

SENATE BILL NO. 658

November 09, 2023, Introduced by Senator WOJNO and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 50b (MCL 750.50b), as amended by 2018 PA 452.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 50b. (1) As used in this section:
- 2 (a) "Animal" means a vertebrate other than a human being.
- 3 (b) "Companion animal" means an animal that is commonly
- 4 considered to be, or is considered by ~~its~~ **the animal's** owner to be,
- 5 a pet, or that is a service animal. ~~as that term is defined in~~

1 ~~section 50a.~~ Companion animal includes, but is not limited to, dogs
2 and cats.

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

5 (a) Knowingly kill, torture, mutilate, maim, or disfigure an
6 animal.

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

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

13 (d) Violate or threaten to violate subdivision (a) or (c) with
14 the intent to cause mental suffering or distress to a person or to
15 exert control over a person.

16 (3) If the animal is a companion animal and if a person
17 violates subsection (2) (d) and intentionally violates subsection
18 (2) (a) or (c), the person is guilty of killing or torturing animals
19 in the first degree.

20 (4) If the animal is a companion animal and a person violates
21 subsection (2) (d), or if a person intentionally violates subsection
22 (2) (a) or (c), the person is guilty of killing or torturing animals
23 in the second degree.

24 (5) Except as otherwise provided in subsections (3) and (4), a
25 person who violates subsection (2) is guilty of killing or
26 torturing animals in the third degree.

27 (6) Killing or torturing animals in the first degree is a
28 felony punishable by 1 or more of the following:

29 (a) Imprisonment for not more than 10 years.

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

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

3 (7) Killing or torturing animals in the second degree is a
4 felony punishable by 1 or more of the following:

5 (a) Imprisonment for not more than 7 years.

6 (b) A fine of not more than \$5,000.00.

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

8 (8) Killing or torturing animals in the third degree is a
9 felony punishable by 1 or more of the following:

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

11 (b) A fine of not more than \$5,000.00.

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

13 (9) 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 (10) As a part of the sentence for a violation of subsection
19 (2), the court may order the defendant to pay **restitution,**
20 **including, but not limited to,** the costs of **the investigation of**
21 **the violation of this section, the costs of** the prosecution, and
22 the costs of the **seizure,** care, housing, ~~and~~ veterinary medical
23 care, ~~for~~ **and disposition of** the animal victim, as applicable. **The**
24 **costs of the seizure, care, housing, veterinary medical care, and**
25 **disposition of the animal victim should not be included in the**
26 **sentence if they were previously paid by the defendant with a**
27 **security deposit or bond as described in subsections (22), (24),**
28 **(25), or (27).** If the court does not order a defendant to pay all
29 of the applicable costs listed in this subsection, or orders only

1 partial payment of these costs, the court shall state on the record
2 the reasons for that action. **As used in this subsection,**
3 **"disposition of the animal victim" includes, but is not limited to,**
4 **the transfer, euthanasia, or adoption of the animal.**

5 (11) If a term of probation is ordered for a violation of
6 subsection (2), the court may include as a condition of that
7 probation that the defendant be evaluated to determine the need for
8 psychiatric or psychological counseling and, if determined
9 appropriate by the court, to receive psychiatric or psychological
10 counseling at ~~his or her~~ **the defendant's** own expense.

11 (12) As a part of the sentence for a violation of subsection
12 (2), the court may order the defendant not to own or possess an
13 animal for any period of time determined by the court, which may
14 include permanent relinquishment.

15 (13) A person ~~who~~ **that** owns or possesses an animal in
16 violation of an order issued under subsection (12) is subject to
17 revocation of probation if the order is issued as a condition of
18 probation. A person ~~who~~ **that** owns or possesses an animal in
19 violation of an order issued under subsection (12) is also subject
20 to the civil and criminal contempt power of the court and, if found
21 guilty of criminal contempt, may be punished by imprisonment for
22 not more than 90 days, ~~or~~ a fine of not more than \$500.00, or both.

23 (14) This section does not prohibit the lawful killing of
24 livestock or a customary animal husbandry or farming practice
25 involving livestock.

26 (15) This section does not prohibit the lawful killing of an
27 animal ~~pursuant to~~ **under** any of the following:

28 (a) Fishing.

29 (b) Hunting, trapping, or wildlife control regulated under the

1 natural resources and environmental protection act, 1994 PA 451,
2 MCL 324.101 to 324.90106, and orders issued under that act.

3 (c) 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 (d) Section 19 of the dog law of 1919, 1919 PA 339, MCL
7 287.279.

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

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

12 (b) Sections 2226, 2671, 2676, 7109, and 7333 of the public
13 health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676,
14 333.7109, and 333.7333.

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

19 (18) This section does not prohibit the lawful killing or use
20 of an animal under the animal industry act, 1988 PA 466, MCL
21 287.701 to 287.746.

22 **(19) Except as provided in this subsection and subsection**
23 **(28), an animal that is a victim of a violation of this section and**
24 **was seized by an animal control agency pending the outcome of a**
25 **criminal action that charges a violation of this section must not**
26 **be returned to the owner or possessor of the animal if the owner or**
27 **possessor is alleged to have violated this section. A seized animal**
28 **must be taken to a local animal control agency or a local animal**
29 **control agency's designee. A service animal that is a victim of a**

1 violation of this section may be seized by an animal control agency
2 under this section at the animal control agency's discretion,
3 taking into consideration the totality of the circumstances. If an
4 animal owner or possessor is convicted of violating subsection (2),
5 the court shall award the animal involved in the violation to the
6 animal control agency for evaluation and disposition.

7 (20) An animal control agency taking custody of an animal
8 under subsection (19) shall give notice within 72 hours of the
9 seizure of the animal in person or by registered mail to the last
10 known address of the animal's owner, if the owner of the animal is
11 known. If the owner of the animal is unknown, the animal control
12 agency shall give notice within 72 hours after the seizure by 1 of
13 the following methods:

14 (a) Posting at the location of the seizure.

15 (b) Delivery to an individual that resides at the location of
16 the seizure.

17 (c) Registered mail to the location of the seizure.

18 (21) The notice required under subsection (20) must include
19 all of the following:

20 (a) A description of each animal seized.

21 (b) The time, date, location, and description of circumstances
22 under which the animal was seized.

23 (c) The address and telephone number of the location where or
24 under what animal control agency's authority the animal is being
25 held and contact information for the individual present at that
26 location from whom security deposit or bond information may be
27 obtained.

28 (d) A statement that the owner or possessor of the animal may
29 post a security deposit or bond that may prevent the forfeiture of

1 the animal for the duration of the criminal, forfeiture, or other
2 court proceeding until the court makes a final determination
3 regarding the animal's disposition; that failure to post a security
4 deposit or bond within 14 days after the date on the notice will
5 result in forfeiture of the animal; and that the owner or possessor
6 of the animal may, before the expiration of the 14-day period
7 described in this subdivision, request a hearing from the court
8 with jurisdiction over the alleged violation of subsection (2) on
9 whether the requirement to post a security deposit or bond is
10 justified, whether the cost associated with the security deposit or
11 bond is fair and reasonable for the care of and provision for the
12 seized animal as the costs are described in subsection (10), or
13 both.

14 (e) A statement that the owner or possessor of the animal is
15 responsible for all costs described in subsection (10), unless the
16 court determines that the seizure of the animal was not
17 substantially justified by law.

18 (22) A request for a hearing within 14 days after the date on
19 the notice prevents forfeiture of the animal until the court
20 determines whether the requirement to post a security deposit or
21 bond is justified, whether the amount of the security deposit or
22 bond is fair and reasonable, or both. Notice of a request for a
23 hearing under subsection (21) must be served on the animal control
24 agency holding the animal before the expiration of the 14-day
25 period described in subsection (21). A hearing on whether the
26 requirement to post a security deposit or bond is justified,
27 whether the amount of the security deposit or bond is fair and
28 reasonable, or both, must be held within 21 days of the request for
29 a hearing. The hearing is before a judge without a jury and the

1 prosecuting attorney has the burden to establish by a preponderance
2 of the evidence that a violation of this section occurred. If the
3 court finds that the prosecuting attorney has met the burden, that
4 the security deposit or bond is reasonable, or both, the animal
5 will be forfeited to the animal control agency that seized the
6 animal unless the owner or possessor of the animal posts the
7 required security deposit or bond within 72 hours after the
8 hearing. An owner's or possessor's failure to appear at a scheduled
9 hearing requested under this subsection will result in automatic
10 forfeiture of the animal to the animal control agency if the date
11 of the scheduled hearing is more than 14 days after the date on the
12 notice described in subsection (21). The testimony of a defendant
13 at a hearing held under this subsection is only admissible against
14 the defendant for the purpose of impeachment or in a criminal
15 prosecution for perjury. The testimony of a defendant at a hearing
16 held under this subsection does not waive the defendant's
17 constitutional right against self-incrimination.

18 (23) An animal control agency that holds or requires to be
19 held a seized animal under subsection (19) shall hold the animal
20 for a period of 14 consecutive days, including weekends and
21 holidays, beginning on the date notice was given under subsection
22 (20). After the expiration of the 14 days, if the owner or a
23 possessor of the animal has not posted a security deposit or bond
24 as provided in subsections (21) and (24) or requested a hearing as
25 described in subsection (22), the animal is forfeited, and the
26 animal control agency may dispose of the animal by transfer to
27 another animal control agency, humane euthanasia, or adoption.

28 (24) The security deposit or bond described in subsection
29 (21) (d) must be in a sufficient amount to secure payment of all

1 costs described in subsection (10) during a 30-day period after
2 examination of the animal by a licensed veterinarian. The animal
3 control agency shall determine the amount of the security deposit
4 or bond not later than 72 hours after the seizure of the animal and
5 shall make the amount of the security deposit or bond available to
6 the owner or possessor of the animal on request. Unless the owner
7 or possessor of the animal requests a hearing as described in
8 subsection (22), the owner or possessor of the animal shall provide
9 proof of the security deposit or bond to the animal control agency
10 not later than 14 days after the date on the notice described in
11 subsection (21).

12 (25) If an animal is seized and is being held by an animal
13 control agency or an animal control agency's designee pending the
14 outcome of a criminal action charging a violation of this section
15 and the process in subsections (20) through (24) was not utilized,
16 before final disposition of the criminal charge, the prosecuting
17 attorney may file a civil action in the court that has jurisdiction
18 of the criminal action requesting that the court issue an order to
19 forfeit the animal to the animal control agency before final
20 disposition of the criminal charge. The prosecuting attorney shall
21 serve a true copy of the summons and complaint on the defendant
22 owner or possessor of the animal. On the filing of the civil
23 action, the court shall set a hearing on the complaint. The hearing
24 must be conducted within 21 days of the filing of the civil action.
25 The hearing must be before a judge without a jury. At the hearing,
26 the prosecuting attorney has the burden of establishing by a
27 preponderance of the evidence that a violation of this section
28 occurred. If the court finds that the prosecuting attorney has met
29 the burden and that the amount of the security deposit or bond

1 necessary to prevent the forfeiture of the animal from the date of
2 the seizure to 30 days after the date of the hearing is fair and
3 reasonable based on costs described in subsection (10), the court
4 shall order immediate forfeiture of the animal to the animal
5 control agency unless the defendant owner or possessor, within 72
6 hours after the hearing, submits to the court clerk a security
7 deposit or bond in a sufficient amount to secure payment of all
8 costs described in subsection (10) after examination of the animal
9 by a licensed veterinarian from the date of the seizure to the date
10 of the hearing and for an additional period of 30 days. A defendant
11 owner or possessor's failure to post a security deposit or bond
12 within 72 hours after the hearing or the defendant owner or
13 possessor's failure to appear at a scheduled hearing under this
14 subsection will result in automatic forfeiture of the animal to the
15 animal control agency. The testimony of a defendant at a hearing
16 held under this subsection is only admissible against the defendant
17 for the purpose of impeachment or in a criminal prosecution for
18 perjury. The testimony of a defendant at a hearing held under this
19 subsection does not waive the defendant's constitutional right
20 against self-incrimination.

21 (26) An animal control agency that holds or requires to be
22 held a seized animal as provided in this section may draw on a
23 security deposit or bond posted under subsection (22), (24), (25),
24 or (27) to cover the actual reasonable costs incurred as described
25 in subsection (10) from the date of the seizure to the date of the
26 official disposition of the animal in the criminal action.

27 (27) If a security deposit or bond has been posted under
28 subsection (22), (24), or (25), and trial in the criminal action
29 does not occur within the initial 30-day bond period or is

1 continued to a later date, the owner or possessor shall post an
2 additional security deposit or bond in an amount determined
3 sufficient to cover the costs described in subsection (10) as
4 anticipated to be incurred by the animal control agency caring for
5 the animal. The additional security deposit or bond must be
6 calculated in 30-day increments and continue until the criminal
7 action is resolved. If the owner or possessor of the animal fails
8 to post a new security deposit or bond with the court before the
9 previous security deposit or bond expires, the animal is forfeited
10 to the animal control agency caring for the animal.

11 (28) If the owner or possessor that posted a security deposit
12 or bond under subsection (22), (24), (25), or (27) is found not
13 guilty in the criminal action, the amount of the security deposit
14 or bond posted to prevent disposition of the animal may be returned
15 to the owner or possessor at the court's discretion, and, subject
16 to subsections (29), (30), and (31), the animal must be returned to
17 the owner.

18 (29) If a security deposit or bond is posted by an owner or
19 possessor of an animal under subsection (22), (24), (25), or (27)
20 and the court determines that the animal lacks any useful purpose
21 or poses a threat to public safety under subsection (31), the
22 posting of the security deposit or bond must not prevent
23 disposition of the animal.

24 (30) Upon receiving an animal seized under this section, or at
25 any time thereafter, an animal control agency may humanely
26 euthanize the animal or have the animal euthanized if, in the
27 opinion of a licensed veterinarian, the animal is injured or
28 diseased past recovery or the animal's continued existence is
29 inhumane so that euthanasia is necessary to relieve pain and

1 suffering. This subsection applies to an animal regardless of
2 whether a security deposit or bond has been posted under subsection
3 (22), (24), (25), or (27).

4 (31) An animal control agency that receives an animal seized
5 under this section may apply to the district court or municipal
6 court for a hearing to determine whether the animal must be
7 humanely euthanized because of the animal's lack of any useful
8 purpose or the public safety threat it poses. The court shall hold
9 a hearing not later than 30 days after the filing of the
10 application and shall give notice of the hearing to the owner of
11 the animal. Upon a finding by the court that the animal lacks any
12 useful purpose or poses a threat to public safety, the animal
13 control agency shall humanely euthanize the animal or have the
14 animal euthanized. Costs described in subsection (10) that are
15 incurred by an animal control agency, or by a person may, in the
16 court's discretion, be assessed against the owner of the animal.