

# HOUSE BILL No. 4025

January 12, 2017, Introduced by Rep. Kosowski and referred to the Committee on Law and Justice.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 50 (MCL 750.50), as amended by 2007 PA 152.

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

- 1           Sec. 50. (1) As used in this section and section 50b:  
2           (a) "Adequate care" means the provision of sufficient food,  
3           water, shelter, sanitary conditions, exercise, and veterinary  
4           medical attention in order to maintain an animal in a state of good  
5           health.  
6           (b) "Animal" means any vertebrate other than a human being.  
7           (c) "Animal protection shelter" means a facility operated by a  
8           person, humane society, society for the prevention of cruelty to  
9           animals, or any other nonprofit organization, for the care of

1 homeless animals.

2 (d) "Animal control shelter" means a facility operated by a  
3 county, city, village, or township to impound and care for animals  
4 found in streets or otherwise at large contrary to any ordinance of  
5 the county, city, village, or township or state law.

6 (e) "Licensed veterinarian" means a person licensed to  
7 practice veterinary medicine under article 15 of the public health  
8 code, 1978 PA 368, MCL 333.16101 to 333.18838.

9 (f) "Livestock" means that term as defined in the animal  
10 industry act of 1987, 1988 PA 466, MCL 287.701 to ~~287.747~~.**287.746**.

11 (g) "Person" means an individual, partnership, limited  
12 liability company, corporation, association, governmental entity,  
13 or other legal entity.

14 (h) "Neglect" means to fail to sufficiently and properly care  
15 for an animal to the extent that the animal's health is  
16 jeopardized.

17 (i) "Sanitary conditions" means space free from health hazards  
18 including excessive animal waste, overcrowding of animals, or other  
19 conditions that endanger the animal's health. ~~This definition does~~  
20 **SANITARY CONDITIONS DO** not include any condition resulting from a  
21 customary and reasonable practice ~~pursuant to~~ **OF** farming or animal  
22 husbandry.

23 (j) "Shelter" means adequate protection from the elements and  
24 weather conditions suitable for the age, species, and physical  
25 condition of the animal so as to maintain the animal in a state of  
26 good health. Shelter, for livestock, includes structures or natural  
27 features such as trees or topography. Shelter, for a dog, includes

1 1 or more of the following:

2 (i) The residence of the dog's owner or other individual.

3 (ii) A doghouse that is an enclosed structure with a roof and  
4 of appropriate dimensions for the breed and size of the dog. The  
5 doghouse shall have dry bedding when the outdoor temperature is or  
6 is predicted to drop below freezing.

7 (iii) A structure, including a garage, barn, or shed, that is  
8 sufficiently insulated and ventilated to protect the dog from  
9 exposure to extreme temperatures or, if not sufficiently insulated  
10 and ventilated, contains a doghouse as provided under subparagraph  
11 (ii) that is accessible to the dog.

12 (k) "State of good health" means freedom from disease and  
13 illness, and in a condition of proper body weight and temperature  
14 for the age and species of the animal, unless the animal is  
15 undergoing appropriate treatment.

16 (l) "Tethering" means the restraint and confinement of a dog  
17 by use of a chain, rope, or similar device.

18 (m) "Water" means potable water that is suitable for the age  
19 and species of animal that is made regularly available unless  
20 otherwise directed by a licensed veterinarian.

21 (2) An owner, possessor, or person having the charge or  
22 custody of an animal shall not do any of the following:

23 (a) Fail to provide an animal with adequate care.

24 (b) Cruelly drive, work, or beat an animal, or cause an animal  
25 to be cruelly driven, worked, or beaten.

26 (c) Carry or cause to be carried in or upon a vehicle or  
27 otherwise any live animal having the feet or legs tied together,

1 other than an animal being transported for medical care, or a horse  
2 whose feet are hobbled to protect the horse during transport or in  
3 any other cruel and inhumane manner.

4 (d) Carry or cause to be carried a live animal in or upon a  
5 vehicle or otherwise without providing a secure space, rack, car,  
6 crate, or cage, in which livestock may stand, and in which all  
7 other animals may stand, turn around, and lie down during  
8 transportation, or while awaiting slaughter. As used in this  
9 subdivision, for purposes of transportation of sled dogs, "stand"  
10 means sufficient vertical distance to allow the animal to stand  
11 without its shoulders touching the top of the crate or  
12 transportation vehicle.

13 (e) Abandon an animal or cause an animal to be abandoned, in  
14 any place, without making provisions for the animal's adequate  
15 care, unless premises are vacated for the protection of human life  
16 or the prevention of injury to a human. An animal that is lost by  
17 an owner or custodian while traveling, walking, hiking, or hunting  
18 is not abandoned under this section when the owner or custodian has  
19 made a reasonable effort to locate the animal.

20 (f) Negligently allow any animal, including one who is aged,  
21 diseased, maimed, hopelessly sick, disabled, or nonambulatory to  
22 suffer unnecessary neglect, torture, or pain.

23 (g) Tether a dog unless the tether is at least 3 times the  
24 length of the dog as measured from the tip of its nose to the base  
25 of its tail and is attached to a harness or nonchoke collar  
26 designed for tethering.

27 (3) If an animal is impounded and is being held by an animal

1 control shelter or its designee or an animal protection shelter or  
2 its designee or a licensed veterinarian pending the outcome of a  
3 criminal action charging a violation of this section or section  
4 50b, before final disposition of the criminal charge, the  
5 prosecuting attorney may file a civil action in the court that has  
6 jurisdiction of the criminal action, requesting that the court  
7 issue an order forfeiting the animal to the animal control shelter  
8 or animal protection shelter or to a licensed veterinarian before  
9 final disposition of the criminal charge. The prosecuting attorney  
10 shall serve a true copy of the summons and complaint upon the  
11 defendant and upon a person with a known ownership interest or  
12 known security interest in the animal or a person who has filed a  
13 lien with the secretary of state in an animal involved in the  
14 pending action. The forfeiture of an animal under this section  
15 encumbered by a security interest is subject to the interest of the  
16 holder of the security interest who did not have prior knowledge  
17 of, or consent to the commission of the crime. Upon the filing of  
18 the civil action, the court shall set a hearing on the complaint.  
19 The hearing ~~shall~~ **MUST** be conducted within 14 days of the filing of  
20 the civil action, or as soon as practicable. The hearing ~~shall~~ **MUST**  
21 be before a judge without a jury. At the hearing, the prosecuting  
22 attorney has the burden of establishing by a preponderance of the  
23 evidence that a violation of this section or section 50b occurred.  
24 If the court finds that the prosecuting attorney has met this  
25 burden, the court shall order immediate forfeiture of the animal to  
26 the animal control shelter or animal protection shelter or the  
27 licensed veterinarian unless the defendant, within 72 hours of the

1 hearing, submits to the court clerk cash or other form of security  
2 in an amount determined by the court to be sufficient to repay all  
3 reasonable costs incurred, and anticipated to be incurred, by the  
4 animal control shelter or animal protection shelter or the licensed  
5 veterinarian in caring for the animal from the date of initial  
6 impoundment to the date of trial. If cash or other security has  
7 been submitted, and the trial in the action is continued at a later  
8 date, any order of continuance ~~shall~~ **MUST** require the defendant to  
9 submit additional cash or security in an amount determined by the  
10 court to be sufficient to repay all additional reasonable costs  
11 anticipated to be incurred by the animal control shelter or animal  
12 protection shelter or the licensed veterinarian in caring for the  
13 animal until the new date of trial. If the defendant submits cash  
14 or other security to the court under this subsection, the court may  
15 enter an order authorizing the use of that money or other security  
16 before final disposition of the criminal charges to pay the  
17 reasonable costs incurred by the animal control shelter or animal  
18 protection shelter or the licensed veterinarian in caring for the  
19 animal from the date of impoundment to the date of final  
20 disposition of the criminal charges. The testimony of a person at a  
21 hearing held under this subsection is not admissible against him or  
22 her in any criminal proceeding except in a criminal prosecution for  
23 perjury. The testimony of a person at a hearing held under this  
24 subsection does not waive the person's constitutional right against  
25 self-incrimination. An animal seized under this section or section  
26 50b is not subject to any other civil action pending the final  
27 judgment of the forfeiture action under this subsection.

1 (4) A person who violates subsection (2) is guilty of a crime  
2 as follows:

3 (a) Except as otherwise provided in ~~subdivisions (c) and (d),~~  
4 **THIS SUBSECTION**, if the violation involved 1 animal, the person is  
5 guilty of a misdemeanor punishable by 1 or more of the following  
6 and may be ordered to pay the costs of prosecution:

7 (i) Imprisonment for not more than 93 days.

8 (ii) A fine of not more than \$1,000.00.

9 (iii) Community service for not more than 200 hours.

10 (b) Except as otherwise provided in subdivisions (c) and (d),  
11 if the violation involved 2 or 3 animals, ~~or~~ the death of any  
12 animal, **OR ANY NUMBER OF ANIMALS IN THE PRESENCE OF A CHILD**, the  
13 person is guilty of a misdemeanor punishable by 1 or more of the  
14 following and may be ordered to pay the costs of prosecution:

15 (i) Imprisonment for not more than 1 year.

16 (ii) A fine of not more than \$2,000.00.

17 (iii) Community service for not more than 300 hours.

18 (c) If the violation involved 4 or more animals but fewer than  
19 10 animals or the person had 1 prior conviction under subsection  
20 (2), the person is guilty of a felony punishable by 1 or more of  
21 the following and may be ordered to pay the costs of prosecution:

22 (i) Imprisonment for not more than 2 years.

23 (ii) A fine of not more than \$2,000.00.

24 (iii) Community service for not more than 300 hours.

25 (d) If the violation involved 10 or more animals or the person  
26 had 2 or more prior convictions for violating subsection (2), the  
27 person is guilty of a felony punishable by 1 or more of the

1 following and may be ordered to pay the costs of prosecution:

2 (i) Imprisonment for not more than 4 years.

3 (ii) A fine of not more than \$5,000.00.

4 (iii) Community service for not more than 500 hours.

5 (5) The court may order a person convicted of violating  
6 subsection (2) to be evaluated to determine the need for  
7 psychiatric or psychological counseling and, if determined  
8 appropriate by the court, to receive psychiatric or psychological  
9 counseling. The evaluation and counseling shall be at the  
10 defendant's own expense.

11 (6) This section does not prohibit a person from being charged  
12 with, convicted of, or punished for any other violation of law  
13 arising out of the same transaction as the violation of this  
14 section.

15 (7) The court may order a term of imprisonment imposed for a  
16 violation of this section to be served consecutively to a term of  
17 imprisonment imposed for any other crime including any other  
18 violation of law arising out of the same transaction as the  
19 violation of this section.

20 (8) As a part of the sentence for a violation of subsection  
21 (2), the court may order the defendant to pay the costs of the  
22 care, housing, and veterinary medical care for the animal, as  
23 applicable. If the court does not order a defendant to pay all of  
24 the applicable costs listed in this subsection, or orders only  
25 partial payment of these costs, the court shall state on the record  
26 the reason for that action.

27 (9) As a part of the sentence for a violation of subsection



1 (2), the court may, as a condition of probation, order the  
2 defendant not to own or possess an animal for a period of time not  
3 to exceed the period of probation. If a person is convicted of a  
4 second or subsequent violation of subsection (2), the court may  
5 order the defendant not to own or possess an animal for any period  
6 of time, including permanent relinquishment of animal ownership.

7 (10) A person who owns or possesses an animal in violation of  
8 an order issued under subsection (9) is subject to revocation of  
9 probation if the order is issued as a condition of probation. A  
10 person who owns or possesses an animal in violation of an order  
11 issued under subsection (9) is also subject to the civil and  
12 criminal contempt power of the court, and if found guilty of  
13 criminal contempt, may be punished by imprisonment for not more  
14 than 90 days, or by a fine of not more than \$500.00, or both.

15 (11) This section does not prohibit the lawful killing or  
16 other use of an animal, including the following:

17 (a) Fishing.

18 (b) Hunting, trapping, or wildlife control regulated under the  
19 natural resources and environmental protection act, 1994 PA 451,  
20 MCL 324.101 to 324.90106.

21 (c) Horse racing.

22 (d) The operation of a zoological park or aquarium.

23 (e) Pest or rodent control regulated under part 83 of the  
24 natural resources and environmental protection act, 1994 PA 451,  
25 MCL 324.8301 to 324.8336.

26 (f) Farming or a generally accepted animal husbandry or  
27 farming practice involving livestock.

1 (g) Activities authorized under rules promulgated under  
2 section 9 of the executive organization act of 1965, 1965 PA 380,  
3 MCL 16.109.

4 (h) Scientific research under 1969 PA 224, MCL 287.381 to  
5 287.395.

6 (i) Scientific research under sections 2226, 2671, 2676, and  
7 7333 of the public health code, 1978 PA 368, MCL 333.2226,  
8 333.2671, 333.2676, and 333.7333.

9 (12) This section does not apply to a veterinarian or a  
10 veterinary technician lawfully engaging in the practice of  
11 veterinary medicine under part 188 of the public health code, 1978  
12 PA 368, MCL 333.18801 to 333.18838.

13 **(13) AS USED IN THIS SECTION, "CHILD" MEANS AN INDIVIDUAL LESS**  
14 **THAN 18 YEARS OF AGE.**

15 Enacting section 1. This amendatory act takes effect 90 days  
16 after the date it is enacted into law.