



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

BILL



ANALYSIS

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

Senate Bills 285 and 286 (as introduced 3-21-13)
Sponsor: Senator Steven Bieda (S.B. 285)
Senator Rick Jones (S.B. 286)
Committee: Judiciary

Date Completed: 4-16-13

CONTENT

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

- Extend current animal neglect or cruelty prohibitions to a breeder or pet shop operator.
- Revise and enhance the graduated penalties for animal neglect or cruelty (which are based on the number of animals involved and the offender's prior convictions).
- Establish a felony penalty for animal neglect or cruelty by a breeder or pet shop operator who had five or more prior convictions under Public Act 287 of 1969 (which regulates pet shops, animal control shelters, and animal protection shelters).
- Allow a court to include at least five years' probation as part of a sentence for an animal neglect or cruelty involving 25 or more animals, or three or more prior convictions.
- Establish first, second, and third degrees of killing or torturing an animal, and increase the maximum prison term for a first of second-degree offense.

Senate Bill 286 would amend the Code of Criminal Procedure to do the following:

- Revise the sentencing guidelines for animal neglect or cruelty and establish sentencing guidelines designations for animal neglect or cruelty penalties proposed by Senate Bill 285.
- Apply the current sentencing guideline for killing or torturing an animals to the proposed third-degree offense and establish sentencing guidelines designations for first- and second-degree violations.
- Revise sentencing guidelines scoring requirements for several offense variables.

Senate Bill 286 is tie-barred to Senate Bill 285.

Senate Bill 285

Animal Neglect or Cruelty

Under Section 50 of the Penal Code, a person who owns, possesses, is in charge of or has custody of an animal may not do any of the following:

- Fail to provide an animal with adequate care.
- Cruelly drive, work, or beat an animal, or cause it to be cruelly driven, worked, or beaten.
- Carry or cause to be carried in or upon a vehicle or otherwise any live animal whose feet or legs are tied together, except an animal being transported for medical care or a horse whose feet are hobbled to protect it during transport, or in any other cruel and inhumane manner.
- Carry or cause to be carried a live animal in or upon a vehicle or otherwise without providing a secure space, rack, car, crate, or cage in which livestock may stand and in which all other animals may stand, turn around, and lie down during transport or while awaiting slaughter.
- Abandon an animal or cause an animal to be abandoned, without making provisions for the animal's adequate care, unless premises are vacated for the protection of human life or the prevention of injury to a human.
- Negligently allow any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or nonambulatory, to suffer unnecessary neglect, torture, or pain.
- Tether a dog unless the tether is at least three times the length of the dog as measured from tip of its nose to the base of its tail and is attached to a harness or nonchoke collar designed for tethering.

Under the bill, those prohibitions also would apply to a breeder and an operator of a pet shop. "Breeder" would mean a person who breeds animals for the purpose of making a profit. "Pet shop" would mean a place where animals are sold or offered for sale, exchange, or transfer.

Currently, a violation is punishable as shown in [Table 1](#), based on the number of animals involved, the prior convictions of the offender for this crime, and whether an animal died. An offender also may be ordered to pay the costs of prosecution.

Table 1

Animals involved or Prior Convictions	Max. Imprisonment	Max. Fine	Max. Community Service
1 animal ^{a)}	93 days	\$1,000	200 hours
2 or 3 animals, or the death of an animal ^{a)}	1 year	\$2,000	300 hours
4 to 9 animals, or 1 prior conviction ^{b)}	2 years	\$2,000	300 hours
10 or more animals, or 2 or more prior convictions ^{b)}	4 years	\$5,000	500 hours
^{a)} misdemeanor ^{b)} felony			

Under the bill, the current penalty for a violation involving 10 or more animals, or for a violation by a person with two or more prior convictions, would apply to a violation involving 10 or more animals, but fewer than 25, or a person with two prior convictions. A violation involving 25 or more animals, or a person with three or more prior convictions, would be a felony punishable by one or more of the following:

- Up to seven years' imprisonment.
- A maximum fine of \$10,000.
- Up to 500 hours of community service.

As part of the sentence imposed for a violation involving 25 or more animals, or an offender with three or more prior convictions, the court could place the defendant on probation for any term of years, but not less than five years.

If the person who violated Section 50 (regardless of the number of animals or prior convictions) were a breeder or an operator of a pet shop and he or she had five or more prior convictions for violating Public Act 287 of 1969, the violation would be a felony punishable by imprisonment for up to two years, a maximum fine of \$5,000, or both.

Killing or Torturing an Animal

Under Section 50b of the Penal Code, a person may not do any of the following without just cause:

- Knowingly kill, torture, mutilate, maim, or disfigure an animal.
- Commit a reckless act knowing or having reason to know that it will cause an animal to be killed, tortured, mutilated, maimed, or disfigured.
- Knowingly administer poison to an animal, or knowingly expose an animal to any poisonous substance, with the intent that the animal take or swallow the substance.

Under the bill, a violation would be third-degree killing or torturing of animals. An intentional violation of the first or third prohibition, however, or a violation of either of those prohibitions by an offender who knew that the animal was a companion animal, would be second-degree killing or torturing of animals. An intentional violation of either of those prohibitions by an offender who knew that the animal was a companion animal would be first-degree killing or torturing of animals.

Currently, a violation is a felony punishable by up to four years' imprisonment and/or a maximum fine of \$5,000 for a single animal and \$2,500 for each additional animal involved in the violation but not more than a total of \$20,000.

Under the bill, first-, second-, and third-degree killing or torturing of animals would be felonies, punishable as shown in Table 2.

Table 2

Degree of Offense	Max. Imprisonment	Max. Fine	Max. Community Service
First	10 years	\$5,000	500 hours
Second	7 years	\$5,000	500 hours
Third	4 years	\$5,000	500 hours

In addition, the court could order a term of imprisonment imposed for a violation 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 a violation of Section 50b.

The bill would define "companion animal" as a domestic or feral dog or cat, guinea pig, hamster, rabbit that is not raised for human food or fiber, exotic or native animal or bird, reptile, or any other animal that is feral or under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by a person. The term would not include an agricultural animal, a game animal, or an animal regulated under Federal law as a research animal.

Senate Bill 286

Sentencing Guidelines Designations

Currently, animal neglect or cruelty involving four or more animals but fewer than 10, or one prior conviction, is a Class G felony against the public order, with a statutory maximum sentence of two years' imprisonment. Under the bill, that offense would be a Class F felony. Animal neglect or cruelty involving 10 or more animals or two or more prior convictions is a Class F felony against the public order, with a statutory maximum sentence of four years' imprisonment. Under the bill, instead, animal neglect or cruelty involving 10 or more animals, but fewer than 25, or two prior convictions would be a Class E felony against the public order with a statutory maximum sentence of four years' imprisonment.

The bill also would add sentencing guidelines designations, as shown in [Table 3](#).

Table 3

Offense	Felony Class & Category	Stat. Max. Sentence
Neglect or cruelty involving 25 or more animals, or 3 or more prior convictions	E-Public Order	7 years
Neglect or cruelty by breeder or pet shop operator with 5 or more prior violations of Public Act 287 of 1969	E-Public Order	2 years

Currently, killing or torturing animals is a Class F felony against property. Under the bill, that would be the sentencing guidelines designation for third-degree killing or torturing animals. The bill would add designations for a first or second-degree offense, as shown in [Table 4](#).

Table 4

Offense	Felony Class & Category	Stat. Max. Sentence
First-degree killing or torturing of animals	D-Property	10 years
Second-degree killing or torturing of animals	E-Property	4 years

Sentencing Guidelines Scoring

The Code of Criminal Procedure includes instructions for sentencing courts to calculate sentencing guidelines scores based on a formula that considers offense variables (OVs) and prior record variables.

Offense variable 4 is psychological injury to a victim. The bill would require five points to be assigned for OV 4 for first-, second-, or third-degree killing or torturing of animals if serious psychological injury requiring professional treatment occurred to the owner of a companion animal.

Offense variable 10 is exploitation of a vulnerable victim. The Code requires 10 points to be assigned for OV 10 if the offender exploited a victim's physical disability, mental disability, youth or agedness, or a domestic relationship, or the offender abused his or her authority status. Five points must be assigned if the offender exploited a victim by his or her difference in size or strength, or both, or exploited a victim who was intoxicated, under the influence of drugs, asleep, or unconscious. "Exploit" means to manipulate a victim for

selfish or unethical purposes. Under the bill, the term also would mean to violate Section 50b of the Michigan Penal Code (killing or torturing an animal) for the purpose of manipulating a victim for selfish or unethical purposes.

Offense variable 16 is property obtained, damaged, lost, or destroyed. The bill would require 25 points to be assigned for OV 16 for a conviction under Section 50 of the Penal Code (animal neglect or cruelty) if the property involved were more than 25 animals. Ten points would have to be assigned for a conviction under Section 50 if the property involved were 10 or more animals, but fewer than 25.

Offense variable 19 is threat to the security of a penal institution or court or interference with the administration of justice or the rendering of emergency services. The bill would require 10 points to be assigned for OV 19 if the offender directly or indirectly violated a personal protection order.

MCL 750.50 & 750.50b (S.B. 285)
777.16b et al. (S.B. 286)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

By creating new offenses and increasing the maximum sentences for crimes associated with cruelty to animals, the bills could have an indeterminate negative fiscal impact on State and local government by increasing criminal justice costs of both incarceration and community supervision. In 2011, there were three felony dispositions for cruelty to 10 or more animals, and none resulted in prison time. However, also in 2011, there were 45 felony dispositions for the crime of killing or torturing an animal, of which seven resulted in prison sentences.

Fiscal Analyst: Dan O'Connor

S1314\S285sa

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.