

**SUBSTITUTE FOR
SENATE BILL NO. 386**

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 49, 50, 50b, and 158 (MCL 750.49, 750.50,
750.50b, and 750.158), section 49 as amended by 2006 PA 129,
section 50 as amended by 2007 PA 152, and section 50b as amended by
2008 PA 339.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 49. (1) As used in this section, "animal" means a
2 vertebrate other than a human **BEING EXCEPT LIVESTOCK AS DEFINED IN**
3 **SECTION 5 OF THE ANIMAL INDUSTRY ACT, 1988 PA 466, MCL 287.705.**

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

1 to be shot at as a test of skill in marksmanship.

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

4 (c) Rent or otherwise obtain the use of a building, shed,
5 room, yard, ground, or premises for fighting, baiting, or shooting
6 an animal as described in subdivision (a).

7 (d) Permit the use of a building, shed, room, yard, ground, or
8 premises belonging to him or her or under his or her control for
9 any of the purposes described in this section.

10 (e) Organize, promote, or collect money for the fighting,
11 baiting, or shooting of an animal as described in subdivisions (a)
12 to (d).

13 (f) Be present at a building, shed, room, yard, ground, or
14 premises where preparations are being made for an exhibition
15 described in subdivisions (a) to (d), or be present at the
16 exhibition, knowing that an exhibition is taking place or about to
17 take place.

18 (g) Breed, buy, sell, offer to buy or sell, exchange, import,
19 or export an animal the person knows has been trained or used for
20 fighting as described in subdivisions (a) to (d), or breed, buy,
21 sell, offer to buy or sell, exchange, import, or export the
22 offspring of an animal the person knows has been trained or used
23 for fighting as described in subdivisions (a) to (d). This
24 subdivision does not prohibit owning, breeding, buying, selling,
25 offering to buy or sell, exchanging, importing, or exporting an
26 animal for agricultural or agricultural exposition purposes.

27 (h) Own, possess, use, buy, sell, offer to buy or sell,

1 transport, or deliver any device or equipment intended for use in
2 the fighting, baiting, or shooting of an animal as described in
3 subdivisions (a) to (d).

4 (3) A person who violates subsection (2)(a) to (e) 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 \$5,000.00 or more than \$50,000.00.

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

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

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

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

14 (c) Not less than 250 or more than 500 hours of community
15 service.

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

18 (6) The court may order a person convicted of violating this
19 section to pay the costs for housing and caring for the animal,
20 including, but not limited to, providing veterinary medical
21 treatment.

22 (7) As part of the sentence for a violation of subsection (2),
23 the court shall, **AS A CONDITION OF PROBATION**, order the person
24 convicted not to own or possess an animal of the same species
25 involved in the violation of this section for **A PERIOD OF AT LEAST**
26 5 years after the date of sentencing **OR THE DATE OF RELEASE FROM**
27 **INCARCERATION, WHICHEVER IS LATER**. Failure to comply with the order

1 of the court pursuant to this subsection is punishable as contempt
2 of court.

3 (8) If a person incites an animal trained or used for fighting
4 or an animal that is the first or second generation offspring of an
5 animal trained or used for fighting to attack a person and ~~thereby~~
6 **THAT ATTACK** causes the death of that person, the owner is guilty of
7 a felony punishable by imprisonment for life or for a term of years
8 greater than 15 years.

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

15 (10) 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 and causes the death of that person, the owner of the animal is
19 guilty of a felony punishable by imprisonment for not more than 15
20 years.

21 (11) If an animal trained or used for fighting or an animal
22 that is the first or second generation offspring of an animal
23 trained or used for fighting attacks a person without provocation,
24 but the attack does not cause the death of the person, the owner is
25 guilty of a misdemeanor punishable by imprisonment for not more
26 than 1 year or a fine of not more than \$1,000.00, or both.

27 (12) Subsections (8) to (11) do not apply if the person

1 attacked was committing or attempting to commit an unlawful act on
2 the property of the owner of the animal.

3 (13) If an animal trained or used for fighting or an animal
4 that is the first or second generation offspring of a dog trained
5 or used for fighting goes beyond the property limits of its owner
6 without being securely restrained, the owner is guilty of a
7 misdemeanor punishable by imprisonment for not more than 90 days or
8 a fine of not less than \$50.00 nor more than \$500.00, or both.

9 (14) If an animal trained or used for fighting or an animal
10 that is the first or second generation offspring of a dog trained
11 or used for fighting is not securely enclosed or restrained on the
12 owner's property, the owner is guilty of a misdemeanor punishable
13 by imprisonment for not more than 90 days or a fine of not more
14 than \$500.00, or both.

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

17 (a) A dog trained or used for fighting, or the first or second
18 generation offspring of a dog trained or used for fighting, that is
19 used by a law enforcement agency of ~~the~~**THIS** state or a county,
20 city, village, or township.

21 (b) A certified leader dog recognized and trained by a
22 national guide dog association for the blind or for persons with
23 disabilities.

24 (c) A corporation licensed under the private security business
25 and security alarm act, 1968 PA 330, MCL 338.1051 to ~~338.1083,~~
26 **338.1092**, when a dog trained or used for fighting, or the first or
27 second generation offspring of a dog trained or used for fighting,

1 is used in accordance with the private security business and
2 security alarm act, 1968 PA 330, MCL 338.1051 to ~~338.1083~~-338.1092.

3 (16) An animal that has been used to fight in violation of
4 this section or that is involved in a violation of subsections (8)
5 to (14) shall be confiscated as contraband by a law enforcement
6 officer and shall not be returned to the owner, trainer, or
7 possessor of the animal. The animal shall be taken to a local
8 humane society or other animal welfare agency. If an animal owner,
9 trainer, or possessor is convicted of violating subsection (2) or
10 subsections (8) to (14), the court shall award the animal involved
11 in the violation to the local humane society or other animal
12 welfare agency.

13 (17) Upon receiving an animal confiscated under this section,
14 or at any time thereafter, an appointed veterinarian, the humane
15 society, or other animal welfare agency may humanely euthanize the
16 animal if, in the opinion of that veterinarian, humane society, or
17 other animal welfare agency, the animal is injured or diseased past
18 recovery or the animal's continued existence is inhumane so that
19 euthanasia is necessary to relieve pain and suffering.

20 (18) A humane society or other animal welfare agency that
21 receives an animal under this section shall apply to the district
22 court or municipal court for a hearing to determine whether the
23 animal shall be humanely euthanized because of its lack of any
24 useful purpose and the public safety threat it poses. The court
25 shall hold a hearing not more than 30 days after the filing of the
26 application and shall give notice of the hearing to the owner of
27 the animal. Upon a finding by the court that the animal lacks any

1 useful purpose and poses a threat to public safety, the humane
2 society or other animal welfare agency shall humanely euthanize the
3 animal. Expenses incurred in connection with the housing, care,
4 upkeep, or euthanasia of the animal by a humane society or other
5 animal welfare agency, or by a person, firm, partnership,
6 corporation, or other entity, shall be assessed against the owner
7 of the animal.

8 (19) Subject to subsections (16) to (18), all animals being
9 used or to be used in fighting, equipment, devices and money
10 involved in a violation of subsection (2) shall be forfeited to ~~the~~
11 **THIS** state. All other instrumentalities, proceeds, and substituted
12 proceeds of a violation of subsection (2) are subject to forfeiture
13 under chapter 47 of the revised judicature act of 1961, 1961 PA
14 236, MCL 600.4701 to 600.4709.

15 (20) The seizing agency may deposit money seized under
16 subsection (19) into an interest-bearing account in a financial
17 institution. As used in this subsection, "financial institution"
18 means a state or nationally chartered bank or a state or federally
19 chartered savings and loan association, savings bank, or credit
20 union whose deposits are insured by an agency of the United States
21 government and that maintains a principal office or branch office
22 located in this state under the laws of this state or the United
23 States.

24 (21) An attorney for a person who is charged with a violation
25 of subsection (2) involving or related to money seized under
26 subsection (19) shall be afforded a period of 60 days within which
27 to examine that money. This 60-day period shall begin to run after

1 notice of forfeiture is given but before the money is deposited
 2 into a financial institution under subsection (20). If the attorney
 3 general, prosecuting attorney, or city or township attorney fails
 4 to sustain his or her burden of proof in forfeiture proceedings
 5 under subsection (19), the court shall order the return of the
 6 money, including any interest earned on money deposited into a
 7 financial institution under subsection (20).

8 (22) This section does not apply to conduct that is permitted
 9 by and is in compliance with any of the following:

10 (a) Part 401 of the natural resources and environmental
 11 protection act, 1994 PA 451, MCL 324.40101 to ~~324.40119~~ **324.40120**.

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

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

16 (d) Part 417 of the natural resources and environmental
 17 protection act, 1994 PA 451, MCL 324.41701 to 324.41712.

18 (23) This section does not prohibit a person from being
 19 charged with, convicted of, or punished for any other violation of
 20 law that is committed by that person while violating this section.

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

22 (a) "Adequate care" means the provision of sufficient food,
 23 water, shelter, sanitary conditions, exercise, and veterinary
 24 medical attention in order to maintain an animal in a state of good
 25 health.

26 (b) "Animal" means ~~any~~ **A** vertebrate other than a human being
 27 **EXCEPT LIVESTOCK AS DEFINED IN SECTION 5 OF THE ANIMAL INDUSTRY**

1 **ACT, 1988 PA 466, MCL 287.705.**

2 (c) "Animal protection shelter" means a facility operated by a
3 person, humane society, society for the prevention of cruelty to
4 animals, or any other nonprofit organization, for the care of
5 homeless animals.

6 (d) "Animal control shelter" means a facility operated by a
7 county, city, village, or township to impound and care for animals
8 found in streets or otherwise at large contrary to any ordinance of
9 the county, city, village, or township or state law.

10 (e) "Licensed veterinarian" means a person licensed to
11 practice veterinary medicine under article 15 of the public health
12 code, 1978 PA 368, MCL 333.16101 to 333.18838.

13 (f) "Livestock" means that term as defined in the animal
14 industry act, ~~of 1987,~~ 1988 PA 466, MCL 287.701 to ~~287.747.~~ **287.746.**

15 (g) "Person" means an individual, partnership, limited
16 liability company, corporation, association, governmental entity,
17 or other legal entity.

18 (h) "Neglect" means to fail to sufficiently and properly care
19 for an animal to the extent that the animal's health is
20 jeopardized.

21 (i) "Sanitary conditions" means space free from health hazards
22 including excessive animal waste, overcrowding of animals, or other
23 conditions that endanger the animal's health. This definition does
24 not include any condition resulting from a customary and reasonable
25 practice pursuant to farming or animal husbandry.

26 (j) "Shelter" means adequate protection from the elements and
27 weather conditions suitable for the age, species, and physical

1 condition of the animal so as to maintain the animal in a state of
2 good health. Shelter, for livestock, includes structures or natural
3 features such as trees or topography. Shelter, for a dog, includes
4 1 or more of the following:

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

6 (ii) A doghouse that is an enclosed structure with a roof and
7 of appropriate dimensions for the breed and size of the dog. The
8 doghouse shall have dry bedding when the outdoor temperature is or
9 is predicted to drop below freezing.

10 (iii) A structure, including a garage, barn, or shed, that is
11 sufficiently insulated and ventilated to protect the dog from
12 exposure to extreme temperatures or, if not sufficiently insulated
13 and ventilated, contains a doghouse as provided under subparagraph
14 (ii) that is accessible to the dog.

15 (k) "State of good health" means freedom from disease and
16 illness, and in a condition of proper body weight and temperature
17 for the age and species of the animal, unless the animal is
18 undergoing appropriate treatment.

19 (l) "Tethering" means the restraint and confinement of a dog by
20 use of a chain, rope, or similar device.

21 (m) "Water" means potable water that is suitable for the age
22 and species of animal that is made regularly available unless
23 otherwise directed by a licensed veterinarian.

24 (2) An owner, possessor, or person ~~having~~ **WHO HAS** the charge
25 or custody of an animal shall not do any of the following:

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

27 (b) Cruelly drive, work, or beat an animal, or cause an animal

1 to be cruelly driven, worked, or beaten.

2 (c) Carry or cause to be carried in or upon a vehicle or
3 otherwise any live animal ~~having the~~ **WITH ITS** feet or legs tied
4 together, other than an animal being transported for medical care,
5 or a horse whose feet are hobbled to protect the horse during
6 transport, or in any other cruel and inhumane manner.

7 (d) Carry or cause to be carried a live animal in or upon a
8 vehicle or otherwise without providing a secure space, rack, car,
9 crate, or cage, in which livestock may stand, and in which all
10 other animals may stand, turn around, and lie down during
11 transportation, or while awaiting slaughter. As used in this
12 subdivision, for purposes of transportation of sled dogs, "stand"
13 means sufficient vertical distance to allow the animal to stand
14 without its shoulders touching the top of the crate or
15 transportation vehicle.

16 (e) Abandon an animal or cause an animal to be abandoned, in
17 any place, without making provisions for the animal's adequate
18 care, unless premises are vacated for the protection of human life
19 or the prevention of injury to a human. An animal that is lost by
20 an owner or custodian while traveling, walking, hiking, or hunting
21 is not abandoned under this section ~~when~~ **IF** the owner or custodian
22 has made a reasonable effort to locate the animal.

23 (f) Negligently allow any animal, including one who is aged,
24 diseased, maimed, hopelessly sick, disabled, or nonambulatory to
25 suffer unnecessary neglect, torture, or pain.

26 (g) Tether a dog unless the tether is at least 3 times the
27 length of the dog as measured from the tip of its nose to the base

1 of its tail and is attached to a harness or nonchoke collar
2 designed for tethering.

3 (3) If an animal is impounded and is being held by an animal
4 control shelter or its designee or an animal protection shelter or
5 its designee or a licensed veterinarian pending the outcome of a
6 criminal action charging a violation of this section or section
7 50b, before final disposition of the criminal charge, the
8 prosecuting attorney may file a civil action in the court that has
9 jurisdiction of the criminal action, requesting that the court
10 issue an order forfeiting the animal to the animal control shelter
11 or animal protection shelter or to a licensed veterinarian before
12 final disposition of the criminal charge. The prosecuting attorney
13 shall serve a true copy of the summons and complaint upon the
14 defendant and upon a person with a known ownership **OR SECURITY**
15 ~~interest or known security interest~~ in the animal or a person who
16 has filed a lien with the secretary of state in an animal involved
17 in the pending action. The forfeiture of an animal under this
18 section encumbered by a security interest is subject to the
19 interest of the holder of the security interest who did not have
20 prior knowledge of ~~—~~or consent to the commission of the crime.
21 Upon the filing of the civil action, the court shall set a hearing
22 on the complaint. The hearing shall be conducted within 14 days of
23 the filing of the civil action, or as soon as practicable. The
24 hearing shall be before a judge without a jury. At the hearing, the
25 prosecuting attorney has the burden of establishing by a
26 preponderance of the evidence that a violation of this section or
27 section 50b occurred. If the court finds that the prosecuting

1 attorney has met this burden, the court shall order immediate
2 forfeiture of the animal to the animal control shelter or animal
3 protection shelter or the licensed veterinarian unless the
4 defendant, within 72 hours of the hearing, submits to the court
5 clerk cash or other form of security in an amount determined by the
6 court to be sufficient to repay all reasonable costs incurred, and
7 anticipated to be incurred, by the animal control shelter or animal
8 protection shelter or the licensed veterinarian in caring for the
9 animal from the date of initial impoundment to the date of trial.
10 If cash or other security has been submitted, and the trial in the
11 action is continued at a later date, any order of continuance shall
12 require the defendant to submit additional cash or security in an
13 amount determined by the court to be sufficient to repay all
14 additional reasonable costs anticipated to be incurred by the
15 animal control shelter or animal protection shelter or the licensed
16 veterinarian in caring for the animal until the new date of trial.
17 If the defendant submits cash or other security to the court under
18 this subsection the court may enter an order authorizing the use of
19 that money or other security before final disposition of the
20 criminal charges to pay the reasonable costs incurred by the animal
21 control shelter or animal protection shelter or the licensed
22 veterinarian in caring for the animal from the date of impoundment
23 to the date of final disposition of the criminal charges. The
24 testimony of a person at a hearing held under this subsection is
25 not admissible against him or her in any criminal proceeding except
26 in a criminal prosecution for perjury. The testimony of a person at
27 a hearing held under this subsection does not waive the person's

1 constitutional right against self-incrimination. An animal seized
2 under this section or section 50b is not subject to any other civil
3 action pending the final judgment of the forfeiture action under
4 this subsection.

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

7 (a) Except as otherwise provided in subdivisions (c) and (d),
8 if the violation involved 1 animal, the person is guilty of a
9 misdemeanor punishable by 1 or more of the following and may be
10 ordered to pay the costs of prosecution:

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

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

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

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

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

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

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

22 (c) If the violation involved 4 or more animals but fewer than
23 10 animals or the person had 1 prior conviction under subsection
24 (2), the person is guilty of a felony punishable by 1 or more of
25 the following and may be ordered to pay the costs of prosecution:

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

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

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

2 (d) If the violation involved 10 or more animals or the person
3 had 2 or more prior convictions for violating subsection (2), the
4 person is guilty of a felony punishable by 1 or more of the
5 following and may be ordered to pay the costs of prosecution:

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

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

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

9 (5) The court may order a person convicted of violating
10 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 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~~^A 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

1 the applicable costs listed in this subsection, or orders only
2 partial payment of these costs, the court shall state on the record
3 the reason for that action.

4 (9) As a part of the sentence for a violation of subsection
5 (2), the court ~~may,~~ **SHALL,** as a condition of probation, order the
6 defendant not to own or possess an animal for a period of time not
7 to exceed the period of probation. If a person is convicted of a
8 second or subsequent violation of subsection (2), the court ~~may~~
9 **SHALL, AS A CONDITION OF PROBATION,** order the defendant not to own
10 or possess an animal for ~~any~~ **A period of time AT LEAST 5 YEARS**
11 **AFTER THE DATE OF SENTENCING OR THE DATE OF RELEASE FROM**
12 **INCARCERATION, WHICHEVER IS LATER, including AND MAY ORDER**
13 permanent relinquishment of animal ownership.

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

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

24 (a) Fishing.

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

1 (c) Horse racing.

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

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

6 (f) Farming or a generally accepted animal husbandry or
7 farming practice involving livestock.

8 (g) Activities authorized under rules promulgated under
9 section 9 of the executive organization act of 1965, 1965 PA 380,
10 MCL 16.109.

11 (h) Scientific research under 1969 PA 224, MCL 287.381 to
12 287.395.

13 (i) Scientific research under sections 2226, 2671, 2676, and
14 7333 of the public health code, 1978 PA 368, MCL 333.2226,
15 333.2671, 333.2676, and 333.7333.

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

20 Sec. 50b. (1) As used in this section, "animal" means ~~any~~**A**
21 vertebrate other than a human being **EXCEPT LIVESTOCK AS DEFINED IN**
22 **SECTION 5 OF THE ANIMAL INDUSTRY ACT, 1988 PA 466, MCL 287.705.**

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

25 (a) Knowingly kill, torture, mutilate, maim, or disfigure an
26 animal.

27 (b) Commit a reckless act knowing or having reason to know

1 that the act will cause an animal to be killed, tortured,
2 mutilated, maimed, or disfigured.

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

6 (3) A person who violates subsection (2) is guilty of a felony
7 punishable by 1 or more of the following:

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

9 (b) A fine of not more than \$5,000.00 for a single animal and
10 \$2,500.00 for each additional animal involved in the violation, but
11 not to exceed a total of \$20,000.00.

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

13 (4) 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 impacted animal victim, as applicable. If the
17 court 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 (5) 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 own expense.

27 (6) As a part of the sentence for a violation of subsection

1 (2), the court ~~may~~ **SHALL, AS A CONDITION OF PROBATION,** order the
2 defendant not to own or possess an animal for ~~any~~ **A** period of ~~time~~
3 ~~determined by the court,~~ **AT LEAST 5 YEARS AFTER THE DATE OF**
4 **SENTENCING OR THE DATE OF RELEASE FROM INCARCERATION, WHICHEVER IS**
5 **LATER,** ~~which~~ **AND** may ~~include~~ **ORDER** permanent relinquishment **OF**
6 **ANIMAL OWNERSHIP.**

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

15 (8) This section does not prohibit the lawful killing of
16 livestock or a customary animal husbandry or farming practice
17 involving livestock. ~~As used in this subsection, "livestock" means~~
18 ~~that term as defined in section 5 of the animal industry act, 1988~~
19 ~~PA 466, MCL 287.705.~~

20 (9) This section does not prohibit the lawful killing of an
21 animal pursuant to any of the following:

22 (a) Fishing.

23 (b) Hunting, trapping, or wildlife control regulated under the
24 natural resources and environmental protection act, 1994 PA 451,
25 MCL 324.101 to 324.90106, and orders issued under that act.

26 (c) Pest or rodent control regulated under part 83 of the
27 natural resources and environmental protection act, 1994 PA 451,

1 MCL 324.8301 to 324.8336.

2 (d) Activities authorized under rules promulgated under
3 section 9 of the executive organization act of 1965, 1965 PA 380,
4 MCL 16.109.

5 (e) Section 19 of the dog law of 1919, 1919 PA 339, MCL
6 287.279.

7 (10) This section does not prohibit the lawful killing or use
8 of an animal for scientific research under any of the following or
9 a rule promulgated under any of the following:

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

11 (b) Sections 2226, 2671, 2676, ~~7109~~, and 7333 of the public
12 health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676,
13 ~~333.7109~~, and 333.7333.

14 (11) 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. 158. (1) ~~Any~~ **A** person who ~~shall commit~~ **COMMITTS** the
19 abominable and detestable crime against nature either with mankind
20 or with any animal ~~shall be~~ **IS** guilty of a felony ~~,~~ punishable by
21 imprisonment ~~in the state prison~~ **FOR** not more than 15 years, or if
22 ~~such person~~ **THE DEFENDANT** was **A SEXUALLY DELINQUENT PERSON** at the
23 time of the ~~said offense, a sexually delinquent person, may be~~ **A**
24 **FELONY** punishable by imprisonment ~~in the state prison~~ for an
25 indeterminate term, the minimum of which shall be 1 day and the
26 maximum of which shall be life.

27 (2) **AS PART OF THE SENTENCE FOR A VIOLATION OF SUBSECTION (1),**

1 THE COURT SHALL, AS A CONDITION OF PROBATION, ORDER THE PERSON
2 CONVICTED NOT TO OWN OR POSSESS AN ANIMAL FOR A PERIOD OF AT LEAST
3 5 YEARS AFTER THE DATE OF SENTENCING OR THE DATE OF RELEASE FROM
4 INCARCERATION, WHICHEVER IS LATER, AND MAY ORDER PERMANENT
5 RELINQUISHMENT OF ANIMAL OWNERSHIP.