

Legislative Analysis



ANIMAL ABUSE: REVISE PENALTIES

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House Bill 4550 as introduced
House Bill 4551 (Substitute H-4)
Sponsor: Rep. John Espinoza

House Bill 4552 (Substitute H-4)
Sponsor: Rep. Pam Byrnes

Committee: Judiciary

Complete to 6-14-07

A SUMMARY OF HOUSE BILLS 4550-4552 AS REPORTED FROM COMMITTEE 6-13-07

House Bills 4551 and 4552 would amend the penal laws to revise the penalties for harming animals and allow for consecutive sentencing. Both bills would exempt veterinarians and veterinarian technicians from the prohibitions and penalties contained in the bills when lawfully engaging in the practice of veterinarian medicine. Each bill would specify that it would not prohibit a person from being charged with, convicted of, or punished for any other prohibited violation. Moreover, a court could order a term of imprisonment imposed for a violation prohibited under the bills to be served consecutively to a term of imprisonment imposed for any other crime including any other violation of law arising out of the same transaction as the violation of the sections amended by the bills. The bills would take effect January 1, 2008. House Bill 4550 would amend the sentencing guidelines.

Details specific to each bill are as follows:

House Bill 4551

The bill would amend the Michigan Penal Code (MCL 750.50). Section 50 of the code prohibits various actions by an owner, possessor, or person having the charge of an animal that result in harm to the animal. One of the prohibited actions on the part of an owner, possessor, or person having charge of an animal is to willfully or negligently allow any animal, including one who was aged, diseased, maimed, hopelessly sick, disabled, or nonambulatory to suffer unnecessary neglect, torture, or pain. The bill would delete *willfully* and apply the prohibition only to those actions that were negligent.

Abandoning an animal is also prohibited without making provisions for the animal's adequate care. An exception is provided for premises that are temporarily vacated for the protection of human life during a disaster. The bill would delete the underscored language and revise the exception to instead apply to premises vacated for the protection of human life *or the prevention of injury to a human*.

A court could order a person convicted of a violation to be evaluated to determine a need for psychiatric or psychological counseling, and could order the person to receive such counseling. The evaluation and counseling would be at the defendant's own expense. (This is similar to a provision for a person convicted of animal cruelty.) The bill would also delete a restriction that a defendant could be ordered to pay the costs of an animal's care as part of a sentence for a violation only if forfeiture of the animal had not been ordered. Under the bill, the defendant could be ordered to assume the costs of the animal's or animals' care even if forfeiture is not ordered.

Current penalties for a violation of the prohibited acts are based on the number of prior convictions, and range from a 93-day misdemeanor for a first offense to a four-year felony for a third or subsequent violation. In addition, a court can impose a fine, community service, and/or order the offender to pay the costs associated with prosecution.

The bill would instead base penalties on the number of animals involved in the violation or the number of prior convictions as follows:

Offense	Offense Level	Punishment: Any 1 or more
One animal and first offense	Misdemeanor	<ul style="list-style-type: none"> - Up to 93 days imprisonment - Maximum \$1,000 fine - Up to 200 hours community service - May be ordered to pay costs of prosecution
Two or three animals or death of an animal Continued: two or three animals or death of an animal	Misdemeanor	<ul style="list-style-type: none"> - Up to one year imprisonment - Maximum \$2,000 fine - Up to 300 hours community service - May be ordered to pay costs of prosecution
Four to nine animals OR one prior conviction	Felony	<ul style="list-style-type: none"> - Up to 2 years imprisonment - Maximum \$2,000 fine - Up to 300 hours community service - May be ordered to pay costs of prosecution
- 10 or more animals OR two or more prior convictions	Felony	<ul style="list-style-type: none"> - Up to 4 years imprisonment - Maximum fine of \$5,000 - Up to 500 hours community service - May be ordered to pay costs of prosecution

House Bill 4552

The bill would also amend Section 50b of the Michigan Penal Code (750.50b). Section 50b of the penal code also makes it a crime for any person (not just an owner, possessor, or person having the charge of an animal) to willfully, maliciously, and without just cause or excuse, kill, torture, mutilate, maim, or disfigure an animal, or willfully and maliciously, and without just cause or excuse, administer poison to an animal or expose an animal to any poisonous substance. The bill would revise this provision and instead prohibit a person from doing either of the following (*italics denote change*):

- *Intentionally* killing, torturing, mutilating, maiming, or disfiguring an animal without just cause.
- *Intentionally* administering poison to an animal without just cause, or expose an animal to any poisonous substance without just cause (with the exception of a substance used for a therapeutic veterinary medical purpose).

The penalties for a violation of the above would remain unchanged: a person would be guilty of a felony punishable by imprisonment for not more than four years, a fine of not more than \$5,000, and/or community service for not more than 500 hours.

House Bill 4550

The bill would amend the Code of Criminal Procedure (MCL 777.16b) to revise the corresponding provisions in the sentencing guidelines to reflect the changes proposed by House Bill 4551. The bill is tie-barred to House Bill 4551.

FISCAL IMPACT:

The bills' fiscal impact would depend on how they affected misdemeanor and felony convictions and sentences. There are no data on the numbers of misdemeanor convictions under current law, but to the extent that the bills increased the numbers of misdemeanor convictions or the severity of misdemeanor sentences, local costs of jail incarceration or misdemeanor probation supervision, both of which vary by county, could increase.

There was one sentence in 2005 for felony animal neglect/cruelty (MCL 750.50), and the offender was sentenced to probation. Of the 38 felons sentenced in 2005 for animal torture (MCL 750.50b), eight were sentenced to prison, 11 were sentenced to probation, 17 were sentenced to jail, and one was "other" (such as Holmes Youthful Trainee Act). Two offenders were committed to the Department of Corrections in 2004 for violation or the attempted violation of MCL 750.50b; the average sentence was 1.4 years.

To the extent that the bills increased the numbers of felony convictions or the severity of felony sentences, they could increase state costs. The average appropriated cost of prison incarceration is about \$31,000 per prisoner annually; felony parole and probation supervision averages about \$2,000 per supervised offender per year.

Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of such revenues.

POSITIONS:

The following associations and organizations indicated support for the bills on 5-23-07 and 6-13-07:

The Michigan State Police
The Michigan Association of Animal Control Officers
The Michigan Humane Society
The Jackson County Prosecutor's Office
The Capital Area Humane Society
The Michigan Coalition Against Domestic and Sexual Violence
The Animal Law Section/State Bar of Michigan
The Michigan Veterinary Medical Association
The Branch County Animal Control
The Humane Society of Huron Valley
Classic Quarter Horses

The Michigan Association of Pure Bred Dogs and Michigan Hunting Dog Federation oppose the bills. (5-23-07)

The Ingham County Kennel Club indicated opposition to the bills. (5-23-07)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.