convicted of, the offense of aggravated
88 cruelty to a dog or cat, from being employed in any position that
89 involves the care of a dog or cat, or in any place where dogs or
90 cats are kept or confined, for a period which the court deems
91 appropriate.



92 (5) (a) Nothing in this section shall be construed as
93 prohibiting a person from:

94 (i) Defending himself or herself or another person
95 from physical or economic injury being threatened or caused by a
96 dog or cat.

97 (ii) Injuring or killing an unconfined dog or cat
98 on the property of the person, if the unconfined dog or cat is
99 believed to constitute a threat of physical injury or damage to
100 any animal under the care or control of such person or to any
101 wildlife that is found on the person's property.

102 (iii) Acting under the provisions of Section
103 95-5-19 to protect poultry or livestock from a trespassing dog
104 that is in the act of chasing or killing the poultry or livestock,
105 or acting to protect poultry or livestock from a trespassing cat
106 that is in the act of chasing or killing the poultry or livestock.

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

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

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

121 1. Using dogs in such practices.

122 2. Raising, managing and using animals to
123 provide food, fiber or transportation.



124 3. Butchering animals and processing food.
125 (vii) Training for, or participating in, a rodeo,
126 equine activity, dog show, event sponsored by a kennel club or
127 other bona fide organization that promotes the breeding or showing
128 of dogs or cats, or any other competitive event which involves the
129 lawful use of dogs or cats.

130 (viii) Engaging in accepted practices of dog or
131 cat identification.

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

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

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

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

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

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

153 (xii) Engaging in professional pest control
154 activities, including those activities governed by the Mississippi
155 Pesticide Law of 1975, Section 69-23-1, et seq.; professional



156 services related to entomology, plant pathology, horticulture,
157 tree surgery, weed control or soil classification, as regulated
158 under Section 69-19-1, et seq.; and any other pest control
159 activities conducted in accordance with state law.

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

162 (b) If the owner or person in control of a dog or cat
163 is precluded, by natural or other causes beyond his reasonable
164 control, from acting to prevent an act or omission that might
165 otherwise constitute an allegation of the offense of simple
166 cruelty to a dog or cat or the offense of aggravated cruelty to a
167 dog or cat, then that person shall not be guilty of the offense.
168 Natural or other causes beyond the reasonable control of the
169 person include, without limitation, acts of God, declarations of
170 disaster, emergencies, acts of war, earthquakes, hurricanes,
171 tornadoes, fires, floods or other natural disasters.

172 (6) The provisions of this section shall not be construed
173 to:

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

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

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



187 (b) A licensed veterinarian or a person acting at the
188 direction of a licensed veterinarian, who in good faith and acting
189 without malice, participates in the investigation of an alleged
190 offense of simple or aggravated cruelty to a dog or cat, or makes
191 a decision or renders services regarding the care of a dog or cat
192 that is involved in the investigation, shall be immune from civil
193 and criminal liability for those acts.

194 (8) (a) Other than an agency or department of a political
195 subdivision that is charged with the control, protection or
196 welfare of dogs or cats within the subdivision, any organization
197 that has the purpose of protecting the welfare of, or preventing
198 cruelty to, dogs or cats, shall:

199 (i) Register the organization with the sheriff of
200 the county in which the organization operates a physical facility
201 for the protection, welfare or shelter of dogs or cats, on or
202 before the first day of October each year.

203 (ii) Arrange for the surgical spaying or neutering
204 of a dog or cat before relinquishing possession of the dog or cat
205 or allowing the dog or cat to be adopted. If the organization
206 chooses to have the surgery performed before the adoption, then
207 the organization may collect a monetary deposit from the person
208 adopting the dog or cat, in such amount as reasonably necessary to
209 perform the surgery, and the organization may use the deposit to
210 offset the costs of the surgery. If the surgery is not performed
211 before the adoption of the dog or cat, then the organization shall
212 require the person adopting the dog or cat to sign a written
213 agreement containing a commitment that the person will have the
214 dog or cat spayed or neutered within thirty (30) days of the date
215 of the adoption, or before such date as the dog or cat reaches
216 sexual maturity as determined by a veterinarian licensed in the
217 State of Mississippi, whichever date is sooner. Upon presentation
218 of a written statement signed by a veterinarian licensed in the



219 State of Mississippi verifying that the surgery has been
220 performed, the organization shall refund the balance of the
221 deposit to the person adopting the dog or cat, after deducting a
222 reasonable amount for administrative costs.

223 (b) The provisions of this subsection shall apply to
224 any organization that has the purpose of protecting the welfare of
225 dogs or cats, or preventing cruelty to dogs or cats, regardless of
226 whether the organization also protects animals other than dogs or
227 cats.

228 (9) Nothing in this section shall limit the authority of a
229 municipality or board of supervisors to adopt ordinances, rules,
230 regulations or resolutions which may be, in whole or in part, more
231 restrictive than the provisions of this section, and in those
232 cases, the more restrictive ordinances, rules, regulations or
233 resolutions will govern.

234 **SECTION 2.** Section 97-41-1, Mississippi Code of 1972, is
235 amended as follows:

236 97-41-1. Except as otherwise provided in Section 97-41-16
237 for a dog or cat, if any person shall intentionally or with
238 criminal negligence override, overdrive, overload, torture,
239 torment, unjustifiably injure, deprive of necessary sustenance,
240 food, or drink; or cruelly beat or needlessly mutilate; or cause
241 or procure to be overridden, overdriven, overloaded, tortured,
242 unjustifiably injured, tormented, or deprived of necessary
243 sustenance, food or drink; or to be cruelly beaten or needlessly
244 mutilated or killed, any living creature, every such offender
245 shall, for every offense, be guilty of a misdemeanor.

246 **SECTION 3.** Section 97-41-3, Mississippi Code of 1972, is
247 amended as follows:

248 97-41-3. (1) Any sheriff, constable, policeman, or agent of
249 a society for the prevention of cruelty to animals may kill, or
250 cause to be killed, any animal other than a dog or cat found



251 neglected or abandoned, if in the opinion of three (3) respectable
252 citizens it is injured or diseased past recovery, or by age has
253 become useless.

254 (2) After all reasonable attempts have been made to locate
255 the legal owner of a dog or cat that is found maimed, wounded,
256 injured or diseased, the dog or cat may be euthanized, or caused
257 to be euthanized, by:

258 (i) A law enforcement officer;

259 (ii) A licensed veterinarian;

260 (iii) An employee of an agency or department of a
261 political subdivision that is charged with the control or welfare
262 of dogs or cats within the subdivision; or

263 (iv) An employee or agent of an organization that
264 has the purpose of protecting the welfare of or preventing cruelty
265 to dogs or cats and that possesses nonprofit status under the
266 United States Internal Revenue Code.

267 The provisions of this subsection (2) shall not be construed
268 to prevent the immediate euthanasia by the persons enumerated in
269 this subsection or by any other person, if it is necessary to
270 prevent unrelievable suffering of the dog or cat.

271 (3) Any person acting in good faith and without malice
272 pursuant to this section shall be immune from civil and criminal
273 liability for that action.

274 **SECTION 4.** Section 97-41-5, Mississippi Code of 1972, is
275 amended as follows:

276 97-41-5. If any person shall carry, or cause to be carried
277 by hand or in or upon any vehicle or other conveyance, any
278 creature other than a dog or cat in a cruel or inhuman manner, he
279 shall be guilty of a misdemeanor.

280 **SECTION 5.** Section 97-41-7, Mississippi Code of 1972, is
281 amended as follows:



282 97-41-7. If any person shall confine, or cause to be
283 confined, in any stable, lot, or other place, any living creature
284 other than a dog or cat, without supplying the same during such
285 confinement with a sufficient quantity of good and wholesome food
286 and water, he shall be guilty of a misdemeanor.

287 **SECTION 6.** Section 97-41-9, Mississippi Code of 1972, is
288 amended as follows:

289 97-41-9. If any person be the owner or have the custody of
290 any living creature other than a dog or cat and unjustifiably
291 neglect or refuse to furnish it necessary sustenance, food, or
292 drink, he shall be guilty of a misdemeanor.

293 **SECTION 7.** Section 97-41-17, Mississippi Code of 1972, is
294 amended as follows:

295 97-41-17. Every person who shall willfully and unlawfully
296 administer any poison to any horse, mare, colt, mule, jack,
297 jennet, cattle, deer, * * * hog, sheep, chicken, duck, goose,
298 turkey, pea-fowl, guinea-fowl, or partridge, or shall maliciously
299 expose any poison substance with intent that the same should be
300 taken or swallowed by any horse, mare, colt, mule, jack, jennet,
301 cattle, * * * hog, sheep, chicken, duck, goose, turkey, pea-fowl,
302 guinea-fowl, or partridge, shall, upon conviction, be punished by
303 imprisonment in the Penitentiary not exceeding three (3) years, or
304 in the county jail not exceeding one (1) year, and by a fine not
305 exceeding Five Hundred Dollars (\$500.00).

306 **SECTION 8.** Section 97-41-21, Mississippi Code of 1972, is
307 amended as follows:

308 97-41-21. (1) An individual shall not do either of the
309 following:

310 (a) Willfully and maliciously assault, beat, harass,
311 injure, or attempt to assault, beat, harass or injure, a dog that
312 he or she knows or has reason to believe is a guide or leader dog
313 for a blind individual, a hearing dog for a deaf or audibly



314 impaired individual, * * * a service dog for a physically limited
315 individual, or a support dog for a mobility impaired person as
316 described in Sections 43-6-151 through 43-6-155.

317 (b) Willfully and maliciously impede or interfere with,
318 or attempt to impede or interfere with, duties performed by a dog
319 that he or she knows or has reason to believe is a guide or leader
320 dog for a blind individual, a hearing dog for a deaf or audibly
321 impaired individual, * * * a service dog for a physically limited
322 individual, or a support dog for a mobility impaired person as
323 described in Sections 43-6-151 through 43-6-155.

324 (2) An individual who violates subsection (1) is guilty of a
325 misdemeanor punishable by imprisonment for not more than ninety
326 (90) days or a fine of not more than Five Hundred Dollars
327 (\$500.00), or both.

328 (3) In a prosecution for a violation of subsection (1),
329 evidence that the defendant initiated or continued conduct
330 directed toward a dog described in subsection (1) after being
331 requested to avoid or discontinue that conduct or similar conduct
332 by a blind, deaf, audibly impaired, physically limited or mobility
333 impaired individual being served or assisted by the dog shall give
334 rise to a rebuttable presumption that the conduct was initiated or
335 continued maliciously.

336 (4) A conviction and imposition of a sentence under this
337 section does not prevent a conviction and imposition of a sentence
338 under Section 97-41-16 pertaining to the offenses of simple or
339 aggravated cruelty to a dog or cat, or any other applicable
340 provision of law.

341 (5) As used in this section:

342 (a) "Audibly impaired" means the inability to hear air
343 conduction thresholds at an average of forty (40) decibels or
344 greater in the individual's better ear.



345 (b) "Blind" means having a visual acuity of 20/200 or
346 less in the individual's better eye with correction, or having a
347 limitation of the individual's field of vision such that the
348 widest diameter of the visual field subtends an angular distance
349 not greater than twenty (20) degrees.

350 (c) "Deaf" means the individual's hearing is totally
351 impaired or the individual's hearing, with or without
352 amplification, is so seriously impaired that the primary means of
353 receiving spoken language is through other sensory input,
354 including, but not limited to, lip reading, sign language, finger
355 spelling or reading.

356 (d) "Harass" means to engage in any conduct directed
357 toward a guide, leader, hearing or service dog that is likely to
358 impede or interfere with the dog's performance of its duties or
359 that places the blind, deaf, audibly impaired or physically
360 limited individual being served or assisted by the dog in danger
361 of injury.

362 (e) "Injure" means to cause any physical injury to a
363 dog described in subsection (1).

364 (f) "Maliciously" means any of the following:

365 (i) With intent to assault, beat, harass or injure
366 a dog described in subsection (1).

367 (ii) With intent to impede or interfere with
368 duties performed by a dog described in subsection (1).

369 (iii) With intent to disturb, endanger or cause
370 emotional distress to a blind, deaf, audibly impaired or
371 physically limited individual being served or assisted by a dog
372 described in subsection (1).

373 (iv) With knowledge that the individual's conduct
374 will, or is likely to, harass or injure a dog described in
375 subsection (1).



376 (v) With knowledge that the individual's conduct
377 will, or is likely to, impede or interfere with duties performed
378 by a dog described in subsection (1).

379 (vi) With knowledge that the individual's conduct
380 will, or is likely to, disturb, endanger or cause emotional
381 distress to a blind, deaf, audibly impaired or physically limited
382 individual being served or assisted by a dog described in
383 subsection (1).

384 (g) "Physically limited" means having limited
385 ambulatory abilities and includes, but is not limited to, having a
386 temporary or permanent impairment or condition that does one or
387 more of the following:

388 (i) Causes the individual to use a wheelchair or
389 walk with difficulty or insecurity.

390 (ii) Affects sight or hearing to the extent that
391 an individual is insecure or exposed to danger.

392 (iii) Causes faulty coordination.

393 (iv) Reduces mobility, flexibility, coordination
394 or perceptiveness.

395 **SECTION 9.** Section 97-41-23, Mississippi Code of 1972, is
396 amended as follows:

397 97-41-23. (1) It is unlawful for any person to willfully
398 and maliciously taunt, torment, tease, beat, strike, or to
399 administer, expose or inject any desensitizing drugs, chemicals or
400 substance to any public service animal. Any person who violates
401 this section is guilty of a misdemeanor, and upon conviction
402 thereof shall be fined not more than Two Hundred Dollars (\$200.00)
403 and be imprisoned not more than five (5) days, or both.

404 (2) Any person who, without just cause, purposely kills or
405 injures any public service animal is guilty of a felony and upon
406 conviction shall be fined not more than Five Thousand Dollars



407 (\$5,000.00) and be imprisoned not more than five (5) years, or
408 both.

409 (3) For purposes of this section, the term "public service
410 animal" means any animal trained and used to assist a law
411 enforcement agency, public safety entity or search and rescue
412 agency.

413 (4) A conviction and imposition of a sentence under this
414 section does not prevent a conviction and imposition of a sentence
415 under Section 97-41-16 pertaining to the offenses of simple or
416 aggravated cruelty to a dog or cat, or under any other applicable
417 provision of law.

418 (5) Any person guilty of violating subsection (2) of this
419 section shall also be required to make restitution to the law
420 enforcement agency or owner aggrieved thereby.

421 (6) The provisions of this section shall not apply to the
422 lawful practice of veterinary medicine.

423 **SECTION 10.** This act shall take effect and be in force from
424 and after its passage.

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

1 AN ACT TO AMEND SECTION 97-41-16, MISSISSIPPI CODE OF 1972,
2 TO ENACT THE "MISSISSIPPI DOG AND CAT PET PROTECTION LAW OF 2011";
3 TO CLARIFY AND REVISE THE CRIME OF CRUELTY TO A DOG OR CAT; TO
4 SPECIFICALLY DESCRIBE ACTIVITIES THAT DO NOT CONSTITUTE THE CRIME
5 OF CRUELTY TO A DOG OR CAT; TO AMEND SECTIONS 97-41-1, 97-41-3,
6 97-41-5, 97-41-7, 97-41-9, 97-41-17, 97-41-21 AND 97-41-23,
7 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS
8 ACT; AND FOR RELATED PURPOSES.

