

HOUSE BILL NO. 5875

June 27, 2024, Introduced by Rep. Martus and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 49, 50, and 50b (MCL 750.49, 750.50, and 750.50b), section 49 as amended by 2019 PA 176, section 50 as amended by 2019 PA 135, and section 50b as amended by 2018 PA 452.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1** Sec. 49. (1) As used in this section:
- 2** (a) "Animal" means a vertebrate other than a human being.
- 3** (b) "Animal control agency" means an animal control shelter,
- 4** an animal protection shelter, or a law enforcement agency. As used

1 in this subdivision, "animal control shelter" and "animal
2 protection shelter" mean those terms as defined in section 1 of
3 1969 PA 287, MCL 287.331.

4 (2) A person shall not knowingly do any of the following:

5 (a) Own, possess, use, buy, sell, offer to buy or sell,
6 import, or export an animal for fighting or baiting, or as a target
7 to be shot at as a test of skill in marksmanship.

8 (b) Be a party to or cause the fighting, baiting, or shooting
9 of an animal as described in subdivision (a).

10 (c) Rent or otherwise obtain the use of a building, shed,
11 room, yard, ground, premises, vehicle, or any other venue for
12 fighting, baiting, or shooting an animal as described in
13 subdivision (a).

14 (d) Permit the use of a building, shed, room, yard, ground,
15 premises, vehicle, or any other venue belonging to him or her or
16 under his or her control for any of the purposes described in this
17 section.

18 (e) Organize, promote, or collect money, property, or any
19 other thing of value for the fighting, baiting, or shooting of an
20 animal as described in subdivisions (a) to (d).

21 (f) Be present at a building, shed, room, yard, ground,
22 premises, vehicle, or any other venue where preparations are being
23 made for an exhibition described in subdivisions (a) to (d), or be
24 present at the exhibition, knowing that an exhibition is taking
25 place or about to take place.

26 (g) Breed, buy, sell, offer to buy or sell, exchange, import,
27 or export an animal the person knows has been trained or used for
28 fighting as described in subdivisions (a) to (d), or breed, buy,
29 sell, offer to buy or sell, exchange, import, or export the

1 offspring of an animal the person knows has been trained or used
2 for fighting as described in subdivisions (a) to (d). This
3 subdivision does not prohibit owning, breeding, buying, selling,
4 offering to buy or sell, exchanging, importing, or exporting an
5 animal for agricultural or agricultural exposition purposes **as**
6 **prescribed by law**. This subdivision does not prohibit an animal
7 control agency from owning, adopting, or transferring ownership of
8 an animal for the purpose of adoption of an animal trained or used
9 for fighting as described in subdivisions (a) to (d) or an animal
10 that is the first- or second-generation offspring of an animal
11 trained or used for fighting as described in subdivisions (a) to
12 (d), **or through appropriate forfeiture proceedings**. If an animal is
13 found fit for placement and is transferred or adopted, the animal
14 control agency that transfers or adopts the animal shall do all of
15 the following:

16 (i) Sterilize the animal or collect a good-faith deposit for
17 sterilization as required under section 8a of 1969 PA 287, MCL
18 287.338a.

19 (ii) Provide a copy of the animal's history, including, but not
20 limited to, a description of why the animal was seized, veterinary
21 records, and a copy of subsections (8) to (14) to the person to
22 whom the animal is transferred or adopted.

23 (h) Own, possess, use, buy, sell, offer to buy or sell,
24 transport, or deliver any device or equipment intended for use in
25 the fighting, baiting, or shooting of an animal as described in
26 subdivisions (a) to (d).

27 (3) A person who violates subsection (2) (a) to (e) is guilty
28 of a felony punishable by 1 or more of the following:

29 (a) Imprisonment for not more than 4 years.

1 (b) A fine of not less than \$5,000.00 or more than \$50,000.00.

2 (c) Not less than 500 or more than 1,000 hours of community
3 service.

4 (4) A person who violates subsection (2)(f) to (h) is guilty
5 of a felony punishable by 1 or more of the following:

6 (a) Imprisonment for not more than 4 years.

7 (b) A fine of not less than \$1,000.00 or more than \$5,000.00.

8 (c) Not less than 250 or more than 500 hours of community
9 service.

10 (5) The court may order a person convicted of violating this
11 section to pay the costs of prosecution.

12 (6) The court may order a person convicted of violating this
13 section to pay the costs for investigating the violation of this
14 section, disposition of the animal, and housing and caring for the
15 animal, including, but not limited to, providing veterinary medical
16 treatment. As used in this subsection, "disposition" includes the
17 transfer, euthanasia, or adoption of an animal.

18 (7) ~~As~~ **In addition to any registration and other requirements**
19 **under the animal abuser registry act, as** part of the sentence for a
20 violation of subsection (2), the court shall order the person
21 convicted not to own or possess an animal of the same species
22 involved in the violation of this section for 5 years after the
23 date of sentencing. Failure to comply with the order of the court
24 ~~pursuant to~~ **under** this subsection is punishable as contempt of
25 court.

26 (8) If a person incites an animal trained or used for fighting
27 or an animal that is the first- or second-generation offspring of
28 an animal trained or used for fighting to attack a person and the
29 attack causes the death of that person, the owner is guilty of a

1 felony punishable by imprisonment for life or for a term of years
2 greater than 15 years.

3 (9) If a person incites an animal trained or used for fighting
4 or an animal that is the first- or second-generation offspring of
5 an animal trained or used for fighting to attack a person, but the
6 attack does not result in the death of the person, the owner is
7 guilty of a felony punishable by imprisonment for not more than 4
8 years or a fine of not more than \$2,000.00, or both.

9 (10) If an animal trained or used for fighting or an animal
10 that is the first- or second-generation offspring of an animal
11 trained or used for fighting attacks a person without provocation
12 and causes the death of that person, the owner of the animal is
13 guilty of a felony punishable by imprisonment for not more than 15
14 years.

15 (11) If an animal trained or used for fighting or an animal
16 that is the first- or second-generation offspring of an animal
17 trained or used for fighting attacks a person without provocation,
18 but the attack does not cause the death of the person, the owner is
19 guilty of a misdemeanor punishable by imprisonment for not more
20 than 1 year or a fine of not more than \$1,000.00, or both.

21 (12) Subsections (8) to (11) do not apply if the person
22 attacked was committing or attempting to commit an unlawful act on
23 the property of the owner of the animal.

24 (13) If an animal trained or used for fighting or an animal
25 that is the first- or second-generation offspring of a dog trained
26 or used for fighting goes beyond the property limits of its owner
27 without being securely restrained, the owner is guilty of a
28 misdemeanor punishable by imprisonment for not more than 90 days or
29 a fine of not less than \$50.00 nor more than \$500.00, or both.

1 (14) If an animal trained or used for fighting or an animal
2 that is the first- or second-generation offspring of a dog trained
3 or used for fighting is not securely enclosed or restrained on the
4 owner's property, the owner is guilty of a misdemeanor punishable
5 by imprisonment for not more than 90 days or a fine of not more
6 than \$500.00, or both.

7 (15) Subsections (8) to (14) do not apply to any of the
8 following:

9 (a) A dog trained or used for fighting, or the first- or
10 second-generation offspring of a dog trained or used for fighting,
11 that is used by a law enforcement agency of this state or a county,
12 city, village, or township.

13 (b) A certified leader dog recognized and trained by a
14 national guide dog association for the blind or for persons with
15 disabilities.

16 (c) A corporation licensed under the private security business
17 and security alarm act, 1968 PA 330, MCL 338.1051 to 338.1092, when
18 a dog trained or used for fighting, or the first- or second-
19 generation offspring of a dog trained or used for fighting, is used
20 in accordance with the private security business and security alarm
21 act, 1968 PA 330, MCL 338.1051 to 338.1092.

22 (16) ~~Except as provided in subsection (20), an~~ **An** animal that
23 has been used to fight in violation of this section or that is
24 involved in a violation of subsections (8) to (14) must be
25 confiscated by a law enforcement officer and must not be returned
26 to the owner, trainer, or possessor of the animal. The animal must
27 be taken to a local animal control agency. If an animal owner,
28 trainer, or possessor is convicted of violating subsection (2) or
29 subsections (8) to (14), **or after a forfeiture proceeding and an**

1 **order of the court granting the animal's forfeiture**, the court
2 shall award the animal involved in the violation to the animal
3 control agency for evaluation and disposition.

4 ~~(17) An animal control agency taking custody of an animal~~
5 ~~under subsection (16) shall give notice within 72 hours after~~
6 ~~seizure of the animal by registered mail to the last known address~~
7 ~~of the animal's owner, if the owner of the animal is known. If the~~
8 ~~owner of the animal is unknown, an animal control agency taking~~
9 ~~custody of an animal under subsection (16) shall give notice within~~
10 ~~72 hours after seizure of the animal by 1 of the following methods:~~

11 ~~(a) Posting at the location of the seizure.~~

12 ~~(b) Delivery to a person residing at the location of the~~
13 ~~seizure.~~

14 ~~(c) Registered mail to the location of the seizure.~~

15 ~~(18) The notice required under subsection (17) must include~~
16 ~~all of the following:~~

17 ~~(a) A description of each animal seized.~~

18 ~~(b) The time, date, location, and description of circumstances~~
19 ~~under which the animal was seized.~~

20 ~~(c) The address and telephone number of the location where the~~
21 ~~animal is being held and contact information for the individual~~
22 ~~present at that location from whom security deposit or bond~~
23 ~~information may be obtained.~~

24 ~~(d) A statement that the owner or possessor of the animal may~~
25 ~~post a security deposit or bond that may prevent the forfeiture of~~
26 ~~the animal for the duration of the criminal, forfeiture, or other~~
27 ~~court proceeding until the court makes a final determination~~
28 ~~regarding the animal's disposition, that failure to post a security~~
29 ~~deposit or bond within 14 days after the date on the notice will~~

1 ~~result in forfeiture of the animal, and that the owner or possessor~~
2 ~~of the animal may, before the expiration of the 14-day period~~
3 ~~described in this subdivision, request a hearing on whether the~~
4 ~~requirement to post a security deposit or bond is justified or~~
5 ~~whether the cost associated with the security deposit or bond is~~
6 ~~fair and reasonable for the care of and provision for the seized~~
7 ~~animal. Notice of a request for a hearing under this subdivision~~
8 ~~must be served on the animal control agency holding the animal~~
9 ~~before the expiration of the 14-day period described in this~~
10 ~~subdivision. At a hearing on whether the requirement to post a~~
11 ~~security deposit or bond is justified, the prosecuting attorney has~~
12 ~~the burden to establish by a preponderance of the evidence that a~~
13 ~~violation of this section occurred. If the court finds that the~~
14 ~~prosecuting attorney has met its burden, the animal will be~~
15 ~~forfeited to the animal control agency that seized the animal~~
16 ~~unless the owner or possessor of the animal posts the required~~
17 ~~security deposit or bond. An owner or possessor's failure to appear~~
18 ~~at a scheduled hearing requested under this subdivision will result~~
19 ~~in automatic forfeiture of the animal if the date of the scheduled~~
20 ~~hearing is more than 14 days after the date on the notice described~~
21 ~~in this subdivision.~~

22 ~~(e) A statement that the owner or possessor of the animal is~~
23 ~~responsible for all costs described in subsection (6), unless the~~
24 ~~court determines that the seizure of the animal was not~~
25 ~~substantially justified by law.~~

26 ~~(19) An animal control agency that has custody of a seized~~
27 ~~animal under subsection (16) shall hold the animal for a period of~~
28 ~~14 consecutive days, including weekends and holidays, beginning on~~
29 ~~the date notice was given under subsection (17). After the~~

1 ~~expiration of the 14 days, if the owner or a possessor of the~~
2 ~~animal has not posted a security deposit or bond as provided in~~
3 ~~subsection (20), the animal is forfeited, and the animal control~~
4 ~~agency may dispose of the animal by adoption, transfer to another~~
5 ~~animal control agency, or humane euthanasia.~~

6 ~~(20) The owner or possessor of an animal seized under~~
7 ~~subsection (16) may prevent forfeiture and disposition of the~~
8 ~~animal by an animal control agency for the duration of the~~
9 ~~criminal, forfeiture, or other court proceeding until the court~~
10 ~~makes a final determination regarding the animal's disposition by~~
11 ~~posting a security deposit or bond with the court within 14 days~~
12 ~~after the date on the notice described in subsection (18). The bond~~
13 ~~must be in a sufficient amount to secure payment of all costs~~
14 ~~described in subsection (6) during a 30-day period of boarding and~~
15 ~~veterinary treatment of the animal after examination by a licensed~~
16 ~~veterinarian. The animal control agency shall determine the amount~~
17 ~~of the bond no later than 72 hours after the seizure of the animal,~~
18 ~~and shall make the amount of the bond available to the owner or~~
19 ~~possessor of the animal upon request. The owner or possessor of the~~
20 ~~animal shall provide proof of the security deposit or bond to the~~
21 ~~animal control agency no later than 14 days after the date on the~~
22 ~~notice described in subsection (18).~~

23 ~~(21) An animal control agency that is holding or requiring to~~
24 ~~be held a seized animal as provided in this section may draw on a~~
25 ~~security deposit or bond posted under subsection (20) or (22) to~~
26 ~~cover the actual reasonable costs incurred in the seizure, care,~~
27 ~~keeping, and disposition of the animal as described in subsection~~
28 ~~(6) from the date of the seizure to the date of the official~~
29 ~~disposition of the animal in the criminal action.~~

1 ~~(22) If a security deposit or bond has been posted under~~
2 ~~subsection (20), and trial in the criminal action does not occur~~
3 ~~within the initial 30-day bond period or is continued to a later~~
4 ~~date, the owner or possessor shall post an additional security~~
5 ~~deposit or bond in an amount determined sufficient to cover the~~
6 ~~costs described in subsection (6) as anticipated to be incurred by~~
7 ~~the animal control agency caring for the animal. The additional~~
8 ~~security deposit or bond must be calculated in 30-day increments~~
9 ~~and continue until the criminal action is resolved. If the owner or~~
10 ~~possessor of the animal fails to post a new security deposit or~~
11 ~~bond with the court before the previous security deposit or bond~~
12 ~~expires, the animal is forfeited to the animal control agency~~
13 ~~caring for the animal.~~

14 ~~(23) If the owner or possessor that posted a security deposit~~
15 ~~or bond under subsection (20) or (22) is found not guilty in the~~
16 ~~criminal action, the amount of the security deposit or bond posted~~
17 ~~to prevent disposition of the animal may be returned to the owner~~
18 ~~or possessor at the court's discretion, and, subject to subsections~~
19 ~~(25) and (26), the animal must be returned to the owner.~~

20 ~~(24) If a security deposit or bond is posted by an owner or~~
21 ~~possessor of an animal under subsection (20) or (22) and the court~~
22 ~~determines that the animal is a dangerous animal or lacks any~~
23 ~~useful purpose under subsection (26), the posting of the security~~
24 ~~deposit or bond must not prevent disposition of the animal.~~

25 ~~(25) Upon receiving an animal seized under this section, or at~~
26 ~~any time thereafter, an animal control agency may humanely~~
27 ~~euthanize the animal or have the animal euthanized if, in the~~
28 ~~opinion of a licensed veterinarian, the animal is injured or~~
29 ~~diseased past recovery or the animal's continued existence is~~

1 ~~inhumane so that euthanasia is necessary to relieve pain and~~
2 ~~suffering. This subsection applies to an animal whether or not a~~
3 ~~security deposit or bond has been posted under subsection (20) or~~
4 ~~(22).~~

5 ~~(26) An animal control agency that receives an animal under~~
6 ~~this section may apply to the district court or municipal court for~~
7 ~~a hearing to determine whether the animal must be humanely~~
8 ~~euthanized because of its lack of any useful purpose or the public~~
9 ~~safety threat it poses. The court shall hold a hearing not more~~
10 ~~than 30 days after the filing of the application and shall give~~
11 ~~notice of the hearing to the owner of the animal. Upon a finding by~~
12 ~~the court that the animal lacks any useful purpose or poses a~~
13 ~~threat to public safety, the animal control agency shall humanely~~
14 ~~euthanize the animal or have the animal euthanized. Expenses~~
15 ~~incurred in connection with the housing, care, upkeep, or~~
16 ~~euthanasia of the animal by an animal control agency, or by a~~
17 ~~person, firm, partnership, corporation, or other entity, may, in~~
18 ~~the court's discretion, be assessed against the owner of the~~
19 ~~animal.~~

20 ~~(27) Subject to subsections (16), (25), and (26), all animals~~
21 ~~being used or to be used in fighting, equipment, devices, and money~~
22 ~~involved in a violation of subsection (2) must be forfeited to this~~
23 ~~state. All other instrumentalities, proceeds, and substituted~~
24 ~~proceeds of a violation of subsection (2) are subject to forfeiture~~
25 ~~under chapter 47 of the revised judicature act of 1961, 1961 PA~~
26 ~~236, MCL 600.4701 to 600.4710.~~

27 ~~(28) The seizing agency may deposit money seized under~~
28 ~~subsection (27) into an interest-bearing account in a financial~~
29 ~~institution. As used in this subsection, "financial institution"~~

1 ~~means a state or nationally chartered bank or a state or federally~~
 2 ~~chartered savings and loan association, savings bank, or credit~~
 3 ~~union whose deposits are insured by an agency of the United States~~
 4 ~~government and that maintains a principal office or branch office~~
 5 ~~located in this state under the laws of this state or the United~~
 6 ~~States.~~

7 ~~(29) An attorney for a person who is charged with a violation~~
 8 ~~of subsection (2) involving or related to money seized under~~
 9 ~~subsection (27) must be afforded a period of 60 days within which~~
 10 ~~to examine that money. This 60-day period will begin to run after~~
 11 ~~notice of forfeiture is given but before the money is deposited~~
 12 ~~into a financial institution under subsection (28). If the attorney~~
 13 ~~general, prosecuting attorney, or city or township attorney fails~~
 14 ~~to sustain his or her burden of proof in forfeiture proceedings~~
 15 ~~under subsection (27), the court shall order the return of the~~
 16 ~~money, including any interest earned on money deposited into a~~
 17 ~~financial institution under subsection (28).~~

18 **(17) An individual convicted under this section is subject to**
 19 **registry under the animal abuser registry act and forfeiture**
 20 **proceedings under the animal forfeiture act.**

21 **(18)** ~~(30)~~ This section does not apply to conduct that is
 22 permitted by and is in compliance with any of the following:

23 (a) Part 401 of the natural resources and environmental
 24 protection act, 1994 PA 451, MCL 324.40101 to 324.40120.

25 (b) Part 435 of the natural resources and environmental
 26 protection act, 1994 PA 451, MCL 324.43501 to 324.43561.

27 (c) Part 427 of the natural resources and environmental
 28 protection act, 1994 PA 451, MCL 324.42701 to 324.42714.

29 (d) Part 417 of the natural resources and environmental

1 protection act, 1994 PA 451, MCL 324.41701 to 324.41712.

2 (19) ~~(31)~~—This section does not prohibit a person from being
3 charged with, convicted of, or punished for any other violation of
4 law that is committed by that person while violating this section.

5 Sec. 50. (1) As used in this section and section 50b:

6 (a) "Adequate care" means the provision of sufficient food,
7 water, shelter, sanitary conditions, exercise, and veterinary
8 medical attention ~~in order~~ to maintain an animal in a state of good
9 health.

10 (b) "Animal" means a vertebrate other than a human being.

11 (c) "Animal control shelter" means a facility operated by a
12 county, city, village, or township to impound and care for animals
13 found in streets or otherwise at large contrary to an ordinance of
14 the county, city, village, or township or state law.

15 (d) "Animal protection shelter" means a facility operated by a
16 person, humane society, society for the prevention of cruelty to
17 animals, or any other nonprofit organization, for the care of
18 homeless animals.

19 (e) "Breeder" means a person that breeds animals other than
20 livestock or dogs for remuneration, or that is a large-scale dog
21 breeding kennel as that term is defined in section 1 of 1969 PA
22 287, MCL 287.331.

23 (f) "Licensed veterinarian" means a person licensed or
24 otherwise authorized to practice veterinary medicine under article
25 15 of the public health code, 1978 PA 368, MCL 333.16101 to
26 333.18838.

27 (g) "Livestock" means that term as defined in section 3 of the
28 animal industry act, 1988 PA 466, MCL 287.703.

29 (h) "Neglect" means to fail to sufficiently and properly care

1 for an animal to the extent that the animal's health is
2 jeopardized.

3 (i) "Person" means an individual, partnership, limited
4 liability company, corporation, association, governmental entity,
5 or other legal entity.

6 (j) "Pet shop" means that term as defined in section 1 of 1969
7 PA 287, MCL 287.331.

8 **(k) "Registration period" means that term as defined in the**
9 **animal abuser registry act.**

10 (l) ~~(k)~~—"Sanitary conditions" means space free from health
11 hazards including excessive animal waste, overcrowding of animals,
12 or other conditions that endanger the animal's health. This
13 definition does not include any condition resulting from a
14 customary and reasonable practice pursuant to farming or animal
15 husbandry.

16 (m) ~~(l)~~—"Shelter" means adequate protection from the elements
17 and weather conditions suitable for the age, species, and physical
18 condition of the animal so as to maintain the animal in a state of
19 good health. Shelter, for livestock, includes structures or natural
20 features such as trees or topography. Shelter, for a dog, includes
21 1 or more of the following:

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

23 (ii) A doghouse that is an enclosed structure with a roof and
24 of appropriate dimensions for the breed and size of the dog. The
25 doghouse must have dry bedding when the outdoor temperature is or
26 is predicted to drop below freezing.

27 (iii) A structure, including a garage, barn, or shed, that is
28 sufficiently insulated and ventilated to protect the dog from
29 exposure to extreme temperatures or, if not sufficiently insulated

1 and ventilated, contains a doghouse as provided under subparagraph
2 (ii) that is accessible to the dog.

3 (n) ~~(m)~~—"State of good health" means freedom from disease and
4 illness, and in a condition of proper body weight and temperature
5 for the age and species of the animal, unless the animal is
6 undergoing appropriate treatment. **As used in this subdivision,**
7 **"proper body weight" means not in a state of emaciation or severe**
8 **obesity.**

9 (o) ~~(n)~~—"Tethering" means the restraint and confinement of a
10 dog by use of a chain, rope, or similar device.

11 (p) ~~(o)~~—"Water" means potable water that is suitable for the
12 age and species of animal and that is made regularly available
13 unless otherwise directed by a licensed veterinarian.

14 (2) An owner, possessor, breeder, operator of a pet shop, or
15 person having the charge or custody of an animal shall not do any
16 of the following:

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

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

20 (c) Carry or cause to be carried in or ~~upon~~**on** a vehicle or
21 otherwise any live animal having the feet or legs tied together,
22 other than an animal being transported for medical care or a horse
23 whose feet are hobbled to protect the horse during transport, or in
24 any other cruel and inhumane manner.

25 (d) Carry or cause to be carried a live animal in or ~~upon~~**on** a
26 vehicle or otherwise without providing a secure space, rack, car,
27 crate, or cage in which livestock may stand and in which all other
28 animals may stand, turn around, and lie down during transportation,
29 or while awaiting slaughter. As used in this subdivision, for

1 purposes of transportation of sled dogs, "stand" means sufficient
 2 vertical distance to allow the animal to stand without ~~its~~**the**
 3 **animal's** shoulders touching the top of the crate or transportation
 4 vehicle.

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

12 (f) Negligently allow any animal, including ~~one who~~**an animal**
 13 **that** is aged, diseased, maimed, hopelessly sick, disabled, or
 14 nonambulatory to suffer unnecessary neglect, torture, or pain.

15 (g) Tether a dog unless the tether is at least 3 times the
 16 length of the dog as measured from the tip of ~~its~~**the dog's** nose to
 17 the base of ~~its~~**the dog's** tail and is attached to a harness or
 18 nonchoke collar designed for tethering. This subdivision does not
 19 apply if the tethering of the dog occurs while the dog is being
 20 groomed, trained, transported, or used in a hunt or event where a
 21 shorter tether is necessary for the safety and well-being of the
 22 dog and others.

23 ~~(3) If an animal is impounded and is being held by an animal~~
 24 ~~control shelter or its designee or an animal protection shelter or~~
 25 ~~its designee or a licensed veterinarian pending the outcome of a~~
 26 ~~criminal action charging a violation of this section or section~~
 27 ~~50b, before final disposition of the criminal charge, the~~
 28 ~~prosecuting attorney may file a civil action in the court that has~~
 29 ~~jurisdiction of the criminal action, requesting that the court~~

~~1 issue an order forfeiting the animal to the animal control shelter
2 or animal protection shelter or to a licensed veterinarian before
3 final disposition of the criminal charge. The prosecuting attorney
4 shall serve a true copy of the summons and complaint upon the
5 defendant and upon a person with a known ownership interest or
6 known security interest in the animal or a person who has filed a
7 lien with the secretary of state on the animal. The forfeiture of
8 an animal under this section encumbered by a security interest is
9 subject to the interest of the holder of the security interest if
10 he or she did not have prior knowledge of or did not consent to the
11 commission of the crime. Upon the filing of the civil action, the
12 court shall set a hearing on the complaint. The hearing must be
13 conducted within 14 days of the filing of the civil action, or as
14 soon as practicable. The hearing must be before a judge without a
15 jury. At the hearing, the prosecuting attorney has the burden of
16 establishing by a preponderance of the evidence that a violation of
17 this section or section 50b occurred. If the court finds that the
18 prosecuting attorney has met this burden, the court shall order
19 immediate forfeiture of the animal to the animal control shelter or
20 animal protection shelter or the licensed veterinarian unless the
21 defendant, within 72 hours of the hearing, submits to the court
22 clerk cash or other form of security in an amount determined by the
23 court to be sufficient to repay all reasonable costs incurred, and
24 anticipated to be incurred, by the animal control shelter or animal
25 protection shelter or the licensed veterinarian in caring for the
26 animal from the date of initial impoundment to the date of trial.
27 If cash or other security has been submitted, and the trial in the
28 action is continued at a later date, any order of continuance must
29 require the defendant to submit additional cash or security in an~~

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

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

24 (a) Except as otherwise provided in subdivisions (c) to (f),
25 if the violation involved 1 animal, the person is guilty of a
26 misdemeanor punishable by 1 or more of the following and may be
27 ordered to pay the costs of prosecution:

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

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

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

2 (b) Except as otherwise provided in subdivisions (c) to (f),
3 if the violation involved 2 or 3 animals or the death of any
4 animal, the person is guilty of a misdemeanor punishable by 1 or
5 more of the following and may be ordered to pay the costs of
6 prosecution:

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

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

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

10 (c) If the violation involved 4 or more animals but fewer than
11 10 animals or the person had 1 prior conviction under subsection
12 (2), the person is guilty of a felony punishable by 1 or more of
13 the following and may be ordered to pay the costs of prosecution:

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

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

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

17 (d) If the violation involved 10 or more animals but fewer
18 than 25 animals or the person had 2 prior convictions for violating
19 subsection (2), the person is guilty of a felony punishable by 1 or
20 more of the following and may be ordered to pay the costs of
21 prosecution:

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

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

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

25 (e) If the violation involved 25 or more animals or the person
26 has had 3 or more prior convictions for violating subsection (2),
27 the person is guilty of a felony punishable by 1 or more of the
28 following and may be ordered to pay the costs of prosecution:

29 (i) Imprisonment for not more than 7 years.

1 (ii) A fine of not more than \$10,000.00.

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

3 (f) If the person is a breeder, or if the person is an
4 operator of a pet shop and ~~he or she~~ **the person** has had 5 or more
5 prior convictions for violating 1969 PA 287, MCL 287.331 to
6 287.340, the person is guilty of a felony punishable by
7 imprisonment for not more than 2 years or a fine of not more than
8 \$5,000.00, or both.

9 (5) The court may order ~~a person~~ **an individual** convicted of
10 violating subsection (2) to be evaluated to determine the need for
11 psychiatric or psychological counseling and, if determined
12 appropriate by the court, to receive psychiatric or psychological
13 counseling. The evaluation and counseling ~~shall~~ **must** be at the
14 defendant's own expense.

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

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

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

1 the reason for that action.

2 (9) ~~As~~**In addition to any registration and other requirements**
3 **under the animal abuser registry act, as** a part of the sentence for
4 a violation of subsection (2), the court ~~may,~~**shall**, as a condition
5 of probation, order the defendant not to own or possess an animal
6 for a period of time not to exceed the period of probation **or**
7 **registration period, whichever is longer**. If a person is convicted
8 of a second or subsequent violation of subsection (2), the court
9 ~~may~~**shall** order the defendant not to own or possess an animal for
10 any period of time, including permanent relinquishment of animal
11 ownership.

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

20 (11) As part of the sentence imposed under subsection (4) (e),
21 the court may place the defendant on probation for any term of
22 years, but not less than 5 years.

23 (12) This section does not prohibit the lawful killing or
24 other use of an animal, including the following:

25 (a) Fishing.

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

29 (c) Horse racing.

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

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

5 (f) Farming or a generally accepted animal husbandry or
6 farming practice ~~involving~~ **that involves** livestock.

7 (g) Scientific research under 1969 PA 224, MCL 287.381 to
8 287.395.

9 (h) Scientific research or the lawful killing of an animal
10 under sections 2226, 2671, 2676, and 7333 of the public health
11 code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, and 333.7333.

12 (i) The lawful killing or use of an animal under the animal
13 industry act, 1988 PA 466, MCL 287.701 to 287.746.

14 (13) This section does not apply to a veterinarian or a
15 veterinary technician lawfully engaging in the practice of
16 veterinary medicine under part 188 of the public health code, 1978
17 PA 368, MCL 333.18801 to 333.18838.

18 Sec. 50b. (1) ~~As used in this section:~~

19 ~~(a) "Animal" means a vertebrate other than a human being.~~

20 ~~(b) "Companion animal" means an animal that is commonly~~
21 ~~considered to be, or is considered by its owner to be, a pet, or~~
22 ~~that is a service animal as that term is defined in section 50a.~~
23 ~~Companion animal includes, but is not limited to, dogs and cats.~~
24 **individual convicted under this section is subject to registry**
25 **under the animal abuser registry act and forfeiture proceedings**
26 **under the animal forfeiture act.**

27 (2) Except as otherwise provided in this section, a person
28 shall not do any of the following without just cause:

29 (a) Knowingly kill, torture, **starve**, mutilate, maim, or

1 disfigure an animal.

2 (b) Commit a reckless act knowing or having reason to know
3 that the act will cause an animal to be killed, tortured, **starved**,
4 mutilated, maimed, or disfigured.

5 (c) Knowingly administer poison to an animal, or knowingly
6 expose an animal to any poisonous substance, with the intent that
7 the substance be taken or swallowed by the animal.

8 (d) Violate or threaten to violate subdivision (a) or (c) with
9 the intent to cause mental suffering or distress to a person or to
10 exert control over a person.

11 (3) ~~If the animal is a companion animal and if~~ a person
12 violates subsection (2) (d) and intentionally violates subsection
13 (2) (a) or (c), the person is guilty of killing or torturing animals
14 in the first degree.

15 (4) ~~If the animal is a companion animal and a~~ person violates
16 subsection (2) (d), or if a person intentionally violates subsection
17 (2) (a) or (c), the person is guilty of killing or torturing animals
18 in the second degree.

19 (5) Except as otherwise provided in subsections (3) and (4), a
20 person who violates subsection (2) is guilty of killing or
21 torturing animals in the third degree.

22 (6) Killing or torturing animals in the first degree is a
23 felony punishable by 1 or more of the following:

24 (a) Imprisonment for not more than 10 years.

25 (b) A fine of not more than \$5,000.00.

26 (c) Community service for not more than 500 hours.

27 (7) Killing or torturing animals in the second degree is a
28 felony punishable by 1 or more of the following:

29 (a) Imprisonment for not more than 7 years.

1 (b) A fine of not more than \$5,000.00.

2 (c) Community service for not more than 500 hours.

3 (8) Killing or torturing animals in the third degree is a
4 felony punishable by 1 or more of the following:

5 (a) Imprisonment for not more than 4 years.

6 (b) A fine of not more than \$5,000.00.

7 (c) Community service for not more than 500 hours.

8 (9) The court may order a term of imprisonment imposed for a
9 violation of this section to be served consecutively to a term of
10 imprisonment imposed for any other crime including any other
11 violation of law arising out of the same transaction as the
12 violation of this section.

13 (10) As a part of the sentence for a violation of subsection
14 (2), the court may order the defendant to pay the costs of the
15 prosecution and the costs of the care, housing, and veterinary
16 medical care for the animal victim, as applicable. If the court
17 does not order a defendant to pay all of the applicable costs
18 listed in this subsection, or orders only partial payment of these
19 costs, the court shall state on the record the reasons for that
20 action.

21 (11) If a term of probation is ordered for a violation of
22 subsection (2), the court may include as a condition of that
23 probation that the defendant be evaluated to determine the need for
24 psychiatric or psychological counseling and, if determined
25 appropriate by the court, to receive psychiatric or psychological
26 counseling at ~~his or her~~ **the defendant's** own expense.

27 (12) ~~As~~ **In addition to any registration requirements under the**
28 **animal abuser registry act, as** a part of the sentence for a
29 violation of subsection (2), the court ~~may~~ **shall** order the

1 defendant not to own or possess an animal for any period of time
2 determined by the court, which may include permanent
3 relinquishment.

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

12 (14) This section does not prohibit the lawful killing of
13 livestock or a customary animal husbandry or farming practice
14 involving livestock.

15 (15) This section does not prohibit the lawful killing of an
16 animal ~~pursuant to~~**under** any of 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, and orders issued under that act.

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

24 (d) Section 19 of the dog law of 1919, 1919 PA 339, MCL
25 287.279.

26 (16) This section does not prohibit the lawful killing or use
27 of an animal for scientific research under any of the following or
28 a rule promulgated under any of the following:

29 (a) 1969 PA 224, MCL 287.381 to 287.395.

1 (b) Sections 2226, 2671, 2676, 7109, and 7333 of the public
2 health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676,
3 333.7109, and 333.7333.

4 (17) This section does not apply to a veterinarian or a
5 veterinary technician lawfully engaging in the practice of
6 veterinary medicine under part 188 of the public health code, 1978
7 PA 368, MCL 333.18801 to 333.18838.

8 (18) This section does not prohibit the lawful killing or use
9 of an animal under the animal industry act, 1988 PA 466, MCL
10 287.701 to 287.746.

11 Enacting section 1. This amendatory act takes effect 10 days
12 after the date it is enacted into law.

13 Enacting section 2. This amendatory act does not take effect
14 unless all of the following bills of the 102nd Legislature are
15 enacted into law:

16 (a) Senate Bill No. ____ or House Bill No. 5876 (request no.
17 06341'24).

18 (b) Senate Bill No. ____ or House Bill No. 5877 (request no.
19 06342'24).