

Legislative Analysis



CRIMES AGAINST ANIMALS

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Senate Bill 285 (Substitute S-3)

Sponsor: Sen. Steven Bieda

Senate Bill 286 without amendment

Sponsor: Sen. Rick Jones

House Committee: Criminal Justice

Senate Committee: Judiciary

Complete to 1-28-14

A SUMMARY OF SENATE BILLS 285 AND 286 AS PASSED BY THE SENATE 11-3-13

Senate Bill 285 would (1) increase the penalties for animal neglect or cruelty involving multiple animals and/or prior convictions for animal neglect or cruelty; (2) apply the penalties for neglect or cruelty to conduct on the part of breeders and pet shop owners; (3) establish a tiered penalty structure for the crime of killing or torturing animals and include acts against a companion animal; and (4) define terms.

Senate Bill 286 would place the penalties for felony convictions in the sentencing guidelines; require points for certain elements of a crime to be scored for Offense Variables 4, 16, and 19; and revise Offense Variable 10 to expand the definition of "exploit."

Senate Bill 285 would amend the Michigan Penal Code to do the following:

- ❖ Apply the prohibitions against and penalties for animal neglect and cruelty to a breeder or operator of a pet shop. "Breeder" means a person who breeds animals other than livestock for the purpose of making a profit. "Pet shop" means that term as defined in Public Act 287 of 1969, which regulates pet shops, dog pounds, and animal shelters.
- ❖ Create an enhanced penalty for violations involving 25 or more animals or three or more prior convictions of animal neglect or cruelty, as specified in the bill. If probation was imposed as part of the sentence, probation could be for any term of years but not less than five years.
- ❖ Make it a felony punishable by not more than two years and/or a fine of not more than \$5,000 for a violation by a breeder or pet shop operator having five or more prior convictions under Public Act 287 of 1969, which regulates pet shops, dog pounds, and animal shelters.

- ❖ Define "companion animal" as an animal that is commonly considered to be, or is considered by its owner to be, a pet. The term includes, but is not limited to, canines and felines (dogs and cats).
- ❖ Prohibit knowingly killing, torturing, maiming, or mutilating an animal; committing a reckless act knowing that the same will occur; or poisoning an animal with the intent to cause mental suffering or distress to a person or to exert control over a person.
- ❖ Revise the penalty structure for knowingly killing, torturing, maiming, or mutilating an animal; committing a reckless act knowing that the same will occur; or poisoning an animal. Currently the penalty is four-year felony and/or a fine of not more than \$5,000. This would be replaced by a 3-tier penalty structure based on the elements of the crime. Penalties would range from incarceration for not more than four years, a fine up to \$5,000, and/or community service for not more than 500 hours for killing or torturing animals in the third degree to imprisonment for not more than 10 years and/or a fine of not more than \$5,000 for killing or torturing animals in the first degree. A judge could order a term of imprisonment imposed for killing or torturing an animal 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 this provision.

Senate Bill 286, which is tie barred to Senate Bill 285, would amend the Code of Criminal Procedure (MCL 777.16b et al.) to do the following:

- ❖ Require five points to be scored under Offense Variable 4 (psychological injury to a victim) for a conviction involving killing or torturing an animal and serious psychological injury requiring professional treatment occurred to the owner of a companion animal.
- ❖ Revise Offense Variable 16 (property obtained, damaged, lost, or destroyed) to require 25 points to be scored for a conviction of animal neglect or cruelty involving 25 or more animals and 10 points if the conviction involved 10 or more animals but fewer than 25 animals.
- ❖ Revise the definition of the term "exploit" for the purpose of scoring Offense Variable 10 (exploitation of a vulnerable victim) to include a violation of killing or torturing an animal for the purpose of manipulating a victim for selfish or unethical purposes.
- ❖ Require 10 points to be scored under Offense Variable 19 (threat to the security of a penal institution or court or interference with the administration of justice or the rendering of emergency service) if the offender directly or indirectly violated a personal protection order.

- ❖ Designate animal neglect or cruelty involving 4 or more animals but fewer than 10 animals or with one prior conviction as a Class F felony instead of a Class G.
- ❖ Designate animal neglect or cruelty involving 10 or more animals but fewer than 25 or with two priors as a Class E felony instead of a Class F.
- ❖ Specify that animal neglect or cruelty involving 25 or more animals or with 3 or more prior convictions is a Class E felony against the public order with a maximum term of imprisonment of seven years.
- ❖ Specify that animal neglect or cruelty by a breeder or pet shop operator with five or more prior violations of PA 287 of 1969 is a Class E felony against the public order with a two-year maximum term of imprisonment.
- ❖ Specify that first degree killing or torturing animals is a Class D felony involving property with a 10-year maximum term of imprisonment.
- ❖ Specify that second degree killing or torturing animals is a Class E felony involving property with a 7-year maximum term of imprisonment.
- ❖ Specify that third degree killing or torturing animals is a Class F felony involving property with a 4-year maximum term of imprisonment.

FISCAL IMPACT:

The bills could increase costs on state and local correctional systems. Information is not available on the number of persons that might be convicted under the new provisions of the bill. New felony convictions could result in increased costs related to state prisons, county jails, and/or state probation supervision. The average cost of prison incarceration in a state facility is roughly \$35,600 per prisoner per year, a figure that includes various fixed administrative and operational costs. The costs of local probation supervision vary by jurisdiction. State costs for parole and felony probation supervision average about \$3,600 per supervised offender per year. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

The bill would have no significant impact on the Department of Agriculture and Rural Development.

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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.