

Legislative Analysis



CONVICTION FOR ANIMAL ABUSE: PROHIBIT ADOPTION OF ANIMALS FROM SHELTERS

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House Bill 4534

Sponsor: Rep. Paul Muxlow

House Bills 5061-5063

Sponsor: Rep. Harvey Santana

Committee: Judiciary

Complete to 1-29-14

A SUMMARY OF HOUSE BILL 4534 AS INTRODUCED 4-10-13 AND HOUSE BILLS 5061-5063 AS INTRODUCED 10-8-13

House Bill 4534 would prohibit individuals included in the animal abuse registry from adopting an animal from an animal shelter.

House Bill 5061 would create the Animal Adoption Protection Act to prohibit animal shelters from adopting an animal for a specified period of time to an individual with a prior or pending conviction for animal abuse and to define the term "animal abuse offense."

House Bill 5062 would require the Michigan State Police to prepare an annual report of animal abuse offenses based on information included in the criminal history record information database and provide the report to the Legislature and Department of Agriculture and Rural Development. Animal shelters could conduct a name-based search through ICHAT at no charge.

House Bill 5063 would require a prosecuting attorney to notify the Department of State Police when a person is charged with an animal abuse offense, and that information would have to be entered into the department's criminal history database for access through ICHAT by animal control shelters and animal protection shelters.

House Bills 5061-5063 are tie-barred to each other and also to House Bill 4534, meaning that all of the bills would have to be enacted or none of the first three bills could take effect.

House Bill 4534

The bill would add Section 8b to the Pet Shop Law (1969 PA 287) to prohibit animal control shelters and animal protection shelters from permitting an individual to adopt an animal without first verifying the individual's registration status against the animal abuse

registry established under House Bill 4535. If the individual is registered, the shelter would be prohibited from permitting the individual to adopt the animal.¹

House Bill 5061

The bill would amend Section 1 of the Pet Shop Law (MCL 287.331) and add Section 8c to create the Animal Adoption Protection Act. The bill would allow an animal control shelter or animal protection shelter to consider an individual's criminal history when deciding whether to allow that individual to adopt an animal. The shelter could not allow an individual to adopt an animal if the individual had been charged with committing an animal abuse offense or had been convicted of an animal abuse offense until after a period of at least five years has elapsed since the date of the conviction.

"Animal abuse offense" would mean a violation of one or more of the following laws (but does not include the lawful use of an animal to hunt or to participate in field trials or the lawful killing or other use of an animal in farming or a generally accepted animal husbandry or farming practice involving livestock):

- Section 49 of the Michigan Penal Code (MCL 750.49), pertaining to animal fighting.
- Section 50 of the Michigan Penal Code (MCL 750.50), pertaining to animal neglect or cruelty.
- Section 50a of the Michigan Penal Code (MCL 750.50a), pertaining to abuse of a leader dog.
- Section 50b of the Michigan Penal Code (MCL 750.50b), pertaining to killing or torturing an animal.
- Section 50c of the Michigan Penal Code (MCL 750.50c), pertaining to abuse of a law enforcement dog.
- Section 158 of the Michigan Penal Code (MCL 750.158), sodomy involving an animal.
- A violation of a local ordinance substantially corresponding to any of the above.

¹The Pet Shop Law is administered by the Department of Agriculture and Rural Development. A notice on the department's website says, "[s]ince 1969 the Michigan Department of Agriculture & Rural Development (MDARD) has licensed and regulated pet shops offering mammals other than livestock or rodents for sale. Due to state financial constraints, MDARD can no longer operate the pet shop program. Therefore, effective August 1, 2009, the department is suspending the pet shop program. In addition, MDARD will no longer accept new applications for a pet shop license. Although MDARD will no longer be regulating pet shops, all pet shop operators are advised to use the laws and regulations concerning pet shops as guidelines for animal care in their facilities. As the department is suspending the program, MDARD will also no longer be supplying pet shop health certificates effective August 1, 2009. Complainants wishing to file complaints against pet shops will be directed to local law enforcement agencies." See, http://www.michigan.gov/mdard/0,4610,7-125-1569_16979_21259-171138--,00.html.

- An attempt or conspiracy to commit an offense described above.

The bill would define "ICHAT" to mean the Internet Criminal History Access Tool maintained by the Department of State Police. The definition of "animal" would be revised to mean a vertebrate other than a human being except livestock as defined in PA 284 of 1937.

House Bill 5062 would amend Public Act 120 of 1935 (MCL 28.273), which regulates the fingerprinting of residents. The bill would exempt an animal control shelter or animal protection shelter performing a name-based background check for purposes of animal adoption checks through ICHAT from being the \$10 per name processing fee.

The Department of State Police would have to prepare a report annually of animal abuse offenses reported to the department for inclusion in the criminal history record information database. The report would have to include the number of offenses reported during the year, broken down into categories considered appropriate by the department. A copy would have to be provided to the Secretary of the Senate, Clerk of the House of Representatives, and director of the Department of Agriculture and Rural Development within 30 days after the calendar year in which the report is due.

"Animal abuse" and "ICHAT" would be defined the same as described above for House Bill 5061.

House Bill 5063 would add a new section to Chapter XVI (Miscellaneous Provisions) of the Code of Criminal Procedures (760.1) to require the prosecuting attorney handling a case of animal abuse to promptly notify the Department of State Police (MSP) when a person is charged with that offense. The information is to be provided as required by MSP. MSP would have to enter the information obtained under the bill into the department's criminal history database for purposes of providing that information through ICHAT to animal control shelters and animal protection shelters under House Bill 5061.

"Animal abuse offense" and "ICHAT" would be defined the same as described above for House Bills 5061 and 5062. "Prosecuting attorney" would mean the state attorney general or an assistant attorney general; a county prosecuting attorney or an assistant county prosecuting attorney; or the attorney for a village, city, or township or an assistant attorney for a village, city, or township.

FISCAL IMPACT:

HB 5062 – The bill would have no significant fiscal impact on the Department of State Police. The department incurs only nominal costs in generating a report through the Internet Criminal History Access Tool (ICHAT) for which a fee is not paid by the requesting person. Moreover, the department already maintains data on violations of criminal statutes, and can compile and report data on animal abuses within its existing budgetary resources.

HB 5063 – The bill would seem to have no significant fiscal impact on the Department of State Police or prosecuting attorneys. Charge information is already provided by prosecutors to the Department of State Police through the criminal history records system maintained by the MSP Criminal Justice Information Center. While the bill provides a separate reporting requirement for certain animal abuse offenses, it is presumed that prosecutors could comply with the new (but redundant) reporting requirements imposed by HB 5063 by through systems, processes, and practices that are already in place.

MSP's criminal history records databases includes information on arrests, charges, and convictions of certain offense – with that information made available through an ICHAT request. The database already includes charge information on the listed animal abuses, with that information shown in an ICHAT request.

Neither House Bill 5061 nor 5063 would have a significant fiscal impact on the Department of Agriculture and Rural Development.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.