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## **States' Animal Cruelty Statutes**

### **State of Mississippi**

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UNIVERSITY of ARKANSAS  
SCHOOL of LAW

## States' Animal Cruelty Statutes

### STATE OF MISSISSIPPI

*Current through End of the 2009 Regular and Extraordinary Sessions*

#### **§ 97-41-1. Cruelty to living creatures**

If any person shall override, overdrive, overload, torture, torment, unjustifiably injure, deprive of necessary sustenance, food, or drink; or cruelly beat or needlessly mutilate; or cause or procure to be overridden, overdriven, overloaded, tortured, unjustifiably injured, tormented, or deprived of necessary sustenance, food or drink; or to be cruelly beaten or needlessly mutilated or killed, any living creature, every such offender shall, for every offense, be guilty of a misdemeanor.

#### **§ 97-41-2. Seizure of mistreated animal**

(1) All courts in the State of Mississippi may order the seizure of an animal by a law enforcement agency, for its care and protection upon a finding of probable cause to believe said animal is being cruelly treated, neglected or abandoned. Such probable cause may be established upon sworn testimony of any person who has witnessed the condition of said animal. The court may appoint an animal control agency, agent of an animal shelter organization, veterinarian or other person as temporary custodian for the said animal, pending final disposition of the animal pursuant to this section. Such temporary custodian shall directly contract and be responsible for any care rendered to such animal, and may make arrangements for such care as may be necessary. Upon seizure of an animal, the law enforcement agency responsible for removal of the animal shall serve notice upon the owner of the animal, if possible, and shall also post prominently a notice to the owner or custodian to inform such person that the animal has been seized. Such process and notice shall contain a description of the animal seized, the date seized, the name of the law enforcement agency seizing the animal, the name of the temporary custodian, if known at the time, and shall include a copy of the order of the court authorizing the seizure.

(2) Within five (5) days of seizure of an animal, the owner of the animal may request a hearing in the court ordering the animal to be seized to determine whether the owner is able to provide adequately for the animal and is fit to have custody of the animal. The court shall hold such hearing within fourteen (14) days of receiving such request. The hearing shall be concluded and the court order entered thereon within twenty-one (21) days after the hearing is commenced. Upon requesting a hearing, the owner shall have three (3) business days to post a bond or security with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs sufficient to provide for the animal's care. Failure to post such bond within three (3) days shall result in forfeiture of the animal to the court. If the temporary custodian has custody of the animal upon the expiration of the bond or security, the animal shall be forfeited to the court unless the court orders otherwise.

(3) In determining the owner's fitness to have custody of an animal, the court may consider, among other matters:

(a) Testimony from law enforcement officers, animal control officers, animal protection officials, and other witnesses as to the condition the animal was kept in by its owner or custodian.

(b) Testimony and evidence as to the type and amount of care provided to the animal by its owner or custodian.

(c) Expert testimony as to the proper and reasonable care of the same type of animal.

- (d) Testimony from any witnesses as to prior treatment or condition of this or other animals in the same custody.
- (e) Violations of laws relating to animal cruelty that the owner or custodian has been convicted of prior to the hearing.
- (f) Any other evidence the court considers to be material or relevant.
- (4) Upon proof of costs incurred as a result of the animal's seizure, including, but not limited to, animal medical and boarding, the court may order that the animal's owner reimburse the temporary custodian for such costs. A lien for authorized expenses is hereby created upon all animals seized under this section, and shall have priority to any other lien on such animal.
- (5) If the court finds the owner of the animal is unable or unfit to adequately provide for the animal, or that the animal is severely injured, diseased, or suffering, and, therefore, not likely to recover, the court may order that the animal be permanently forfeited and released to an animal control agency, animal protection organization or to the appropriate entity to be euthanized or the court may order that such animal be sold at public sale in the manner now provided for judicial sales; any proceeds from such sale shall go first toward the payment of expenses and costs relating to the care and treatment of such animal, and any excess amount shall be paid to the owner of the animal.
- (6) Upon notice and hearing as provided in this section, or as a part of any proceeding conducted under the terms of this section, the court may order that other animals in the custody of the owner that were not seized be surrendered and further enjoin the owner from having custody of other animals in the future.
- (7) If the court determines the owner is able to provide adequately for, and have custody of, the animal, the court shall order the animal be claimed and removed by the owner within seven (7) days after the date of the order.
- (8) Nothing in this section shall be construed to prevent or otherwise interfere with a law enforcement officer's authority to seize an animal as evidence or require court action for the taking into custody and making proper disposition of animals as authorized in Sections 21-19-9 and 41-53-11.
- (9) For the purposes of this section the term "animal" or "animals" means any feline, exotic animal, canine, horse, mule, jack or jennet.

### **§ 97-41-3. Killing of injured or useless animal**

Any sheriff, constable, policeman, or agent of a society for the prevention of cruelty to animals may kill, or cause to be killed, any animal found neglected or abandoned, if in the opinion of three respectable citizens it be injured or diseased past recovery, or by age has become useless.

### **§ 97-41-5. Carrying in a cruel manner**

If any person shall carry, or cause to be carried by hand or in or upon any vehicle or other conveyance, any creature in a cruel or inhuman manner, he shall be guilty of a misdemeanor.

### **§ 97-41-7. Confinement depriving creature of food or water**

If any person shall confine, or cause to be confined, in any stable, lot, or other place, any living creature, without supplying the same during such confinement with a sufficient quantity of good and wholesome food and water, he shall be guilty of a misdemeanor.

### **§ 97-41-9. Failure to feed or sustain animal**

If any person be the owner or have the custody of any living creature and unjustifiably neglect or refuse to furnish it necessary sustenance, food, or drink, he shall be guilty of a misdemeanor.

### **§ 97-41-11. Fighting animals**

Any person who shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for the admission of any person to, any place kept or used for the purpose of fighting any bear, cock or other creature, except a dog, or of tormenting or torturing the same, and

every person who shall encourage, aid, or assist therein, or who shall permit or suffer any place to be so kept or used, shall be guilty of a misdemeanor. It shall be the duty of any policeman or other officer of the law, county or municipal, to enter into any such place kept for such purpose, and to arrest each and every person concerned or participating therein.

#### **§ 97-41-13. Penalties**

Any person who shall violate any of sections 97-41-3 to 97-41-11, or section 97-27-7 on the subject of cruelty to animals shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars, or shall be imprisoned in the county jail not less than ten days nor more than one hundred days or both.

#### **§ 97-41-15. Maliciously injuring livestock**

(1) Any person who shall maliciously, either out of a spirit of revenge or wanton cruelty, or who shall mischievously kill, maim or wound, or injure any livestock, or cause any person to do the same, shall be guilty of a felony and upon conviction, shall be committed to the custody of the State Department of Corrections for not less than twelve (12) months nor more than five years, and fined an amount not less than One Thousand Five Hundred Dollars (\$1,500.00), nor more than Ten Thousand Dollars (\$10,000.00).

(2) In addition to any such fine or imprisonment which may be imposed, the court shall order that restitution be made to the owner of any animal listed in subsection (1) of this section. The measure for restitution in money shall be the current replacement value of such loss and/or the actual veterinarian fees, special supplies, loss of income and other costs incurred as a result of actions in violation of subsection (1) of this section.

(3) For purposes of this section, the term "livestock" shall mean horses, cattle, swine, sheep and other domestic animals produced for profit.

#### **§ 97-41-16. Maliciously injuring dogs or cats**

(1) Any person who shall maliciously, either out of a spirit of revenge or wanton cruelty, or who shall mischievously kill, maim or wound, or injure any dog or cat, or cause any person to do the same, shall be fined not more than One Thousand Dollars (\$1,000.00) or be imprisoned not exceeding six (6) months.

(2) In addition to such fine or imprisonment which may be imposed, the court shall order that restitution be made to the owner of such dog or cat. The measure for restitution in money shall be the current replacement value of such loss and the actual veterinarian fees, special supplies, loss of income and other cost incurred as a result of actions in violation of subsection (1) of this section.

#### **§ 97-41-17. Poisoning animals**

Every person who shall wilfully and unlawfully administer any poison to any horse, mare, colt, mule, jack, jennet, cattle, deer, dog, hog, sheep, chicken, duck, goose, turkey, pea-fowl, guinea-fowl, or partridge, or shall maliciously expose any poison substance with intent that the same should be taken or swallowed by any horse, mare, colt, mule, jack, jennet, cattle, dog, hog, sheep, chicken, duck, goose, turkey, pea-fowl, guinea-fowl, or partridge, shall, upon conviction, be punished by imprisonment in the penitentiary not exceeding three years, or in the county jail not exceeding one year, and by a fine not exceeding five hundred dollars.

#### **§ 97-41-18. Hog and canine fighting events; prohibition**

(1) For the purposes of this section, "hog" means a pig, swine or boar.

(2) It is unlawful for any person to organize or conduct any commercial event commonly referred to as a "catch" wherein there is a display of combat or fighting among one or more domestic or feral canines and feral or domestic hogs and in which it is intended or reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated or killed.

(3) It is unlawful for any person to organize, conduct or financially or materially support any event prohibited by this section.

(4) The provisions of this section shall not apply to any competitive event in which canines trained for hunting or herding activities are released in an open or enclosed area to locate and corner hogs, commonly referred to as a "bay event," and in which competitive points are deducted if a hog is caught and held.

(5) The provisions of this section shall not apply to the lawful hunting of hogs with canines or the use of canines for the management, farming or herding of hogs which are livestock or the private training of canines for the purposes enumerated in this subsection provided that such training is conducted for the field using accepted dog handling and training practices and is not in violation of the provisions of subsection (1) of this section.

(6) Any person convicted under the provisions of this section shall be fined not more than One Thousand Dollars (\$1,000.00), imprisoned for not more than six (6) months, or both.

(7) This section shall stand repealed on July 1, 2008.

### **§ 97-41-19. Dog fights**

(1) If any person (a) shall sponsor, promote, stage or conduct a fight or fighting match between dogs, or (b) shall wager or bet, promote or encourage the wagering or betting of any money or other valuable thing upon any such fight or upon the result thereof, or (c) shall own a dog with the intent to wilfully enter it or to participate in any such fight, or (d) shall train or transport a dog for the purposes of participation in any such fight, he shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the State Penitentiary for a term of not less than one (1) nor more than three (3) years, or by both such fine and imprisonment, in the discretion of the court.

(2) If any person shall be present, as a spectator, at any location where preparations are being made for an exhibition of a fight between dogs with the intent to be present at such preparations, or if any person shall be present at an exhibition of a fight between dogs with the intent to be present at such exhibition, he shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the State Penitentiary for a term of not more than one (1) year, or by both such fine and imprisonment, in the discretion of the court.

(3) Any law enforcement officer making an arrest under subsection (1) of this section may lawfully take possession of all dogs and all paraphernalia, implements, equipment or other property used in violation of subsection (1) of this section. Such officer shall file with the circuit court of the county within which the alleged violation occurred an affidavit stating therein (a) the name of the person charged, (b) a description of the property taken, (c) the time and place of the taking, (d) the name of the person who claims to own such property, if known, and (e) that the affiant has reason to believe, stating the ground of such belief, that the property taken was used in such violation. He shall thereupon deliver the property to such court which shall, by order in writing, place such dogs, paraphernalia, implements, equipment, or other property in the custody of a licensed veterinarian, the local humane society or other animal welfare agency, or other suitable custodian, to be kept by such custodian until the conviction or final discharge of the accused, and shall send a copy of such order without delay to the district attorney of the county. The custodian named and designated in such order shall immediately assume the custody of such property and shall retain same, subject to order of the court.

Upon the certification of a licensed veterinarian or officer of the humane society or animal welfare agency that, in his professional judgment, a dog which has been seized is not likely to survive the final disposition of the charges or that, by reason of the physical condition of the dog, it should be humanely euthanized before such time, the court may order the dog humanely euthanized. The court shall make its finding of whether to issue such an order within seven (7) days from the certification by the veterinarian or officer of the humane society or animal welfare agency. The owner of a dog which is euthanized without an order of the court with such certification of a licensed veterinarian or officer of the humane society or other animal welfare agency shall have a right of action for damages against the department or agency by which the arresting or seizing officer is employed. Upon conviction of the person charged with a violation of subsection (1) of this section, all dogs seized shall be adjudged by

the court to be forfeited and the court shall order a humane disposition of the same. In no event shall the court order the dog to be euthanized without the certification of a licensed veterinarian or officer of the humane society or other animal welfare agency that, in his judgment, the dog is not likely to survive or that, by reason of its physical condition, the dog should be humanely euthanized. In the event of the acquittal or final discharge without conviction of the accused, the court shall direct the delivery of the property so held in custody to the owner thereof. All reasonable expenses incurred by the custodian of seized dogs and property shall be charged as costs of court, to be taxed against the owner or county in the discretion of the court.

(4) Nothing in subsection (1) of this section shall prohibit any of the following:

- (a) The use of dogs in the management of livestock, by the owner of such livestock or other persons in lawful custody thereof;
- (b) The use of dogs in lawful hunting; and
- (c) The training of dogs for any purpose not prohibited by law.

### **§ 97-41-21. Harassment of guide dogs**

(1) An individual shall not do either of the following:

(a) Willfully and maliciously assault, beat, harass, injure, or attempt to assault, beat, harass or injure, a dog that he or she knows or has reason to believe is a guide or leader dog for a blind individual, a hearing dog for a deaf or audibly impaired individual, or a service dog for a physically limited individual.

(b) Willfully and maliciously impede or interfere with, or attempt to impede or interfere with, duties performed by a dog that he or she knows or has reason to believe is a guide or leader dog for a blind individual, a hearing dog for a deaf or audibly impaired individual, or a service dog for a physically limited individual.

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

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

(4) A conviction and imposition of a sentence under this section does not prevent a conviction and imposition of a sentence under any other applicable provision of law.

(5) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) Causes faulty coordination.

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

#### **§ 97-41-23. Killing or injuring public service animal; penalty**

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

(2) Any person who, without just cause, purposely kills or injures any public service animal is guilty of a felony and upon conviction shall be fined not more than Five Thousand Dollars (\$5,000.00) and be imprisoned not more than five (5) years, or both.

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

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

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