

# HOUSE BILL No. 4755

May 21, 2013, Introduced by Rep. Santana and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 49, 50, and 50b (MCL 750.49, 750.50, and 750.50b), 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**.

3           (2) A person shall not knowingly do any of the following:

4           (a) Own, possess, use, buy, sell, offer to buy or sell,  
5 import, or export an animal for fighting or baiting, or as a target  
6 to be shot at as a test of skill in marksmanship.

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

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

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

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

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

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

24 (h) Own, possess, use, buy, sell, offer to buy or sell,  
25 transport, or deliver any device or equipment intended for use in  
26 the fighting, baiting, or shooting of an animal as described in  
27 subdivisions (a) to (d).

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

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

4 (b) A fine of not less than \$5,000.00 or more than \$50,000.00.

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

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

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

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

11 (c) Not less than 250 or more than 500 hours of community  
12 service.

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

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

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

26 (8) If a person incites an animal trained or used for fighting  
27 or an animal that is the first or second generation offspring of an

1 animal trained or used for fighting to attack a person and thereby  
2 **THAT ATTACK** causes the death of that person, the owner is guilty of  
3 a felony punishable by imprisonment for life or for a term of years  
4 greater than 15 years.

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

11 (10) If an animal trained or used for fighting or an animal  
12 that is the first or second generation offspring of an animal  
13 trained or used for fighting attacks a person without provocation  
14 and causes the death of that person, the owner of the animal is  
15 guilty of a felony punishable by imprisonment for not more than 15  
16 years.

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

23 (12) Subsections (8) to (11) do not apply if the person  
24 attacked was committing or attempting to commit an unlawful act on  
25 the property of the owner of the animal.

26 (13) If an animal trained or used for fighting or an animal  
27 that is the first or second generation offspring of a dog trained

1 or used for fighting goes beyond the property limits of its owner  
2 without being securely restrained, the owner is guilty of a  
3 misdemeanor punishable by imprisonment for not more than 90 days or  
4 a fine of not less than \$50.00 nor more than \$500.00, or both.

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

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

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

17 (b) A certified leader dog recognized and trained by a  
18 national guide dog association for the blind or for persons with  
19 disabilities.

20 (c) A corporation licensed under the private security business  
21 and security alarm act, 1968 PA 330, MCL 338.1051 to ~~338.1083,~~  
22 **338.1092**, when a dog trained or used for fighting, or the first or  
23 second generation offspring of a dog trained or used for fighting,  
24 is used in accordance with the private security business and  
25 security alarm act, 1968 PA 330, MCL 338.1051 to ~~338.1083-~~**338.1092.**

26 (16) An animal that has been used to fight in violation of  
27 this section or that is involved in a violation of subsections (8)

1 to (14) shall be confiscated as contraband by a law enforcement  
2 officer and shall not be returned to the owner, trainer, or  
3 possessor of the animal. The animal shall be taken to a local  
4 humane society or other animal welfare agency. If an animal owner,  
5 trainer, or possessor is convicted of violating subsection (2) or  
6 subsections (8) to (14), the court shall award the animal involved  
7 in the violation to the local humane society or other animal  
8 welfare agency.

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

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

1 animal welfare agency, or by a person, firm, partnership,  
2 corporation, or other entity, shall be assessed against the owner  
3 of the animal.

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

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

20 (21) An attorney for a person who is charged with a violation  
21 of subsection (2) involving or related to money seized under  
22 subsection (19) shall be afforded a period of 60 days within which  
23 to examine that money. This 60-day period shall begin to run after  
24 notice of forfeiture is given but before the money is deposited  
25 into a financial institution under subsection (20). If the attorney  
26 general, prosecuting attorney, or city or township attorney fails  
27 to sustain his or her burden of proof in forfeiture proceedings

1 under subsection (19), the court shall order the return of the  
2 money, including any interest earned on money deposited into a  
3 financial institution under subsection (20).

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

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

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

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

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

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

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

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

22 (b) "Animal" means ~~any~~-A vertebrate other than a human being.

23 (c) "Animal protection shelter" means a facility operated by a  
24 person, humane society, society for the prevention of cruelty to  
25 animals, or any other nonprofit organization, for the care of  
26 homeless animals.

27 (d) "Animal control shelter" means a facility operated by a



1 county, city, village, or township to impound and care for animals  
2 found in streets or otherwise at large contrary to any ordinance of  
3 the county, city, village, or township or state law.

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

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

9 (g) "Person" means an individual, partnership, limited  
10 liability company, corporation, association, governmental entity,  
11 or other legal entity.

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

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

20 (j) "Shelter" means adequate protection from the elements and  
21 weather conditions suitable for the age, species, and physical  
22 condition of the animal so as to maintain the animal in a state of  
23 good health. Shelter, for livestock, includes structures or natural  
24 features such as trees or topography. Shelter, for a dog, includes  
25 1 or more of the following:

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

27 (ii) A doghouse that is an enclosed structure with a roof and

1 of appropriate dimensions for the breed and size of the dog. The  
2 doghouse shall have dry bedding when the outdoor temperature is or  
3 is predicted to drop below freezing.

4 (iii) A structure, including a garage, barn, or shed, that is  
5 sufficiently insulated and ventilated to protect the dog from  
6 exposure to extreme temperatures or, if not sufficiently insulated  
7 and ventilated, contains a doghouse as provided under subparagraph  
8 (ii) that is accessible to the dog.

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

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

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

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

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

21 (b) Cruelly drive, work, or beat an animal, or cause an animal  
22 to be cruelly driven, worked, or beaten.

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

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

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

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

20 (g) Tether a dog unless the tether is at least 3 times the  
21 length of the dog as measured from the tip of its nose to the base  
22 of its tail and is attached to a harness or nonchoke collar  
23 designed for tethering.

24 (3) If an animal is impounded and is being held by an animal  
25 control shelter or its designee or an animal protection shelter or  
26 its designee or a licensed veterinarian pending the outcome of a  
27 criminal action charging a violation of this section or section

1 50b, before final disposition of the criminal charge, the  
2 prosecuting attorney may file a civil action in the court that has  
3 jurisdiction of the criminal action, requesting that the court  
4 issue an order forfeiting the animal to the animal control shelter  
5 or animal protection shelter or to a licensed veterinarian before  
6 final disposition of the criminal charge. The prosecuting attorney  
7 shall serve a true copy of the summons and complaint upon the  
8 defendant and upon a person with a known ownership **OR SECURITY**  
9 interest ~~or known security interest~~ in the animal or a person who  
10 has filed a lien with the secretary of state in an animal involved  
11 in the pending action. The forfeiture of an animal under this  
12 section encumbered by a security interest is subject to the  
13 interest of the holder of the security interest who did not have  
14 prior knowledge of ~~—~~or consent to the commission of the crime.  
15 Upon the filing of the civil action, the court shall set a hearing  
16 on the complaint. The hearing shall be conducted within 14 days of  
17 the filing of the civil action, or as soon as practicable. The  
18 hearing shall be before a judge without a jury. At the hearing, the  
19 prosecuting attorney has the burden of establishing by a  
20 preponderance of the evidence that a violation of this section or  
21 section 50b occurred. If the court finds that the prosecuting  
22 attorney has met this burden, the court shall order immediate  
23 forfeiture of the animal to the animal control shelter or animal  
24 protection shelter or the licensed veterinarian unless the  
25 defendant, within 72 hours of the hearing, submits to the court  
26 clerk cash or other form of security in an amount determined by the  
27 court to be sufficient to repay all reasonable costs incurred, and

1 anticipated to be incurred, by the animal control shelter or animal  
2 protection shelter or the licensed veterinarian in caring for the  
3 animal from the date of initial impoundment to the date of trial.  
4 If cash or other security has been submitted, and the trial in the  
5 action is continued at a later date, any order of continuance shall  
6 require the defendant to submit additional cash or security in an  
7 amount determined by the court to be sufficient to repay all  
8 additional reasonable costs anticipated to be incurred by the  
9 animal control shelter or animal protection shelter or the licensed  
10 veterinarian in caring for the animal until the new date of trial.  
11 If the defendant submits cash or other security to the court under  
12 this subsection the court may enter an order authorizing the use of  
13 that money or other security before final disposition of the  
14 criminal charges to pay the reasonable costs incurred by the animal  
15 control shelter or animal protection shelter or the licensed  
16 veterinarian in caring for the animal from the date of impoundment  
17 to the date of final disposition of the criminal charges. The  
18 testimony of a person at a hearing held under this subsection is  
19 not admissible against him or her in any criminal proceeding except  
20 in a criminal prosecution for perjury. The testimony of a person at  
21 a hearing held under this subsection does not waive the person's  
22 constitutional right against self-incrimination. An animal seized  
23 under this section or section 50b is not subject to any other civil  
24 action pending the final judgment of the forfeiture action under  
25 this subsection.

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

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

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

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

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

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

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

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

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

16 (c) If the violation involved 4 or more animals but fewer than  
17 10 animals or the person had 1 prior conviction under subsection  
18 (2), the person is guilty of a felony punishable by 1 or more of  
19 the following and may be ordered to pay the costs of prosecution:

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

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

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

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

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

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

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

3 (5) The court may order a person convicted of violating  
4 subsection (2) to be evaluated to determine the need for  
5 psychiatric or psychological counseling and, if determined  
6 appropriate by the court, to receive psychiatric or psychological  
7 counseling. The evaluation and counseling shall be at the  
8 defendant's own expense.

9 (6) This section does not prohibit a person from being charged  
10 with, convicted of, or punished for any other violation of law  
11 arising out of the same transaction as ~~the~~**A** violation of this  
12 section.

13 (7) The court may order a term of imprisonment imposed for a  
14 violation of this section to be served consecutively to a term of  
15 imprisonment imposed for any other crime including any other  
16 violation of law arising out of the same transaction as the  
17 violation of this section.

18 (8) As a part of the sentence for a violation of subsection  
19 (2), the court may order the defendant to pay the costs of the  
20 care, housing, and veterinary medical care for the animal, as  
21 applicable. If the court does not order a defendant to pay all of  
22 the applicable costs listed in this subsection, or orders only  
23 partial payment of these costs, the court shall state on the record  
24 the reason for that action.

25 (9) As a part of the sentence for a violation of subsection  
26 (2), the court ~~may,~~**SHALL,** as a condition of probation, order the  
27 defendant not to own or possess an animal for a period of time not

1 to exceed the period of probation. If a person is convicted of a  
2 second or subsequent violation of subsection (2), the court ~~may~~  
3 **SHALL** order the defendant not to own or possess an animal for ~~any~~**A**  
4 period of ~~time~~**AT LEAST 5 YEARS AFTER THE DATE OF SENTENCING OR THE**  
5 **DATE OF RELEASE FROM INCARCERATION, WHICHEVER IS LATER, including**  
6 **AND MAY ORDER** permanent relinquishment of animal ownership.

7 (10) A person who owns or possesses an animal in violation of  
8 an order issued under subsection (9) 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 (9) 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 by a fine of not more than \$500.00, or both.

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

17 (a) Fishing.

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

21 (c) Horse racing.

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

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

26 (f) Farming or a generally accepted animal husbandry or  
27 farming practice involving livestock.



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

4 (h) Scientific research under 1969 PA 224, MCL 287.381 to  
5 287.395.

6 (i) Scientific research under sections 2226, 2671, 2676, and  
7 7333 of the public health code, 1978 PA 368, MCL 333.2226,  
8 333.2671, 333.2676, and 333.7333.

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

13 Sec. 50b. (1) As used in this section, "animal" means ~~any~~<sup>A</sup>  
14 vertebrate other than a human being.

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

17 (a) Knowingly kill, torture, mutilate, maim, or disfigure an  
18 animal.

19 (b) Commit a reckless act knowing or having reason to know  
20 that the act will cause an animal to be killed, tortured,  
21 mutilated, maimed, or disfigured.

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

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

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

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

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

5 (4) As a part of the sentence for a violation of subsection  
6 (2), the court may order the defendant to pay the costs of the  
7 prosecution and the costs of the care, housing, and veterinary  
8 medical care for the impacted animal victim, as applicable. If the  
9 court does not order a defendant to pay all of the applicable costs  
10 listed in this subsection, or orders only partial payment of these  
11 costs, the court shall state on the record the reasons for that  
12 action.

13 (5) If a term of probation is ordered for a violation of  
14 subsection (2), the court may include as a condition of that  
15 probation that the defendant be evaluated to determine the need for  
16 psychiatric or psychological counseling and, if determined  
17 appropriate by the court, to receive psychiatric or psychological  
18 counseling at his or her own expense.

19 (6) As a part of the sentence for a violation of subsection  
20 (2), the court ~~may~~ **SHALL** order the defendant not to own or possess  
21 an animal for ~~any~~ **A** period of ~~time determined by the court,~~ **AT**  
22 **LEAST 5 YEARS AFTER THE DATE OF SENTENCING OR THE DATE OF RELEASE**  
23 **FROM INCARCERATION, WHICHEVER IS LATER, which** ~~AND may include~~ **ORDER**  
24 permanent relinquishment **OF ANIMAL OWNERSHIP.**

25 (7) A person who owns or possesses an animal in violation of  
26 an order issued under subsection (6) is subject to revocation of  
27 probation if the order is issued as a condition of probation. A

1 person who owns or possesses an animal in violation of an order  
2 issued under subsection (6) is also subject to the civil and  
3 criminal contempt power of the court and, if found guilty of  
4 criminal contempt, may be punished by imprisonment for not more  
5 than 90 days or a fine of not more than \$500.00, or both.

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

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

13 (a) Fishing.

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

17 (c) Pest or rodent control regulated under part 83 of the  
18 natural resources and environmental protection act, 1994 PA 451,  
19 MCL 324.8301 to 324.8336.

20 (d) Activities authorized under rules promulgated under  
21 section 9 of the executive organization act of 1965, 1965 PA 380,  
22 MCL 16.109.

23 (e) Section 19 of the dog law of 1919, 1919 PA 339, MCL  
24 287.279.

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

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

2 (b) Sections 2226, 2671, 2676, ~~7109~~, and 7333 of the public  
3 health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676,  
4 ~~333.7109~~, and 333.7333.

5 (11) This section does not apply to a veterinarian or a  
6 veterinary technician lawfully engaging in the practice of  
7 veterinary medicine under part 188 of the public health code, 1978  
8 PA 368, MCL 333.18801 to 333.18838.