



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 413 and 414 (as reported without amendment)
Sponsor: Senator Margaret E. O'Brien
Committee: Judiciary

Date Completed: 9-12-17

RATIONALE

The Michigan Penal Code contains various prohibitions relating to the use of an animal for fighting or baiting, or as a shooting target. The highest penalty for these offenses includes up to four years' imprisonment, as well as possible fines and community service. (The amount of the fine and the number of community service hours depend on the offense.) Many consider these offenses to be serious, violent crimes that threaten the public safety and encourage other criminal activity. Reportedly, however, some individuals who have been convicted of animal fighting offenses multiple times have not received prison sentences. Accordingly, some have suggested that the Code should include minimum prison sentences for those who have been convicted of repeated animal fighting offenses.

CONTENT

Senate Bill 413 would amend the Michigan Penal Code to do the following:

- **Mandate a term of imprisonment for a person who committed a felony related to fighting, baiting, or shooting an animal and had one or more prior convictions for such an offense.**
- **Specify that a person who failed to comply with an order prohibiting the ownership or possession of an animal would be guilty of a misdemeanor.**
- **Allow, instead of require, a humane society or other animal welfare agency to apply to a court for a hearing to euthanize a seized animal that has been used or trained to fight.**

Senate Bill 414 would amend the sentencing guidelines in the Code of Criminal Procedure to include the phrase "first or subsequent offense" in the descriptions of felonies that Senate Bill 413 would modify.

Senate Bill 414 is tie-barred to Senate Bill 413. Each bill would take effect 90 days after its enactment. Senate Bill 413 is described in more detail below.

Fighting, Baiting, or Shooting an Animal

Section 49(2) of the Penal Code prohibits a person from knowingly engaging in any of the following activities:

- Owning, possessing, using, buying, selling, offering to buy or sell, importing, or exporting an animal for fighting, baiting, or target shooting.
- Being a party to or causing the fighting, baiting, or shooting of an animal.
- Renting, obtaining, or permitting the use of, a building, shed, room, yard, ground, or premises for the fighting, baiting, or shooting an animal.
- Organizing, promoting, or collecting money for the fighting, baiting, or shooting of an animal.

A person who engages in any of those activities is guilty of a felony punishable by up to four years' imprisonment, a fine of \$5,000 to \$50,000, and/or at least 500 hours but not more than 1,000 hours of community service. Under the bill, if the person had one or more prior convictions for violating Section 49(2), he or she would have to be punished by imprisonment for at least 18 months but not more than four years, and could be fined and/or required to perform community service as currently specified.

In addition, Section 49(2) prohibits a person from knowingly engaging in the following activities:

- Being present at a building, shed, room, yard, ground, or premises where preparations are being made for the fighting, baiting, or shooting of an animal, or when those activities are taking place or about to take place.
- Breeding, buying, selling, offering to buy or sell, exchanging, importing, or exporting an animal he or she knows has been trained or used for fighting, or its offspring.
- Owning, possessing, using, buying, selling, offering to buy or sell, transporting, or delivering any device intended for use in the fighting, baiting, or shooting of an animal.

A person who violates this prohibition is guilty of a felony punishable by up to four years' imprisonment, a fine of \$1,000 to \$5,000, and/or at least 250 hours but not more than 500 hours of community service. Under the bill, if the person had one or more prior convictions for violating Section 49(2), he or she would have to be imprisoned for at least nine months but not more than four years, and could be fined and/or required to perform community service as currently specified.

As part of the sentence for a violation of Section 49(2), the court must order the person convicted not to own or possess an animal of the same species involved in the violation for five years after the date of sentencing. Failure to comply with the order is punishable as contempt of court. Under the bill, a person who failed to comply with such an order would be guilty of a misdemeanor punishable by imprisonment for up to one year or a fine of at least \$1,000 but not more than \$2,500. Each animal that a person owned or possessed in violation of the order would constitute a separate offense.

Euthanasia of Animal

Under the Code, a law enforcement officer must confiscate an animal that has been used or trained to fight or is the first- or second-generation offspring of such an animal, and is incited to attack a person or attacks a person without provocation, or is not securely restrained or enclosed. The animal must be taken to a local humane society or other animal welfare agency, which must apply to the district court or municipal court for a hearing to determine whether the animal must be euthanized because of its lack of useful purpose and the public safety threat it poses. Under the bill, a humane society or other animal welfare agency would be allowed, rather than required, to apply to a court for such a hearing.

MCL 750.49 (S.B. 413)
777.16b (S.B. 414)

BACKGROUND

Animal fighting is a type of blood sport in which animals are goaded into fighting for entertainment purposes. In the United States, the three most common types are dog fighting, cock fighting, and hog-dog fighting. Generally, the animals are placed in a pit or ring and left to fight until one of the animals is killed, leaves the ring or pit, or is unable to continue the fight. In some cases, the losing animal is tortured or killed. The animals involved are often bred for fighting; however, some animals are conditioned for fighting through electric shock, steroids, narcotics, starvation, and, in the case of dogs, ear cropping and tail docking.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Despite the passage of laws prohibiting the fighting of animals, individuals convicted of these crimes are seldom given sentences that would deter them from committing them again. For example, in 2016, a Kalamazoo man who faced animal cruelty charges related to dog fighting for the third time was sentenced to five years' probation and fines with no jail time.¹ Animal fights (usually with dogs) are often conducted for financial gain, which can be significant. An individual can win up to \$25,000 on a single fight, and purses can be up to \$100,000. The violent nature of dog fighting, the associated gambling, and the chances for winning large sums of money encourage individuals to participate in dog fighting, while the relatively light sentences issued to those who are caught do little to deter participants and hosts from committing these offenses.

Animal fighting is viewed by many to be a particularly violent and serious crime; in fact, active participation in a dog fight is a felony in all 50 states and under Federal law.² Animal fighting not only harms the animals involved but, according to the American Society for the Prevention of Cruelty to Animals (ASPCA), also can involve numerous other crimes, including illegal gambling, assault, murder, conspiracy, money laundering, and drugs and weapons trafficking. These crimes are a serious threat to public safety. Animal abuse crimes have been linked to domestic abuse and other violence against other individuals. In addition, fighting dog trainers use a number of illegal techniques to acquire animals, such as fraudulently adopting animals from shelters, setting up sham rescue organizations, or stealing pets. The animals acquired in these manners are used for fighting or as a bait animal (a submissive or docile animal, e.g., family pets, kittens, or puppies, used to train a fighting dog to kill) for fighting dogs.

In animal fighting cases in which law enforcement officers are able to seize the animals themselves, there are typically a large number of animals that must be provided with treatment, shelter, and food. These animals also must be cataloged and kept as evidence during the proceedings. Many of these animals are so aggressive, or have been so wounded during their fights, that they have to be euthanized.

Recently, the concept of imposing mandatory minimum sentences has undergone increased scrutiny. In some cases, however, mandatory minimum sentences are useful as a deterrent and to ensure that those who commit particularly serious crimes do not escape appropriate punishment. Animal fighting is a violent, often organized, crime that harms animals and encourages other crimes of varying severity. The bill would send a message that animal fighting offenses will be taken seriously by the judicial system and would ensure that repeat offenders are penalized appropriately.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

Senate Bill 413

The bill could have a negative fiscal impact on the State and local government. Increased penalties for misdemeanor and felony convictions could increase resource demands on community supervision, jails, and correctional facilities. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison

¹ Cody Combs, "Man facing animal cruelty charges for the third time gets no jail time", *WWMT*, 1-23-2017.

² Hanna Gibson, *Chart of State Dogfighting Laws*, Michigan State University College of Law Animal Legal and Historical Center, 2014.

intakes, in the short term, the marginal cost to State government would be approximately \$3,764 per prisoner per year. Any associated increase in fine revenue would increase funding to public libraries.

Senate Bill 414

The bill would have no fiscal impact on local government and an indeterminate fiscal impact on the State. According to the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge* (in which the Court struck down portions of the sentencing guidelines law), the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

Fiscal Analyst: Ryan Bergan

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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.