

# HOUSE BILL No. 5403

February 15, 2012, Introduced by Reps. Santana, Segal, Ananich, Hovey-Wright, Darany, Geiss and Haugh and referred to the Committee on Judiciary.

A bill to require individuals convicted of animal abuse offenses to register; to provide for the powers and duties of certain state and local governmental officers and entities; to impose fees; to prescribe penalties and provide remedies; and to require the promulgation of rules.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. As used in this act:

2           (a) "Animal abuse offense" means 1 or more of the following:

3           (i) A violation of section 49 of the Michigan penal code, 1931  
4 PA 328, MCL 750.49.

5           (ii) A violation of section 50 of the Michigan penal code, 1931  
6 PA 328, MCL 750.50.

7           (iii) A violation of section 50a of the Michigan penal code,  
8 1931 PA 328, MCL 750.50a.

1           (iv) A violation of section 50b of the Michigan penal code,  
2 1931 PA 328, MCL 750.50b.

3           (v) A violation of section 50c of the Michigan penal code,  
4 1931 PA 328, MCL 750.50c.

5           (vi) Any other violation of a law of this state or a local  
6 ordinance of a municipality that by its nature constitutes an  
7 animal abuse offense.

8           (vii) An attempt or conspiracy to commit an offense described  
9 in subparagraphs (i) to (vi).

10           (viii) An offense substantially similar to an offense described  
11 in subparagraphs (i) to (vii) under a law of the United States, any  
12 state, or any country or under tribal or military law.

13           (b) "Convicted" means that 1 of the following applies to the  
14 individual:

15           (i) A judgment of conviction or a probation order was entered  
16 against the individual in any court having jurisdiction over  
17 criminal offenses, including, but not limited to, a tribal court or  
18 a military court, and including a conviction subsequently set aside  
19 under 1965 PA 213, MCL 780.621 to 780.624.

20           (ii) The individual was assigned to youthful trainee status  
21 under sections 11 to 15 of chapter II of the code of criminal  
22 procedure, 1927 PA 175, MCL 762.11 to 762.15, if the individual's  
23 status of youthful trainee is revoked and an adjudication of guilt  
24 is entered.

25           (c) "Department" means the department of state police.

26           (d) "Domicile" means a place where an individual has his or  
27 her true, fixed, and permanent home to which he or she intends to

1 return whenever absent from the home.

2 (e) "Institution of higher education" means 1 or more of the  
3 following:

4 (i) A public or private community college, college, or  
5 university.

6 (ii) A public or private trade, vocational, or occupational  
7 school.

8 (f) "Local law enforcement agency" means the police department  
9 of a county or municipality.

10 (g) "Municipality" means a city, village, or township of this  
11 state.

12 (h) "Residence" means that place at which an individual  
13 habitually sleeps, keeps his or her personal effects, and has a  
14 regular place of lodging. If an individual has more than 1  
15 residence, or if a wife has a residence separate from that of the  
16 husband, that place at which the individual resides the greater  
17 part of the time shall be his or her residence for purposes of this  
18 act. This section shall not be construed to affect existing  
19 judicial interpretation of the term residence.

20 (i) "Student" means an individual enrolled on a full- or part-  
21 time basis in a public or private educational institution,  
22 including, but not limited to, a secondary school, trade school,  
23 professional institution, or institution of higher education.

24 Sec. 3. The following individuals who are domiciled or  
25 temporarily reside in this state for 14 or more consecutive days,  
26 who work with or without compensation or are students in this state  
27 for 14 or more consecutive days, or who are domiciled, reside, or

1 work with or without compensation or are students in this state for  
2 30 or more total days in a calendar year shall register under this  
3 act:

4 (a) An individual who is 18 years of age or older and who is  
5 convicted of an animal abuse offense on or after the effective date  
6 of this act.

7 (b) An individual from another state who is 18 years of age or  
8 older and who is convicted of an animal abuse offense on or after  
9 the effective date of this act and is required to register or  
10 otherwise be identified as an animal abuse offender under a  
11 comparable statute of that state.

12 Sec. 5. (1) An individual required to register under this act  
13 shall register no later than 5 days after sentencing if the  
14 individual is not sentenced to incarceration for the animal abuse  
15 offense. If the individual is sentenced to incarceration for the  
16 animal abuse offense, he or she shall register no later than 5 days  
17 after release from incarceration. The probation officer shall give  
18 the individual the registration form after the individual is  
19 convicted and explain the duty to register and to pay a  
20 registration fee, to verify his or her residence address, and to  
21 provide notice of residence address changes.

22 (2) Both of the following shall register with the local law  
23 enforcement agency, sheriff's department, or the department within  
24 14 days after becoming domiciled, or temporarily residing, working,  
25 or being a student in this state for the periods specified in  
26 section 3:

27 (a) Subject to section 3, an individual convicted of an animal

1 abuse offense in another state or country on or after the effective  
2 date of this act.

3 (b) An individual required to be registered as an animal abuse  
4 offender in another state or country regardless of when the  
5 conviction was entered.

6 Sec. 7. (1) An individual required to be registered under this  
7 act shall notify the local law enforcement agency or sheriff's  
8 department having jurisdiction where his or her new residence or  
9 domicile is located or the department post of the individual's new  
10 residence or domicile within 5 days after the individual changes or  
11 vacates his or her residence, domicile, or place of work or  
12 education.

13 (2) If an individual who is incarcerated in a state  
14 correctional facility and is required to be registered under this  
15 act is granted parole or is due to be released upon completion of  
16 his or her maximum sentence, the department of corrections, before  
17 releasing the individual, shall provide notice of the location of  
18 the individual's proposed place of residence or domicile to the  
19 sheriff's department having jurisdiction over that location or to  
20 the appropriate state police department post.

21 (3) Within 5 days after either of the following occurs, the  
22 department of corrections shall notify the local law enforcement  
23 agency or sheriff's department having jurisdiction over the area to  
24 which the individual is transferred or the department post of the  
25 transferred residence or domicile of an individual required to be  
26 registered under this act:

27 (a) The individual is transferred to a community residential

1 program.

2 (b) The individual is transferred into a minimum custody  
3 correctional facility of any kind, including a correctional camp or  
4 work camp.

5 (4) An individual required to be registered under this act  
6 shall notify the department on a form prescribed by the department  
7 not later than 5 days before he or she changes his or her domicile  
8 or residence to another state. The individual shall indicate the  
9 new state and, if known, the new address. The department shall  
10 update the registration and compilation databases and promptly  
11 notify the appropriate law enforcement agency and any applicable  
12 animal abuse registration authority in the new state.

13 (5) If the probation or parole of an individual required to be  
14 registered under this act is transferred to another state or an  
15 individual required to be registered under this act is transferred  
16 from a state correctional facility to any correctional facility or  
17 probation or parole in another state, the department of corrections  
18 shall promptly notify the department and the appropriate law  
19 enforcement agency and any applicable animal abuse offender  
20 registration authority in the new state. The department shall  
21 update the registration and compilation databases.

22 (6) An individual registered under this act shall comply with  
23 the verification procedures and proof of residence procedures  
24 prescribed in sections 9.

25 (7) An individual shall comply with this section for 5 years  
26 after the date of initially registering or, if the individual is in  
27 a state correctional facility, for 5 years after release from the

1 state correctional facility, whichever is later.

2       Sec. 9. (1) On the release of an individual required to be  
3 registered under this act who is in a state correctional facility,  
4 the department of corrections shall provide written notice to that  
5 individual explaining his or her duties under this act and the  
6 procedure for registration, notification, and verification and  
7 payment of the registration fee prescribed under subsection (5) or  
8 section 17. The individual shall sign and date the notice. The  
9 department of corrections shall maintain a copy of the signed and  
10 dated notice in the individual's file. The department of  
11 corrections shall forward the original notice to the department  
12 within 30 days, regardless of whether the individual signs it.

13       (2) Following initial registration under this act, an  
14 individual required to be registered under this act who is not  
15 incarcerated shall report in person to the local law enforcement  
16 agency or sheriff's department having jurisdiction where he or she  
17 is domiciled or resides or to the department post in or nearest to  
18 the county where he or she is domiciled or resides for verification  
19 of domicile or residence as follows:

20       (a) If the individual is registered only for 1 or more animal  
21 abuse offenses that are misdemeanors, not earlier than January 1 or  
22 later than January 15 of each year after the initial registration.  
23 As used in this subdivision, "misdemeanor" means that term as  
24 defined in section 1 of chapter I of the code of criminal  
25 procedure, 1927 PA 175, MCL 761.1.

26       (b) If the person is registered for 1 or more animal abuse  
27 offenses that are felonies, not earlier than the first day or later

1 than the fifteenth day of each April, July, October, and January of  
2 each year after the initial registration. As used in this  
3 subdivision, "felony" means that term as defined in section 1 of  
4 chapter I of the code of criminal procedure, 1927 PA 175, MCL  
5 761.1.

6 (3) An individual required to be registered under this act who  
7 is in a state correctional facility shall comply with the  
8 verification requirements of subsection (2) after his or her  
9 release from incarceration.

10 (4) When an individual reports under subsection (2), an  
11 officer or authorized employee of the local law enforcement agency,  
12 sheriff's department, or department post shall verify the  
13 individual's residence or domicile. The officer or authorized  
14 employee shall sign and date a verification form. The officer shall  
15 give a copy of the signed form showing the date of verification to  
16 the individual. The officer or employee shall forward verification  
17 information to the department by the law enforcement information  
18 network in the manner the department prescribes. The department  
19 shall revise the databases maintained under section 19 as necessary  
20 and shall indicate verification in the compilation under section  
21 19(2).

22 (5) Except as otherwise provided in section 11, an individual  
23 who reports as prescribed under subsection (2) and who has not  
24 already paid the fee prescribed under section 17 shall pay a \$50.00  
25 registration fee. An individual shall only be required to pay a fee  
26 once under this subsection.

27 (6) If an individual fails to report under subsection (2), the



1 department shall notify the local law enforcement agency, sheriff's  
2 department, or department post. An appearance ticket may be issued  
3 for the individual's failure to report as provided in sections 9a  
4 to 9g of chapter IV of the code of criminal procedure, 1927 PA 175,  
5 MCL 764.9a to 764.9g.

6 (7) An individual required to be registered under this act  
7 shall maintain either a valid operator's or chauffeur's license  
8 issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to  
9 257.923, or an official state personal identification card issued  
10 under 1972 PA 222, MCL 28.291 to 28.300, with the individual's  
11 current address. The license or personal identification card may be  
12 used as proof of domicile or residence. An officer or authorized  
13 employee of the local law enforcement agency, sheriff's department,  
14 or department post may require the individual to produce another  
15 document bearing his or her name and address, including, but not  
16 limited to, voter registration or a utility or other bill. The  
17 department may specify other satisfactory proof of domicile or  
18 residence.

19 (8) An individual required to be registered under this act who  
20 is not incarcerated shall report in person to a secretary of state  
21 office and have his or her digitized photograph taken prior to  
22 registration. An individual required to be registered under this  
23 act who is incarcerated shall report under this subsection not less  
24 than 5 days after he or she is released. The individual is not  
25 required to report under this subsection if he or she had a  
26 digitized photograph taken for an operator's or chauffeur's license  
27 or official state personal identification card before the effective

1 date of this act, or within 2 years before he or she is released.  
2 The secretary of state shall make the digitized photograph  
3 available to the department for a registration under this act.

4 (9) The department shall prescribe the form for the notices  
5 and verification procedures required by this section.

6 Sec. 11. (1) Of the money collected by a court, local law  
7 enforcement agency, sheriff's department, or department post from  
8 each registration fee prescribed under this act, \$35.00 shall be  
9 forwarded to the department, which shall deposit the money in the  
10 animal abuse offenders registration fund created under subsection  
11 (2), and \$15.00 shall be retained by the court, local law  
12 enforcement agency, sheriff's department, or department post.

13 (2) The animal abuse offenders registration fund is created as  
14 a separate fund in the department of treasury. The state treasurer  
15 shall credit the money received from the payment of the  
16 registration fee prescribed under this act to the animal abuse  
17 offenders registration fund. Money credited to the fund shall only  
18 be used by the department for training concerning, and the  
19 maintenance and automation of, the databases, compilation, and  
20 information required under section 19. Money in the animal abuse  
21 offenders registration fund at the close of the fiscal year shall  
22 remain in the fund and shall not lapse to the general fund.

23 (3) If an individual required to pay a registration fee under  
24 this act is indigent, the registration fee shall be temporarily  
25 waived. The burden is on the individual claiming indigence to prove  
26 the fact of indigence to the satisfaction of the local law  
27 enforcement agency, sheriff's department, or department post where

1 the individual is reporting.

2 (4) Payment of the registration fee under this act shall be  
3 made in the form and by means prescribed by the department. Upon  
4 payment of the registration fee prescribed under this act, the  
5 officer or employee shall forward verification of the payment to  
6 the department by the law enforcement information network in the  
7 manner the department prescribes. The department shall revise the  
8 databases maintained under section 19 as necessary and shall  
9 indicate verification of payment in the compilation under section  
10 19(2).

11 Sec. 13. The department of corrections shall not collect any  
12 fees under this act.

13 Sec. 15. (1) The officer or authorized employee of a local law  
14 enforcement agency, sheriff's department, or department post  
15 registering an individual or receiving or accepting a registration  
16 under section 5 or receiving notice under section 7 shall provide  
17 the individual with a copy of the registration or notification at  
18 the time of registration or notice.

19 (2) The officer or authorized employee of a local law  
20 enforcement agency, sheriff's department, or department post  
21 registering an individual or receiving or accepting a registration  
22 under section 5 or notified of an address change under section 7(1)  
23 shall forward the registration or notification to the department by  
24 the law enforcement information network within 3 business days  
25 after registration or notification.

26 Sec. 17. (1) A registration under this act shall be made on a  
27 form prescribed by the department and shall be forwarded to the

1 department in the format the department prescribes, along with a  
2 \$50.00 registration fee for each original registration, except as  
3 otherwise provided in section 11. A registration shall contain all  
4 of the following information:

5 (a) The individual's name, social security number, date of  
6 birth, and address or expected address. An individual who is in a  
7 witness protection and relocation program is only required to use  
8 the name and identifying information reflecting his or her new  
9 identity in a registration under this act. The registration and  
10 compilation databases shall not contain any information identifying  
11 the individual's prior identity or locale. The department shall  
12 request each individual to provide his or her date of birth if it  
13 is not included in the registration, and that individual shall  
14 comply with the request within 10 days.

15 (b) A brief summary of the individual's convictions for animal  
16 abuse offenses regardless of when the conviction occurred,  
17 including where the offense occurred and the original charge if the  
18 conviction was for a lesser offense.

19 (c) A complete physical description of the individual.

20 (d) The photograph required under section 9.

21 (e) The individual's fingerprints if not already on file with  
22 the department. The department shall forward a copy of the  
23 individual's fingerprints to the federal bureau of investigation if  
24 not already on file with that bureau.

25 (2) A registration may contain the individual's blood type and  
26 whether a DNA identification profile of the individual is  
27 available.

1           (3) The form used for registration or verification under this  
2 act shall contain a written statement that explains the duty of the  
3 individual being registered to provide notice of a change of  
4 address under section 7, the procedures for providing that notice,  
5 and the verification procedures under section 9.

6           (4) The individual shall sign a registration, notice, and  
7 verification. However, the registration, notice, or verification  
8 shall be forwarded to the department regardless of whether the  
9 individual signs it or pays the registration fee required under  
10 subsection (1).

11           (5) The officer or authorized employee of a local law  
12 enforcement agency, sheriff's department, or department post  
13 registering the individual or receiving or accepting a registration  
14 under section 5 shall sign the registration form.

15           (6) An individual shall not knowingly provide false or  
16 misleading information concerning a registration, notice, or  
17 verification.

18           (7) The department shall prescribe the form for a notification  
19 required under section 7 and the format for forwarding the  
20 notification to the department.

21           (8) The department shall promptly provide registration,  
22 notification, and verification information to the federal bureau of  
23 investigation and to local law enforcement agencies, sheriff's  
24 departments, department posts, and agencies of other states  
25 requiring the information, as provided by law.

26           Sec. 19. (1) The department shall maintain a computerized  
27 database of registrations and notices required under this act.

1           (2) The department shall maintain a computerized database  
2 separate from that described in subsection (1) to implement  
3 subsection (3) and section 23(2) and (3). The database shall  
4 consist of a compilation of individuals registered under this act.

5           (3) The compilation of individuals shall be indexed  
6 numerically by zip code area. Within each zip code area, the  
7 compilation shall contain all of the following information:

8           (a) The name and aliases, physical description, and birth date  
9 of each individual registered under this act who is included in the  
10 compilation and who resides in that zip code area and any animal  
11 abuse offense of which the individual has been convicted.

12           (b) The photograph of each individual registered under this  
13 act. The department shall obtain the photographs submitted under  
14 section 9 from the secretary of state for purposes of implementing  
15 this subsection.

16           (4) The department shall update the compilation with new  
17 registrations, deletions from registrations, and address changes at  
18 the same time those changes are made to the database described in  
19 subsection (1). The department shall make the compilation available  
20 to each department post, local law enforcement agency, and  
21 sheriff's department by the law enforcement information network.  
22 Upon request of a department post, local law enforcement agency, or  
23 sheriff's department, the department shall provide the information  
24 from the compilation in printed form for the zip code areas located  
25 in whole or in part within the post's, agency's, or sheriff's  
26 department's jurisdiction.

27           (5) The department shall make the compilation or information

1 from the compilation available to a department post, local law  
2 enforcement agency, and sheriff's department by electronic,  
3 computerized, or other similar means accessible to the post,  
4 agency, or sheriff's department. The electronic, computerized, or  
5 other means shall provide for a search by both name and zip code.

6 (6) If a court determines that public availability of  
7 information under subsection (5) or section 23 concerning  
8 individuals registered under this act, including names and aliases,  
9 addresses, physical descriptions, or dates of birth, violates the  
10 constitution of the United States or this state, the department  
11 shall revise the compilation in subsection (2) so that it does not  
12 contain that information.

13 Sec. 21. (1) An individual required to be registered under  
14 this act who willfully violates this act is guilty of a misdemeanor  
15 punishable by imprisonment for not more than 93 days or a fine of  
16 not more than \$1,000.00, or both.

17 (2) The court shall revoke the probation of an individual  
18 placed on probation who willfully violates this act.

19 (3) The parole board shall rescind the parole of an individual  
20 released on parole who willfully violates this act.

21 (4) An individual's failure to register as required by this  
22 act or a violation of section 7(1) or (4) may be prosecuted in the  
23 judicial district of any of the following:

24 (a) The individual's last registered address or residence.

25 (b) The individual's actual address or residence.

26 (c) Where the individual was arrested for the violation.

27 Sec. 23. (1) Except as otherwise provided in this act, a

1 registration or report is confidential and information from that  
2 registration or report shall not be open to inspection except for  
3 law enforcement purposes. The registration or report and all  
4 included materials and information are exempt from disclosure  
5 under section 13 of the freedom of information act, 1976 PA 442,  
6 MCL 15.243.

7 (2) A department post, local law enforcement agency, or  
8 sheriff's department shall make information from the compilation  
9 described in section 19(2) for the zip code areas located in whole  
10 or in part within the post's, agency's, or sheriff's department's  
11 jurisdiction available for public inspection during regular  
12 business hours. A department post, local law enforcement agency, or  
13 sheriff's department is not required to make a copy of the  
14 information for a member of the public.

15 (3) The department may make information from the compilation  
16 described in section 19(2) available to the public through  
17 electronic, computerized, or other accessible means. The department  
18 shall provide for notification by electronic or computerized means  
19 to any member of the public who has subscribed in a manner required  
20 by the department when an individual who is the subject of the  
21 compilation described in section 19(2) initially registers under  
22 this act, or changes his or her registration under this act, to a  
23 location that is in a zip code area designated by the subscribing  
24 member of the public.

25 (4) Except as provided in this act, an individual other than  
26 the registrant who knows of a registration or report under this act  
27 and who divulges, uses, or publishes nonpublic information



1 concerning the registration or report in violation of this act is  
2 guilty of a misdemeanor punishable by imprisonment for not more  
3 than 93 days or a fine of not more than \$1,000.00, or both.

4 (5) A person who reveals a registration or report in violation  
5 of this act is liable to the individual whose registration or  
6 report is revealed for treble damages.

7 (6) Subsections (4) and (5) do not apply to the compilation  
8 described in section 19(2) or information from that compilation  
9 that is provided or made available under section 19(2) or under  
10 subsection (2) or (3).

11 Sec. 25. The department shall promulgate rules and adopt  
12 regulations for the administration of the Michigan animal abuse  
13 registry and collection of fees.