

HOUSE BILL No. 4765

July 14, 2015, Introduced by Reps. McCready, Kesto, Webber, Graves, Glardon, Glenn, Sheppard, Pscholka, McBroom, Santana and Heise and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 49 (MCL 750.49), as amended by 2006 PA 129.

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).
9 (c) Rent or otherwise obtain the use of a building, shed,
10 room, yard, ground, or premises for fighting, baiting, or shooting

1 an animal as described in subdivision (a).

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

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

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

13 (g) Breed, buy, sell, offer to buy or sell, exchange, import,
14 or export an animal the person knows has been trained or used for
15 fighting as described in subdivisions (a) to (d), or breed, buy,
16 sell, offer to buy or sell, exchange, import, or export the
17 offspring of an animal the person knows has been trained or used
18 for fighting as described in subdivisions (a) to (d). This
19 subdivision does not prohibit owning, breeding, buying, selling,
20 offering to buy or sell, exchanging, importing, or exporting an
21 animal for agricultural or agricultural exposition purposes. **THIS**
22 **SUBDIVISION DOES NOT PROHIBIT AN ANIMAL CONTROL SHELTER, ANIMAL**
23 **PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY FROM OWNING,**
24 **ADOPTING, OR TRANSFERRING OWNERSHIP OF AN ANIMAL FOR THE PURPOSE OF**
25 **ADOPTION OF AN ANIMAL TRAINED OR USED FOR FIGHTING AS DESCRIBED IN**
26 **SUBDIVISIONS (A) TO (D) OR AN ANIMAL THAT IS THE FIRST- OR SECOND-**
27 **GENERATION OFFSPRING OF AN ANIMAL TRAINED OR USED FOR FIGHTING AS**

1 DESCRIBED IN SUBDIVISIONS (A) TO (D), IF THE ANIMAL CONTROL
2 SHELTER, ANIMAL PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY FINDS
3 THAT THE ANIMAL IS FIT FOR PLACEMENT AND DOES NOT POSE A THREAT TO
4 THE PUBLIC SAFETY.

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

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

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

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

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

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

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

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

19 (c) Not less than 250 or more than 500 hours of community
20 service.

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

23 (6) The court may order a person convicted of violating this
24 section to pay the costs for housing and caring for the animal,
25 including, but not limited to, providing veterinary medical
26 treatment, **INVESTIGATING THE VIOLATION OF THIS SECTION, AND**
27 **DISPOSITION OF THE ANIMAL. AS USED IN THIS SUBSECTION,**

1 **"DISPOSITION" INCLUDES THE TRANSFER, EUTHANASIA, OR ADOPTION OF AN**
2 **ANIMAL.**

3 (7) As part of the sentence for a violation of subsection (2),
4 the court shall order the person convicted not to own or possess an
5 animal of the same species involved in the violation of this
6 section for 5 years after the date of sentencing. Failure to comply
7 with the order of the court pursuant to this subsection is
8 punishable as contempt of court.

9 (8) 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 and ~~thereby~~
12 **THE ATTACK** causes the death of that person, the owner is guilty of
13 a felony punishable by imprisonment for life or for a term of years
14 greater than 15 years.

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

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

27 (11) If an animal trained or used for fighting or an animal

1 that is the first or second generation offspring of an animal
2 trained or used for fighting attacks a person without provocation,
3 but the attack does not cause the death of the person, the owner is
4 guilty of a misdemeanor punishable by imprisonment for not more
5 than 1 year or a fine of not more than \$1,000.00, or both.

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

9 (13) 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 goes beyond the property limits of its owner
12 without being securely restrained, the owner is guilty of a
13 misdemeanor punishable by imprisonment for not more than 90 days or
14 a fine of not less than \$50.00 nor more than \$500.00, or both.

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

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

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

27 (b) A certified leader dog recognized and trained by a

1 national guide dog association for the blind or for persons with
2 disabilities.

3 (c) A corporation licensed under the private security business
4 and security alarm act, 1968 PA 330, MCL 338.1051 to ~~338.1083,~~
5 **338.1092**, when a dog trained or used for fighting, or the first or
6 second generation offspring of a dog trained or used for fighting,
7 is used in accordance with the private security business and
8 security alarm act, 1968 PA 330, MCL 338.1051 to ~~338.1083.~~**338.1092.**

9 (16) An animal that has been used to fight in violation of
10 this section or that is involved in a violation of subsections (8)
11 to (14) shall be confiscated as contraband by a law enforcement
12 officer and shall not be returned to the owner, trainer, or
13 possessor of the animal. The animal shall be taken to a local
14 ~~humane society or other animal welfare~~**CONTROL SHELTER, ANIMAL**
15 **PROTECTION SHELTER, OR LAW ENFORCEMENT** agency. If an animal owner,
16 trainer, or possessor is convicted of violating subsection (2) or
17 subsections (8) to (14), the court shall award the animal involved
18 in the violation to the ~~local humane society or other animal~~
19 ~~welfare~~**CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR LAW**
20 **ENFORCEMENT** agency **FOR EVALUATION AND DISPOSITION.**

21 (17) **AN ANIMAL CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR**
22 **LAW ENFORCEMENT AGENCY TAKING CUSTODY OF AN ANIMAL UNDER SUBSECTION**
23 **(16) SHALL GIVE NOTICE WITHIN 72 HOURS AFTER SEIZURE OF THE ANIMAL**
24 **BY 1 OF THE FOLLOWING METHODS:**

25 (A) **POSTING AT THE LOCATION OF THE SEIZURE.**

26 (B) **DELIVERY TO A PERSON RESIDING AT THE LOCATION OF THE**
27 **SEIZURE.**

1 (C) REGISTERED MAIL TO THE OWNER OF THE ANIMAL'S LAST-KNOWN
2 ADDRESS, IF THE OWNER OF THE ANIMAL IS KNOWN.

3 (D) REGISTERED MAIL TO THE LOCATION OF THE SEIZURE, IF THE
4 OWNER OF THE ANIMAL IS UNKNOWN.

5 (18) THE NOTICE REQUIRED UNDER SUBSECTION (17) SHALL INCLUDE
6 ALL OF THE FOLLOWING:

7 (A) A DESCRIPTION OF EACH ANIMAL SEIZED.

8 (B) THE TIME, DATE, LOCATION, AND DESCRIPTION OF CIRCUMSTANCES
9 UNDER WHICH THE ANIMAL WAS SEIZED.

10 (C) THE ADDRESS AND TELEPHONE NUMBER OF THE LOCATION WHERE THE
11 ANIMAL IS BEING HELD AND CONTACT INFORMATION FOR THE INDIVIDUAL
12 PRESENT AT THAT LOCATION FROM WHOM SECURITY DEPOSIT OR BOND
13 INFORMATION MAY BE OBTAINED.

14 (D) A STATEMENT THAT THE OWNER OR POSSESSOR OF THE ANIMAL MAY
15 POST A SECURITY DEPOSIT OR BOND TO PREVENT THE FORFEITURE OF THE
16 ANIMAL, THAT FAILURE TO POST A SECURITY DEPOSIT OR BOND WITHIN 14
17 DAYS AFTER THE DATE ON THE NOTICE WILL RESULT IN FORFEITURE OF THE
18 ANIMAL, AND THAT THE OWNER OR POSSESSOR OF THE ANIMAL MAY REQUEST A
19 HEARING ON WHETHER THE COST ASSOCIATED WITH THE SECURITY DEPOSIT OR
20 BOND IS FAIR AND REASONABLE FOR THE CARE OF AND PROVISION FOR THE
21 SEIZED ANIMAL.

22 (E) A STATEMENT THAT THE OWNER OR POSSESSOR OF THE ANIMAL IS
23 RESPONSIBLE FOR ALL COSTS DESCRIBED IN SUBSECTION (6), UNLESS THE
24 COURT DETERMINES THAT THE SEIZURE OF THE ANIMAL WAS NOT
25 SUBSTANTIALLY JUSTIFIED BY LAW.

26 (19) AN ANIMAL CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR
27 LAW ENFORCEMENT AGENCY THAT HAS SEIZED AN ANIMAL UNDER SUBSECTION

(16) SHALL HOLD THE ANIMAL FOR A PERIOD OF 14 CONSECUTIVE DAYS, INCLUDING WEEKENDS AND HOLIDAYS, BEGINNING ON THE DATE NOTICE WAS GIVEN UNDER SUBSECTION (17). AFTER THE EXPIRATION OF THE 14 DAYS, IF THE OWNER OR A POSSESSOR OF THE ANIMAL HAS NOT POSTED A SECURITY DEPOSIT OR BOND AS PROVIDED IN SUBSECTION (20), THE ANIMAL IS FORFEITED, AND THE ANIMAL CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY MAY DISPOSE OF THE ANIMAL BY ADOPTION, TRANSFER TO ANOTHER ANIMAL CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY, OR HUMANE EUTHANASIA. AN ANIMAL CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY THAT TRANSFERS OR ADOPTS AN ANIMAL AS DESCRIBED IN THIS SUBSECTION SHALL PROVIDE A COPY OF THE ANIMAL'S HISTORY, INCLUDING A DESCRIPTION OF WHY THE ANIMAL WAS SEIZED, VETERINARY RECORDS AND BEHAVIORAL ASSESSMENTS, AND A COPY OF SUBSECTIONS (8) TO (14), TO THE PERSON TO WHOM THE ANIMAL IS TRANSFERRED OR ADOPTED.

(20) THE OWNER OR POSSESSOR OF AN ANIMAL SEIZED UNDER SUBSECTION (16) MAY PREVENT FORFEITURE AND DISPOSITION OF THE ANIMAL BY AN ANIMAL CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY BY POSTING A SECURITY DEPOSIT OR BOND WITH THE COURT WITHIN 14 DAYS AFTER RECEIVING THE NOTICE DESCRIBED IN SUBSECTION (18). THE BOND SHALL BE IN A SUFFICIENT AMOUNT TO SECURE PAYMENT OF ALL COSTS DESCRIBED IN SUBSECTION (6) DURING A 30-DAY PERIOD OF BOARDING AND VETERINARY TREATMENT OF THE ANIMAL AFTER EXAMINATION BY A LICENSED VETERINARIAN. THE ANIMAL CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY SHALL DETERMINE THE AMOUNT OF THE BOND NO LATER THAN 72 HOURS AFTER THE

1 SEIZURE OF THE ANIMAL, AND SHALL MAKE THE AMOUNT OF THE BOND
2 AVAILABLE TO THE OWNER OR POSSESSOR OF THE ANIMAL UPON REQUEST. THE
3 OWNER OR POSSESSOR OF THE ANIMAL SHALL PROVIDE PROOF OF THE
4 SECURITY DEPOSIT OR BOND TO THE ANIMAL CONTROL SHELTER, ANIMAL
5 PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY NO LATER THAN 14 DAYS
6 AFTER RECEIVING THE NOTICE DESCRIBED IN SUBSECTION (18).

7 (21) AN ANIMAL CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR
8 LAW ENFORCEMENT AGENCY THAT IS HOLDING A SEIZED ANIMAL AS PROVIDED
9 IN THIS SECTION MAY DRAW ON A SECURITY DEPOSIT OR BOND POSTED UNDER
10 SUBSECTION (20) TO COVER THE ACTUAL REASONABLE COSTS INCURRED IN
11 THE SEIZURE, CARE, KEEPING, AND DISPOSITION OF THE ANIMAL AS
12 DESCRIBED IN SUBSECTION (6) FROM THE DATE OF THE SEIZURE TO THE
13 DATE OF THE OFFICIAL DISPOSITION OF THE ANIMAL IN THE CRIMINAL
14 ACTION.

15 (22) IF A SECURITY DEPOSIT OR BOND HAS BEEN POSTED UNDER
16 SUBSECTION (20), AND TRIAL IN THE CRIMINAL ACTION IS CONTINUED TO A
17 LATER DATE, THE ORDER OF CONTINUANCE SHALL REQUIRE THE DEFENDANT TO
18 POST AN ADDITIONAL SECURITY DEPOSIT OR BOND IN AN AMOUNT DETERMINED
19 SUFFICIENT BY THE COURT TO COVER THE COSTS DESCRIBED IN SUBSECTION
20 (6) AS ANTICIPATED TO BE INCURRED BY THE ANIMAL CONTROL SHELTER,
21 ANIMAL PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY CARING FOR THE
22 ANIMAL. THE ADDITIONAL SECURITY DEPOSIT OR BOND SHALL BE CALCULATED
23 IN 30-DAY INCREMENTS AND SHALL CONTINUE UNTIL THE CRIMINAL ACTION
24 IS RESOLVED. IF THE OWNER OR POSSESSOR OF THE ANIMAL FAILS TO POST
25 A NEW SECURITY DEPOSIT OR BOND WITH THE COURT BEFORE THE PREVIOUS
26 SECURITY DEPOSIT OR BOND EXPIRES, THE ANIMAL IS FORFEITED TO THE
27 ANIMAL CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR LAW

1 ENFORCEMENT AGENCY CARING FOR THE ANIMAL.

2 (23) IF THE OWNER OR POSSESSOR IS FOUND NOT GUILTY IN THE
3 CRIMINAL ACTION, THE AMOUNT OF THE SECURITY DEPOSIT OR BOND POSTED
4 TO PREVENT DISPOSITION OF THE ANIMAL MAY BE RETURNED TO THE OWNER
5 OR POSSESSOR AT THE COURT'S DISCRETION.

6 (24) IF A SECURITY DEPOSIT OR BOND IS POSTED BY AN OWNER OR
7 POSSESSOR OF AN ANIMAL UNDER SUBSECTION (20) AND THE COURT
8 DETERMINES THAT THE ANIMAL IS A DANGEROUS ANIMAL UNDER SUBSECTION
9 (26), THE POSTING OF THE SECURITY DEPOSIT OR BOND SHALL NOT PREVENT
10 DISPOSITION OF THE ANIMAL. THE AMOUNT OF THE SECURITY DEPOSIT OR
11 BOND POSTED TO PREVENT DISPOSITION OF THE ANIMAL SHALL BE RETURNED
12 TO THE OWNER OR POSSESSOR, MINUS THE REASONABLE COSTS INCURRED BY
13 THE ANIMAL CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR LAW
14 ENFORCEMENT AGENCY FOR THE CARE AND EUTHANASIA OF THE ANIMAL AS
15 DESCRIBED IN SUBSECTION (6) AND SECTION 2(2) AND (3) OF 1988 PA
16 426, MCL 287.322.

17 (25) ~~(17)~~ Upon receiving an animal confiscated under this
18 section, or at any time thereafter, an ~~appointed veterinarian, the~~
19 ~~humane society, or other animal welfare agency~~ **CONTROL SHELTER,**
20 **ANIMAL PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY** may humanely
21 euthanize the animal if, in the opinion of ~~that~~ **A LICENSED**
22 ~~veterinarian, humane society, or other animal welfare agency,~~ the
23 animal is injured or diseased past recovery or the animal's
24 continued existence is inhumane so that euthanasia is necessary to
25 relieve pain and suffering. **THIS SUBSECTION APPLIES TO AN ANIMAL**
26 **WHETHER OR NOT A SECURITY DEPOSIT OR BOND HAS BEEN POSTED UNDER**
27 **SUBSECTION (20).**

1 (26) ~~(18) A humane society or other~~ **AN ANIMAL CONTROL SHELTER,**
 2 animal welfare **PROTECTION SHELTER, OR LAW ENFORCEMENT** agency that
 3 receives an animal under this section ~~shall~~ **MAY** apply to the
 4 district court or municipal court for a hearing to determine
 5 whether the animal shall be humanely euthanized because of its lack
 6 of any useful purpose and the public safety threat it poses. The
 7 court shall hold a hearing not more than 30 days after the filing
 8 of the application and shall give notice of the hearing to the
 9 owner of the animal. Upon a finding by the court that the animal
 10 lacks any useful purpose and poses a threat to public safety, the
 11 ~~humane society or other animal welfare~~ **CONTROL SHELTER, ANIMAL**
 12 **PROTECTION SHELTER, OR LAW ENFORCEMENT** agency shall humanely
 13 euthanize the animal. Expenses incurred in connection with the
 14 housing, care, upkeep, or euthanasia of the animal by a ~~humane~~
 15 ~~society or other~~ **AN animal welfare CONTROL SHELTER, ANIMAL**
 16 **PROTECTION SHELTER, OR LAW ENFORCEMENT** agency, or by a person,
 17 firm, partnership, corporation, or other entity, ~~shall~~ **MAY, IN THE**
 18 **COURT'S DISCRETION,** be assessed against the owner of the animal.

19 (27) ~~(19)~~ Subject to subsections (16), ~~to~~ ~~(18)~~, **AND (25)**, all
 20 animals being used or to be used in fighting, equipment, devices
 21 and money involved in a violation of subsection (2) shall be
 22 forfeited to ~~the~~ **THIS** state. All other instrumentalities, proceeds,
 23 and substituted proceeds of a violation of subsection (2) are
 24 subject to forfeiture under chapter 47 of the revised judicature
 25 act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709.

26 (28) ~~(20)~~ The seizing agency may deposit money seized under
 27 subsection ~~(19)~~ **(27)** into an interest-bearing account in a

1 financial institution. As used in this subsection, "financial
 2 institution" means a state or nationally chartered bank or a state
 3 or federally chartered savings and loan association, savings bank,
 4 or credit union whose deposits are insured by an agency of the
 5 United States government and that maintains a principal office or
 6 branch office located in this state under the laws of this state or
 7 the United States.

8 (29) ~~(21)~~—An attorney for a person who is charged with a
 9 violation of subsection (2) involving or related to money seized
 10 under subsection ~~(19)~~—(27) shall be afforded a period of 60 days
 11 within which to examine that money. This 60-day period shall begin
 12 to run after notice of forfeiture is given but before the money is
 13 deposited into a financial institution under subsection ~~(20)~~—(28).
 14 If the attorney general, prosecuting attorney, or city or township
 15 attorney fails to sustain his or her burden of proof in forfeiture
 16 proceedings under subsection ~~(19)~~—(27), the court shall order the
 17 return of the money, including any interest earned on money
 18 deposited into a financial institution under subsection ~~(20)~~—(28).

19 (30) ~~(22)~~—This section does not apply to conduct that is
 20 permitted by and is in compliance with any of the following:

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

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

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

27 (d) Part 417 of the natural resources and environmental

1 protection act, 1994 PA 451, MCL 324.41701 to 324.41712.

2 (31) ~~(23)~~—This section does not prohibit a person from being
3 charged with, convicted of, or punished for any other violation of
4 law that is committed by that person while violating this section.