



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 301 (as reported without amendment)
Sponsor: Senator Rick Jones
Committee: Judiciary

Date Completed: 7-27-17

RATIONALE

The Michigan Penal Code includes a number of prohibitions relating to the abuse or neglect of animals. In addition to imposing a sentence of imprisonment, a fine, and/or community service for an animal abuse or neglect offense, the court may order the violator not to own an animal for some length of time. In the case of an individual convicted of an offense related to the fighting, baiting, or shooting of an animal, however, the court is required to order the individual not to own an animal. Some believe that allowing judicial discretion in cases of abuse or neglect is an inconsistent approach to punishing animal abusers and does little to deter further violations. To address this, it has been suggested that courts be required to prohibit individuals convicted of abuse against animals from owning or possessing other animals.

CONTENT

The bill would amend the Michigan Penal Code to require a court to order a person not to own or possess an animal for a period of time as part of the sentence for certain crimes against animals.

The bill would take effect 90 days after its enactment.

Fighting, Baiting, or Shooting an Animal

Section 49 of the Code prohibits a person from knowingly engaging in various activities related to the use of an animal for fighting, baiting, or target shooting. Depending on the activity, a person who violates the prohibition is guilty of a felony punishable by up to four years' imprisonment, a fine of \$1,000 to \$5,000 or \$5,000 to \$50,000, and/or community service.

As part of the sentence, the court must order the person convicted not to own or possess an animal of the same species involved in the violation for five years after the date of sentencing. The bill would require the court, as a condition of probation, to prohibit the person's ownership or possession of an animal for at least five years after the date of sentencing or the date of release from incarceration, whichever was later.

Animal Neglect or Abuse

Section 50 of the Code prohibits a person who owns, possesses, or has charge or custody of an animal from doing any of the following:

- Failing to provide an animal with adequate care.
- Cruelly driving, working, or beating an animal, or causing it to be cruelly driven, worked, or beaten.
- Carrying or causing to be carried in or upon a vehicle or otherwise any live animal whose feet or legs are tied together, except an animal being transported for medical care or a horse whose feet are hobbled to protect it during transport, or in any other cruel and inhumane manner.

- Carrying or causing to be carried a live animal in or upon a vehicle or otherwise without providing a secure space, rack, car, crate, or cage in which livestock may stand and in which all other animals may stand, turn around, and lie down during transport or while awaiting slaughter.
- Abandoning an animal or causing an animal to be abandoned, without making provisions for the animal's adequate care, unless premises are vacated for the protection of human life or the prevention of injury to a human.
- Negligently allowing any animal, including one that is aged, diseased, maimed, hopelessly sick, disabled, or nonambulatory, to suffer unnecessary neglect, torture, or pain.
- Tethering a dog unless the tether is at least three times the length of the dog and is attached to a harness or nonchoke collar designed for tethering.

A person who violates Section 50 is guilty of a misdemeanor or a felony based on the number of animals involved, the prior convictions of the offender for this crime, and whether an animal died. A misdemeanor violation is punishable by imprisonment for up to 93 days or one year, depending on the violation, a maximum fine of \$1,000 or \$2,000, and/or community service. A felony violation is punishable by imprisonment for up to two or four years, a maximum fine of \$2,000 or \$5,000, and/or community service.

As part of the sentence, as a condition of probation, the court may order the defendant not to own or possess an animal for a period of time not to exceed the period of probation. If the person is convicted of a second or subsequent violation, the court may order the defendant not to own or possess an animal for any period of time.

Under the bill, if a person were convicted of violating Section 50, the court would be required, instead of allowed, to order the defendant not to own or possess an animal for a first or subsequent offense, as a condition of probation. If a person were convicted of a second or subsequent offense, the court would have to order the defendant not to own or possess an animal for a period of at least five years after the date of sentencing or the date of release from incarceration, whichever was later. The court also could order permanent relinquishment, as currently allowed.

Killing, Torturing, Mutilating, or Poisoning an Animal

Section 50b of the Code prohibits a person from doing any of the following without just cause:

- Knowingly killing, torturing, mutilating, maiming, disfiguring, or poisoning an animal.
- Committing a reckless act knowing or having reason to know that it will cause an animal to be killed, tortured, mutilated, maimed, or disfigured.

A violation is a felony punishable by up to four years' imprisonment and/or a maximum fine of \$5,000 for a single animal and \$2,500 for each additional animal involved in the violation, but not more than a total of \$20,000, and/or up to 500 hours of community service. As part of the sentence, the court may order the defendant not to own or possess an animal for a period of time determined by the court.

Under the bill, the court would be required to order the defendant, as a condition of probation, not to own or possess an animal for at least five years after the date of sentencing or the date of release from incarceration, whichever was later. The order could include permanent relinquishment of animal ownership, as currently allowed.

Livestock or Farming Practices

The bill specifies that Sections 49 and 50 would not prohibit the lawful killing of livestock or a customary animal husbandry or farming practice involving livestock. (Section 50b currently contains this statement.)

MCL 750.49 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The Michigan Penal Code gives courts discretion to order an individual convicted of certain animal abuse or neglect crimes not to own an animal; however, for those convicted of fighting, baiting, or shooting an animal, such orders are compulsory. Thus, an individual who seriously injures or kills an animal can avoid having to give up the right to own an animal. These are inconsistent outcomes. The bill would strengthen Michigan's animal abuse laws and make them more consistent by requiring a sentencing court to prohibit ownership of an animal in cases of animal abuse or neglect, or killing, torturing, maiming, or poisoning. In addition, the bill would strengthen the current animal ownership prohibition in cases of fighting, baiting, or shooting, by extending the prohibition to any animal--rather than an animal of the same species as that involved in the violation, and providing for the prohibition to start after the date of sentencing or release from incarceration. These changes could help deter convicted offenders from committing future crimes involving animals.

Opposing Argument

The Code specifies that Section 50 (relating to animal abuse or neglect) does not prohibit the lawful killing or other use of an animal for farming or a "generally accepted husbandry or farming practice involving livestock". Section 50b (relating to killing, torturing, or mutilating an animal) states that it does not prohibit the lawful killing of livestock or a "customary animal husbandry or farming practice involving livestock". Under the bill, these sections, as well as Section 49 (relating to animal fighting, baiting, or shooting), would not prohibit the lawful killing of livestock or a "customary animal husbandry or farming practice involving livestock". It is unclear why the exemptions should be extended to the prohibitions against fighting, baiting, or shooting animals. Furthermore, use of the term "customary", rather than "generally accepted", would create problems for prosecutors who would no longer be able to rely on agreed-upon standards of husbandry in charging and trying their cases. The "customary" standard could open the door to evidence of any animal husbandry or farming practice that had been done previously, regardless of whether it is generally accepted. The bill should make the standard "generally accepted" where it currently exists (in Sections 50 and 50b), while not extending the exception to the animal fighting prohibition.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Ryan Bergan

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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.