

Legislative Analysis



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ANIMAL FIGHTING

House Bill 5655 as introduced
House Bill 5656 (Substitute H-3)
Sponsor: Rep. John Espinoza

House Bill 5668 as introduced
Sponsor: Rep. Bert Johnson
Committee: Judiciary

First Analysis (3-4-10)

BRIEF SUMMARY: House Bill 5655 would subject the property of a person involved in animal fighting to forfeiture. House Bill 5656 would include animal fighting as a predicate offense for racketeering. House Bill 5668 would declare a building, vehicle, boat, aircraft, or other place where animal fighting takes place to be a nuisance.

FISCAL IMPACT: The bills would have an indeterminate fiscal impact on state and local governments as discussed in more detail later in the analysis.

THE APPARENT PROBLEM:

Animal fighting (dog fighting, cockfighting, and dog-hog fighting, where dogs fight wild hogs) continues to be a growing problem in the state, with dog fighting a problem in the greater Detroit area. Besides undue cruelty and suffering being inflicted on animals, studies show a relationship between cruelty to animals and perpetrating violent crimes against people. In one study conducted by the Chicago Police Department, as reported by the Humane Society of the U.S., 65 percent of people charged with animal abuse crimes went on to commit violent crimes against people. In addition, children who are subjected to animal cruelty often suffer emotional effects for a lifetime.

In an effort to stem the rise in animal fighting rings, some feel the state's laws need to be amended. For instance, much of animal fighting is related to illegal gambling. As such, some believe that those who run animal fighting rings should be prosecuted under the state's RICO laws, usually reserved for criminal enterprises such as gambling rings, prostitution rings, and drug operations. In addition, local governments must spend precious resources on the care or euthanasia of injured dogs and the prosecution of individuals involved in animal fighting. Some of those resources could be recouped if the offense of animal fighting were included in those offenses subject to the state's seizure and forfeiture laws.

THE CONTENT OF THE BILLS:

The bills, each of which deals with animal fighting, amend various acts.

House Bill 5655 would amend the Revised Judicature Act (600.4702) to allow, in the case of a crime involving animal fighting, all real or personal property to be subject to forfeiture if it contributed directly and materially to the commission of the crime, was used to conceal the crime, was used to escape from the scene of the crime, or was used to conceal the identify of one or more of the individuals who committed the crime. Real and personal property that are the proceeds of a crime would also be subject to forfeiture.

House Bill 5656 would amend Chapter 25A of the Michigan Penal Code, entitled "Criminal Enterprises" (750.159g et al.). Under the code, racketeering is defined as committing, attempting to commit, conspiring to commit, or aiding or abetting, soliciting, coercing, or intimidating a person to commit an offense for financial gain that includes any of the listed criminal acts. The bill would amend this list to include a violation of Section 49, concerning animal fighting.

House Bill 5668 would amend the Revised Judicature Act. It amends the section that declares places to be a nuisance if certain conduct takes place on the premises. It would add to that list, violations of animal fighting under Section 49 of the Michigan Penal Code.

FISCAL INFORMATION:

House Bill 5655. The bill will have an indeterminate, but likely positive, fiscal impact on state and local governments. The bill would include offenses under MCL 750.49 (animal fighting) as offenses that are subject to property seizure and forfeiture. Under MCL 600.4708, the unit of government that seized or filed a lien against the property may sell the property and dispose of the proceeds in the following order of priority: any security interest; satisfy order of restitution; any claims of victims; outstanding liens; and expenses. The balance remaining after the disposal of the proceeds in the aforementioned order shall be distributed in the following manner: 75% to enhance enforcement of the criminal laws and 25% of the money to implement the crime victim's rights act.

House Bill 5656. The provisions in Section 159g would have an indeterminate impact on state and local correctional systems which would depend on the number and severity of any resulting felony sentences. To the extent that more felons were sentenced to prison or were sentenced to prison for longer terms, the bills could increase state costs of prison incarceration; the average appropriated cost per prisoner is approximately \$33,000 per year, a figure that includes various fixed administrative and operational costs. To the extent that more offenders were sentenced to probation, the state could incur increased supervision costs, with the average annual cost of parole and probation supervision being around \$2,000 per supervised offender, exclusive of the cost of any electronic tether programs. Any increase in jail sentences would be borne by the affected counties; jail costs vary by county. Any increase in penal fine collections could benefit local libraries, which are the constitutionally-designated recipients of such revenues.

House Bill 5668 would have an indeterminate fiscal impact on state, local units of government, and courts. Any fiscal impact would be the result of an increase in the

number of nuisance actions due to the inclusion of conduct prohibited under MCL 750.49 (animal fighting).

ARGUMENTS:

For:

Simply put, animal fighting is animal abuse on steroids. Unlike abuse rising from neglect, animal fighting is the deliberate act of pitting two or more animals against each other and watching them tear each other to pieces solely for the entertainment value. Animal fighting has long been linked to crime rings, especially illegal gambling. The arrest and prosecution of pro-football star Michael Vick a few years ago brought dog fighting into the media forefront. Unfortunately, the problem has continued to escalate. The bill package would give prosecutors additional tools with which to fight and curtail the spread of animal fighting rings.

Prosecuting members of groups or organizations that engage in animal fighting for material gain under the racketeering statute would allow for longer prison sentences and/or greater criminal fines. However, a proposal in House Bill 5656 as introduced that would have allowed the house of the spouse of a person convicted of any racketeering charge to be forfeited was eliminated from the package, as well as a proposal to repeal the current requirement that the owner of the seized property be reimbursed by a county prosecutor for certain costs, fees, and damages if the prosecutor fails to meet his or her burden of proof (or the owner does meet his or her burden).

Unlike many other crimes, property or money gained from animal fighting cannot be seized or forfeited by law enforcement agencies. Allowing the seizure and forfeiture of real and personal property associated with the commission of the crime of animal fighting, as House Bill 5655 would do, would benefit victims and local law enforcement agencies as any property sold may be used for the payment of restitution, the claims of victims, outstanding liens, and expenses. The balance remaining may then be distributed to the unit or units of government involved in effecting the forfeiture.

Lastly, House Bill 5668 would allow the place (barn, garage, field, house, etc.) where the illegal conduct took place to be declared a nuisance under the state nuisance abatement law. This will allow local authorities to shutter or padlock properties used in animal fighting in the same way as is currently available to shut down houses of prostitution, drug houses, and gambling houses.

Considering the link between violence against animals and violence against people, it is imperative that those agencies enforcing the peace be given any tools needed to effectively deter the undesired conduct in the first place, and to appropriately punish anyone choosing to engage in the prohibited activity.

Response:

Recent news articles and editorials have called on state lawmakers to curtail property seizures unless there is a conviction. Instead, House Bill 5655 would expand the forfeiture provisions to include crimes involving animal fighting. Seizure of property can

be done solely upon arrest and charges being filed. Even if a person is acquitted or charges dismissed, he or she must pay fees to reclaim the property, which is burdensome for low-income individuals, who may not be able to afford to redeem a home, a vehicle, or other property. Some believe that a recent rise in seizures – which coincides with a decrease in state revenue-sharing and in property tax revenues – may be an attempt by local governments to shore up badly needed revenue.

POSITIONS:

Representatives of the Wayne County Prosecutor’s Office testified in support of the bills. (2-10-10)

The following persons and organizations indicated support for the bills on 2-10-10:

Michigan Humane Society

American Humane Society

Animal Law Section – State Bar of Michigan (HB 5655 and 5656)

Jeff Sauter, Eaton County Prosecutor (HB 5668)

Legislative Analyst: Susan Stutzky

Fiscal Analyst: Ben Gielczyk

Bob Schneider

■ 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.