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BILL ANALYSIS

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Senate Bill 377 (Substitute S-1)
Senate Bill 378 (Substitute S-1)
Sponsor: Senator Steven Bieda
Committee: Judiciary

Date Completed: 6-18-13

CONTENT

Senate Bill 377 (S-1) would create "Logan's Law" to do the following:

- Require individuals convicted of animal abuse offenses to register for five years.
- Establish procedures for an offender to register and specify information that a registrant would have to submit to a local law enforcement agency.
- Require a registrant to update his or her registration information each time he or she moved, and to verify his or her address annually.
- Require a registrant to maintain a valid driver license or State ID card.
- Limit the registration requirements for a registrant who was in a witness protection program.
- Require registrants to pay an annual fee of \$100 to the Michigan Department of Agriculture and Rural Development (MDARD).
- Require MDARD to maintain a statewide computerized database of registrations and notices required under the proposed Law.
- Require the name, birthdate, and zip code of an individual listed in the database to be accessible to the public, and limit the release of other information.
- Allow for the expunction of a report or record from the registry under certain circumstances.
- Regulate the release of information from the registry.
- Establish penalties for certain violations of the Act.

Senate Bill 378 (S-1) would amend Public Act 287 of 1969 (which regulates pet shops, animal control shelters, and animal protection shelters) to prohibit an animal control shelter or animal protection shelter from allowing a person to adopt an animal without first searching for the person on an animal abuse registry.

Senate Bill 377 (S-1) would take effect 90 days after its enactment. Senate Bill 378 (S-1) is tie-barred to Senate Bill 377.

Senate Bill 377 (S-1)

Registration

The following individuals would have to register under the proposed Law:

- A person who was at least 18 years of age, resided in Michigan, and was convicted of an animal abuse offense on or after the bill's effective date.
- A person from another state who was at least 18, was domiciled in Michigan, and was convicted of an animal abuse offense or registered for animal abuse under a comparable statute of that other state.

"Animal abuse offense" would mean one or more of the following, but would not include the lawful use of an animal to hunt or to participate in field trials, farming, or generally accepted animal husbandry or farming practice involving livestock:

- Involvement in animal fighting (MCL 750.49).
- Animal abuse or neglect (MCL 750.50).
- Abusing or impeding a guide or leader dog (MCL 750.50a).
- Killing, torturing, mutilating, maiming, or disfiguring an animal (MCL 750.50b).
- Killing, causing harm to, or harassing or interfering with a police dog or horse or a search and rescue dog (MCL 750.50c).
- Committing sodomy with an animal (MCL 750.158).

"Animal" would mean a vertebrate other than a human being.

A Michigan resident required to register under the proposed Law would have to register within five calendar days after his or her release from incarceration or, if not incarcerated for the animal abuse offense, within five calendar days after sentencing. An out-of-State person required to register would have to register within 21 calendar days after becoming domiciled in Michigan.

The prosecutor in a criminal proceeding for an animal abuse offense would have to notify a Michigan resident of his her registration requirements upon the person's conviction for an animal abuse offense.

The proposed registration requirements would apply regardless of the terms or conditions of a guilty plea or other agreement between a defendant and the prosecutor in a criminal proceeding for an animal abuse offense.

Upon conviction of a person for an animal abuse offense, the prosecutor would have to forward to MDARD the person's name and address and the name of the animal abuse offense for which the individual was convicted. The Department would have to enter the person's information into the computerized database of registrations maintained under the proposed Law.

A person required to register would have to submit all of the following information to his or her local law enforcement agency:

- The person's name and any aliases under which he or she was known.
- His or her residential address.
- A photograph of his or her head and shoulders, taken from the front.
- His or her Social Security number.
- His or her date of birth.
- His or her fingerprints.

Any State, local, or Federal agency could gain access to that information, as necessary.

A person required to register would have to remain on the registry for five years from the date of his or her release from incarceration or the date he or she was sentenced for an animal abuse offense, whichever was later. A registrant who was convicted of a subsequent

animal abuse offense would have to remain on the registry for five years from the date of his or her most recent conviction.

Within five calendar days after registration, a registrant would have to report to his or her local law enforcement agency to verify his or her residence. A registrant would have to verify his or her current residential address annually from the date of his or her first registration. A registrant also would have to update his or her registration information each time he or she moved from one residential address to another.

A registrant would have to maintain a current, valid Michigan driver license or official State personal ID card, with a current address. If a registrant did not have either a valid license or ID card, he or she would have to obtain one within 14 calendar days of his or her sentencing or release from incarceration, whichever was later.

A registrant who was a participant in a witness protection program would have to submit only the name and identifying information reflecting his or her new identity, and the registry and compilation database could not contain any information identifying his or her prior identity or address. If a registrant's date of birth had not already been provided, MDARD would have to request the registrant to provide it, and the individual would have to comply with that request within 10 calendar days.

Registration paperwork would have to be signed and dated by the person required to register and the registering agent.

A person required to register would have to pay an annual fee of \$100 to MDARD.

The Department would have to promulgate rules and adopt regulations for the administration of the registry and the collection of fees.

Database of Registrations

The Department would have to maintain a statewide computerized database of registrations and notices required under the proposed Law. The database would have to contain a compilation of information concerning individuals, indexed by name, Social Security number, date of birth, or zip code. An index compiled by MDARD would have to contain all of that information for each individual. The name, date of birth, and zip code of an individual listed in the database would have to be accessible to the public.

A written report, document, or photograph filed with MDARD under the proposed Law would be confidential and could be disclosed only to the following:

- A police or other law enforcement agency investigating a report of known or suspected animal abuse or neglect.
- A person named in a confidential record as a perpetrator of animal abuse or neglect, but only for disclosure of a record relating to himself or herself.
- A court that determined the information was necessary to decide an issue before it.
- A grand jury that determined the information was necessary to conduct its official business.
- An animal care regulatory agency.

Expunction of Report or Record

A person who was the subject of a report or record made under the proposed Law could request MDARD to expunge the report or record from the central registry if no relevant or accurate evidence of abuse or neglect were found to exist. The Department would have to expunge the report or record within 10 days after a request.

If the conviction for the animal abuse offense that required a person to register were set aside under Michigan law, MDARD would have to remove the person from the registry immediately after notification of the set-aside.

Release of Information

In releasing information under the proposed Law, MDARD could not include a report compiled by a police agency or other law enforcement agency related to an ongoing investigation of suspected animal abuse or neglect. This would not prevent the Department from releasing reports of convictions of crimes related to animal abuse or neglect.

If a court determined that public availability of information regarding registrants violated the U.S. or State Constitution, MDARD would have to revise the compilation of information under the Law so it did not contain that information. A violation of this provision would be a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$1,000.

A person who revealed a registration or report in violation of the proposed Law would be liable for treble damages to the individual whose registration or report was revealed.

Other Violation & Penalties

A person required to register under the proposed Law who willfully violated it would be guilty of a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$1,000.

An incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter, or an authorized agent of one of those entities who knowingly sold or offered to sell an animal to a registrant would be guilty of a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$1,000. Such an entity or agent who failed to determine whether an individual was registered before selling or offering to sell an animal to the person would have to be given a written warning for failure to comply with the Law. An entity or agent who had two or more such violations within two years would have to pay a fine of \$250 for the second and each subsequent violation.

The court would have to revoke the probation of a probationer who willfully violated the proposed Law.

Senate Bill 378 (S-1)

Under the bill, an animal control shelter or animal protection shelter could not allow an individual to adopt an animal unless the shelter first searched for that person on an animal abuse registry. If a person seeking to adopt an animal were listed on a registry, a shelter could not allow him or her to adopt an animal.

"Animal abuse registry" would mean an animal abuse registry created by MDARD under State law enacted after January 1, 2013.

Proposed MCL 287.338b (S.B. 378)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bill 377 (S-1)

The bill would have a substantive, but indeterminate, fiscal impact on MDARD. The bill would require the Department to establish and maintain a database of individuals registered

for being convicted of animal abuse as defined in the bill. Registered individuals would have to be kept in the database for five years following their conviction or release from jail, whichever would be later.

The costs of setting up such a database, depending upon its level of sophistication, can be \$100,000 or more, plus the cost of a position, or a part of a position, responsible for maintenance of the database. On the income side, the bill would require active registrants to pay an annual fee of \$100 to MDARD. Though the bill does not designate this fee for a specific purpose, it is conceivable that the fee revenue could be used to support MDARD's costs of maintaining the registry. According to the Department of State Police, the statewide arrests for animal cruelty in recent years have totaled 121 in 2008, 117 in 2009, 145 in 2010, 121 in 2011, and 108 in 2012.

The bill would create misdemeanor penalties for various violations of the proposed Law. These misdemeanors would have the potential to cause an indeterminate, but likely minor or negligible, increase to local costs of incarceration and community supervision. Any associated penal fine revenue from the fine of up to \$1,000 would benefit public libraries.

Senate Bill 378 (S-1)

The bill could result in costs of incarceration and community supervision, as well as fine revenue, due to increased violations of Public Act 287 of 1969. A violation of that Act is a misdemeanor with an unspecified penalty. (Therefore, pursuant to Section 504 of the Michigan Penal Code, the offense is punishable by up to 90 days' incarceration, a maximum fine of \$500, or both.)

Fiscal Analyst: Bruce Baker
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.