



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 352 (as introduced 6-5-19)
Senate Bill 429 (as introduced 8-20-19)
Sponsor: Senator Peter J. Lucido
Committee: Judiciary and Public Safety

Date Completed: 10-30-19

CONTENT

Senate Bill 352 would amend the Michigan Penal Code to require a Child Protective Services (CPS) employee to report suspected animal abuse or neglect, if, in the course of investigating suspected child abuse or neglect, he or she had reasonable cause to suspect animal abuse or neglect, and prescribe penalties for knowingly failing to make a report and for knowingly making a false report.

Senate Bill 429 would amend the Penal Code to require a licensed veterinarian who had reasonable cause to suspect the abuse or neglect of a companion animal to report the suspected abuse or neglect, and prescribe a misdemeanor for failing to report the abuse or neglect.

Each bill would take effect 90 days after its enactment.

Senate Bill 352

Under the bill, if, in the course of investigating suspected child abuse or child neglect, a CPS employee had reasonable cause to suspect animal abuse or neglect, he or she immediately would have to make or cause to be made an oral report of the suspected animal abuse or neglect to an animal control officer or law enforcement officer for the jurisdiction where the animal was found.

"CPS employee" would mean an employee in the Child Protective Services Program or successor program of the Department of Health and Human Services.

"Animal abuse or neglect" would mean either of the following:

- A violation of Sections 49(2), 50, or 50b of the Code.
- A violation of Section 158 of the Code committed with an animal.

(Sections 49(2) and 50b generally prohibit a person from engaging in certain conduct pertaining to animals, such as using an animal for fighting or baiting, and shooting, torturing, maiming, or disfiguring an animal. Section 50 generally prohibits an owner, possessor, breeder, or operator of a pet shop from engaging in certain conduct pertaining to animals, such as failing to provide an animal adequate care or cruelly driving, working, or beating an animal. Section 158 prohibits a person from committing, among other things, bestiality.)

Within 72 hours after an oral report was made, the CPS employee would have to file a written report with an animal control officer or law enforcement officer for the jurisdiction where the animal was found. The written report would have to contain a description of the animal and

of the animal abuse or neglect. The report would have to contain the name and address of the animal's owner or keeper if that information were available to the CPS employee. The report also would have to contain other information available to the CPS employee that could assist an animal control officer or law enforcement officer to establish the cause of the animal abuse or neglect and the manner in which the abuse or neglect occurred.

"Law enforcement officer" would mean that term as defined in the Michigan Commission on Law Enforcement Standards Act.

The identity of the CPS employee who made the report would be confidential and subject to disclosure only with his or her consent or by judicial process. The CPS employee who made the report would be presumed to have acted in good faith. A CPS employee who acted in good faith who made a report or cooperated in an investigation of the suspected animal abuse or neglect would be immune from civil or criminal liability that otherwise could be incurred by that action. The immunity from civil or criminal liability would not extend to a negligent act that caused personal injury or death.

A CPS employee who was required to report an instance of suspected animal abuse or neglect and who knowingly failed to do so would be guilty of a misdemeanor punishable by up to 93 days' imprisonment or a maximum fine of \$500, or both.

A CPS employee who knowingly made a false report of animal abuse or neglect would be guilty of a crime as follows:

- If the animal abuse or neglect reported would not constitute a crime or would constitute a misdemeanor if the report were true, the CPS employee would be guilty of a misdemeanor punishable by up to 93 days' imprisonment or a maximum fine of \$100, or both.
- If the animal abuse or neglect reported would constitute a felony if the report were true, the CPS employee would be guilty of a felony punishable by the lesser of the following: a) the penalty for the animal abuse or neglect falsely reported; or b) up to four years' imprisonment or a maximum fine of \$2,000, or both.

Senate Bill 429

The bill would require a licensed veterinarian who had reasonable cause to suspect the abuse or neglect of a companion animal to immediately make a report of the suspected abuse or neglect to an animal control shelter in or a law enforcement agency having jurisdiction over the geographic location where the abuse or neglect allegedly occurred.

"Companion animal" would mean that term as defined in Section 50b: an animal that is commonly considered to be, or is considered by its owner to be, a pet, or that is a service animal as that term is defined in Section 50a. The term would include dogs or cats.

(Section 50a defines "service animal" as either of the following:

- That term as defined in 28 CFR 36.104.
- A miniature horse that has been individually trained to do work or perform tasks as described in 28 CFR 36.104 for the benefit of a person with a disability.

The specified Federal regulation (28 CFR 36.104) defines "service animal" as any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service

animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.)

"Animal control shelter" would mean that term as defined in Section 50: a facility operated by a person, humane society, society for the prevention of cruelty to animals, or any other nonprofit organization, for the care of homeless animals.

A licensed veterinarian who violated this provision would be guilty of a misdemeanor punishable by up to 90 days' imprisonment or a maximum fine of \$100.

Proposed MCL 750.50d

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

Senate Bill 352

The bill would have a negative fiscal impact on the State and local government resulting from misdemeanor arrests. New misdemeanor arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, and jails. However, it is unknown how many people would be prosecuted under the bill's provisions. Any additional revenue from imposed fines would go to local libraries.

Additionally, the bill would have a negative fiscal impact on the State and local government resulting felony arrests. New felony arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. However, it is unknown how many people would be prosecuted under the bill's provisions. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government is approximately \$5,315 per prisoner per year. Any additional revenue from imposed fines would go to local libraries.

There would be an uncertain, but likely minor, fiscal impact on the Department of Health and Human Services (DHHS). The DHHS indicates that under the bill additional training would be necessary for CPS caseworkers as well as animal control officers to facilitate the reporting requirements at a cost to the department. The DHHS also indicates that there would be a cost to reproduce printed copies of the Child Protection Law to reflect changes under the bill.

Senate Bill 429

The bill would have a negative fiscal impact on the State and local government. New misdemeanor arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, and jails. However, it is unknown how many people would be prosecuted under the bill's provisions. Any additional revenue from imposed fines would go to local libraries.

Fiscal Analyst: Joe Carrasco
John Maxwell

SAS\1920\352sa

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.