

HOUSE BILL No. 4535

April 10, 2013, Introduced by Reps. Santana and Muxlow and referred to the Committee on Judiciary.

A bill to require individuals convicted of animal abuse offenses to register; to provide for the powers and duties of certain state and local governmental officers and entities; to impose fees; to prescribe penalties and provide remedies; and to require the promulgation of rules.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "state
2 of Michigan animal abuser registry law".

3 Sec. 2. As used in this act:

4 (a) "Animal" means that term as defined in section 49 of the
5 Michigan penal code, 1931 PA 328, MCL 750.49.

6 (b) "Animal abuse offense" means 1 or more of the following,
7 but does not include the lawful use of an animal to hunt or to
8 participate in field trials:

1 (i) A violation of section 49 of the Michigan penal code, 1931
2 PA 328, MCL 750.49.

3 (ii) A violation of section 50 of the Michigan penal code, 1931
4 PA 328, MCL 750.50.

5 (iii) A violation of section 50a of the Michigan penal code,
6 1931 PA 328, MCL 750.50a.

7 (iv) A violation of section 50b of the Michigan penal code,
8 1931 PA 328, MCL 750.50b.

9 (v) A violation of section 50c of the Michigan penal code,
10 1931 PA 328, MCL 750.50c.

11 (vi) A violation of section 158 of the Michigan penal code,
12 1931 PA 328, MCL 750.158, if the violation arose out of a crime
13 against nature with an animal.

14 (vii) Any other violation of a law of this state or a local
15 ordinance of a municipality that by its nature constitutes an
16 animal abuse offense.

17 (viii) An attempt or conspiracy to commit an offense described
18 in subparagraphs (i) to (vii).

19 (ix) An offense substantially similar to an offense described
20 in subparagraphs (i) to (viii) under a law of the United States, any
21 state, or any country or under tribal or military law.

22 (c) "Convicted" means that 1 of the following applies to the
23 individual:

24 (i) A judgment of conviction or a probation order was entered
25 against the individual in any court having jurisdiction over
26 criminal offenses, including, but not limited to, a tribal court or
27 a military court.

1 (ii) The individual was assigned to youthful trainee status
2 under sections 11 to 15 of chapter II of the code of criminal
3 procedure, 1927 PA 175, MCL 762.11 to 762.15, if the individual's
4 status of youthful trainee is revoked and an adjudication of guilt
5 is entered.

6 (d) "Department" means the department of state police.

7 (e) "Domicile" means a place where an individual has his or
8 her true, fixed, and permanent home to which he or she intends to
9 return whenever absent from the home. In order to be domiciled in
10 this state, an individual must be employed, with or without
11 compensation, reside, or be a student in this state for 1 of the
12 following time periods:

13 (i) Fourteen or more consecutive days during a calendar year.

14 (ii) Thirty or more total days during a calendar year.

15 (f) "Institution of higher education" means either of the
16 following:

17 (i) A public or private community college, college, or
18 university.

19 (ii) A public or private trade, vocational, or occupational
20 school.

21 (g) "Local law enforcement agency" means the police department
22 of a county or municipality.

23 (h) "Municipality" means a city, village, or township of this
24 state.

25 (i) "Neglect" means that term as defined in section 50 of the
26 Michigan penal code, 1931 PA 328, MCL 750.50.

27 (j) "Residence" means that place at which an individual

1 habitually sleeps, keeps his or her personal effects, and has a
2 regular place of lodging. If an individual has more than 1
3 residence, or if a wife has a residence separate from that of the
4 husband, the place at which the individual resides the greater part
5 of the time is his or her residence for purposes of this act. This
6 section shall not be construed to affect existing judicial
7 interpretation of the term residence.

8 (k) "Student" means an individual enrolled on a full- or part-
9 time basis in a public or private educational institution,
10 including, but not limited to, a secondary school, trade school,
11 professional institution, or institution of higher education.

12 Sec. 3. The following individuals shall register under this
13 act:

14 (a) An individual who is 18 years of age or older, resides in
15 this state, and is convicted of an animal abuse offense on or after
16 the effective date of this act.

17 (b) An individual from another state who is 18 years of age or
18 older, is domiciled in this state, and is convicted of an animal
19 abuse offense or registered for animal abuse under a comparable
20 statute of that state.

21 Sec. 4. (1) An individual required to register under section
22 3(a) shall register within 5 calendar days following his or her
23 release from incarceration or, if the individual was not
24 incarcerated for the animal abuse offense, within 5 calendar days
25 after sentencing.

26 (2) An individual required to register under section 3(b)
27 shall register within 21 calendar days after becoming domiciled in

1 this state.

2 (3) The prosecutor in a criminal proceeding for an animal
3 abuse offense shall notify an individual required to register under
4 section 3(a) of the requirements of subsection (1) upon the
5 conviction of that individual for an animal abuse offense.

6 Sec. 5. (1) Upon conviction of an individual for an animal
7 abuse offense, the prosecutor shall forward the name and address of
8 the individual and the name of the animal abuse offense of which
9 the individual was convicted to the department. The department
10 shall enter the individual's information into the computerized
11 database of registrations maintained under section 7.

12 (2) An individual required to register under this act shall
13 submit all of the following information to his or her local law
14 enforcement agency:

15 (a) The individual's name and any aliases he or she is known
16 under.

17 (b) The individual's residential address.

18 (c) A photograph of the individual's head and shoulders, taken
19 from the front.

20 (d) The individual's social security number.

21 (e) The individual's date of birth.

22 (f) The individual's fingerprints.

23 (3) The information submitted by an individual under
24 subsection (2) may be accessed by any state, local, or federal
25 agency as necessary.

26 (4) An individual required to register under this act shall
27 remain on the registry for 5 years from the date of his or her

1 release from incarceration or the date the individual was sentenced
2 for an animal abuse offense, whichever is later. A registered
3 individual who is convicted of a subsequent animal abuse offense
4 shall remain on the registry for 5 years from the date of his or
5 her most recent conviction.

6 (5) An individual registered under this act shall update his
7 or her registration information each time he or she moves from 1
8 residential address to another. An individual shall verify his or
9 her current residential address annually from the date of his or
10 her first registration.

11 (6) An individual registered under this act shall report to
12 his or her local law enforcement agency to verify his or her
13 residence within 5 calendar days after registration.

14 (7) An individual registered under this act shall maintain a
15 valid and current operator's license issued under the Michigan
16 vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official
17 state personal identification card issued under 1972 PA 222, MCL
18 28.291 to 28.300, with a current address. If an individual does not
19 possess a valid and current operator's license or official state
20 personal identification card with a current address, he or she
21 shall obtain a valid operator's license or official state personal
22 identification card within 14 calendar days of his or her
23 sentencing or release from incarceration, whichever is later.

24 (8) An individual registered under this act who is a
25 participant in a witness protection program is required to submit
26 only the name and identifying information reflecting his or her new
27 identity, and the registry and compilation database shall not

1 contain any information identifying the individual's prior identity
2 or address. The department shall request an individual registered
3 under this act who is a participant in a witness protection program
4 to provide his or her date of birth if it has not already been
5 provided, and the individual shall comply with that request within
6 10 calendar days.

7 (9) Registration paperwork shall be signed and dated by the
8 individual required to register and the registering agent.

9 Sec. 6. (1) An individual required to register under this act
10 shall pay an annual fee of \$250.00 to the department of state
11 police. Of this fee, \$150.00 shall be forwarded to the animal abuse
12 offenders registration fund created in subsection (2), \$50.00 shall
13 be forwarded to the local court and law enforcement agency handling
14 the individual's case, and \$50.00 shall be forwarded to the state
15 treasurer for deposit into the state general fund.

16 (2) The animal abuse offenders registration fund is created as
17 a separate fund in the department of treasury. Money credited to
18 the fund under subsection (1) shall only be used by the department
19 for training concerning, and the maintenance and automation of, the
20 databases, compilation, and information required under section 7.
21 Money in the animal abuse offenders registration fund at the close
22 of the fiscal year shall remain in the fund and shall not lapse to
23 the general fund.

24 Sec. 7. (1) The department shall maintain a statewide
25 computerized database of registrations and notices required under
26 this act.

27 (2) The statewide computerized database shall contain a

1 compilation of information concerning individuals, indexed by 1 of
2 the following:

3 (a) Name.

4 (b) Social security number.

5 (c) Date of birth.

6 (d) Zip code.

7 (3) An index compiled by the department under subsection (2)
8 shall contain the information described in section 5(2) for each
9 individual.

10 (4) The name, date of birth, and zip code of an individual
11 listed in the database described in subsection (1) shall be
12 accessible to the public.

13 (5) A written report, document, or photograph filed with the
14 department under this act is confidential and may be disclosed only
15 to the following:

16 (a) A legally mandated public or private animal protective
17 agency investigating a report of known or suspected animal abuse or
18 neglect, or a legally mandated public or private animal protective
19 agency or foster care agency prosecuting a disciplinary action
20 against its own employee regarding animal protective services or
21 foster records.

22 (b) A police or other law enforcement agency investigating a
23 report of known or suspected animal abuse or neglect.

24 (c) A veterinarian who is treating an animal whom the
25 veterinarian suspects may have been abused or neglected.

26 (d) A person legally authorized to place an animal in
27 protective custody when the person is confronted with an animal

1 that the person reasonably suspects may have been abused or
2 neglected, if the confidential record is necessary to determine
3 whether to place the animal in protective custody.

4 (e) A person, including a multidisciplinary case consultation
5 team, authorized to diagnose, care for, treat, or supervise an
6 animal that is the subject of a confidential record under this act,
7 or who is responsible for that animal's health or welfare.

8 (f) An individual named in a confidential record as a
9 perpetrator or alleged perpetrator of animal abuse or neglect.

10 (g) A court that determines the information is necessary to
11 decide an issue before that court.

12 (h) A grand jury that determines the information is necessary
13 to conduct the grand jury's official business.

14 (i) A lawyer guardian ad litem or other appointed attorney.

15 (j) An animal placing agency for the purpose of investigating
16 an applicant for adoption, a foster care applicant or licensee or
17 an employee of a foster care applicant or licensee, an adult member
18 of an applicant's or licensee's household, or any other individual
19 in a foster care or adoptive home who is directly responsible for
20 the care and welfare of animals, to determine the suitability of a
21 home for adoption or foster care. An animal placing agency shall
22 disclose information accessed under this subdivision to a foster
23 care applicant or licensee.

24 (k) A staff member of the criminal division of a district
25 court who is authorized by the court to investigate foster care
26 applicants and licensees, employees of foster care applicants and
27 licensees, adult members of a foster care applicant's or licensee's

1 household, or other individuals in a foster care applicant's or
2 licensee's home who are directly responsible for the care and
3 welfare of animals, for the purpose of determining the suitability
4 of the home for foster care. The court shall disclose information
5 accessed under this subdivision to the foster care applicant or
6 licensee.

7 (l) An animal care regulatory agency.

8 (6) An individual who is the subject of a report or record
9 made under this act may request the department to amend an
10 inaccurate report or record from the central registry and local
11 office file, or to expunge a report or record from the central
12 registry if no relevant or accurate evidence of abuse or neglect is
13 found to exist. A report or record that is filed in a local office
14 file is not subject to expunction unless the department authorizes
15 expunction, if expunction is considered by the department to be in
16 the best interest of an animal.

17 (7) If the department refuses a request for amendment or
18 expunction under subsection (6), or fails to act upon a request for
19 amendment or expunction within 30 days after receiving the request,
20 the department shall hold a hearing to determine by a preponderance
21 of the evidence whether the report or record, in whole or in part,
22 should be amended or expunged from the central registry on the
23 grounds that the report or record is not relevant or accurate
24 evidence of animal abuse or neglect. A hearing under this
25 subsection shall be held before a hearing officer appointed by the
26 department.

27 (8) If the investigation of a report conducted under this

1 section fails to disclose evidence of abuse or neglect, the
2 information identifying the subject of the report shall be expunged
3 from the central registry. If evidence of abuse or neglect exists,
4 the department shall maintain the information in the central
5 registry until the department receives reliable information that
6 the perpetrator of the abuse or neglect is deceased.

7 (9) If the conviction for the animal abuse offense that
8 required an individual to be registered under this act is set aside
9 under 1965 PA 213, MCL 780.621 to 780.624, the department shall
10 remove the individual from the registry immediately after
11 notification of the set-aside.

12 (10) In releasing information under this act, the department
13 shall not include a report compiled by a police agency or other law
14 enforcement agency related to an ongoing investigation of suspected
15 animal abuse or neglect. This subsection does not prevent the
16 department from releasing reports of convictions of crimes related
17 to animal abuse or neglect.

18 (11) If a court determines that public availability of
19 information regarding registered individuals under this act
20 violates the constitution of the United States or this state, the
21 department shall revise the compilation of information under this
22 act so that it does not contain that information. A violation of
23 this subsection is a misdemeanor punishable by imprisonment for not
24 more than 1 year or a fine of not more than \$1,000.00, or both.

25 (12) A person who reveals a registration or report in
26 violation of this act is liable to the individual whose
27 registration or report is revealed for treble damages.

1 Sec. 8. (1) An individual required to register under this act
2 who willfully violates this act is guilty of a misdemeanor
3 punishable by imprisonment for not more than 1 year or a fine of
4 not more than \$1,000.00, or both.

5 (2) An incorporated society for the prevention of cruelty to
6 animals, humane society, pound, animal shelter, or an authorized
7 agent of 1 of an incorporated society for the prevention of cruelty
8 to animals, humane society, pound, or animal shelter, who knowingly
9 sells or offers to sell an animal to an individual who is
10 registered under this act is guilty of a misdemeanor punishable by
11 imprisonment for not more than 1 year or a fine of not more than
12 \$1,000.00, or both.

13 (3) The court shall revoke the probation of an individual
14 placed on probation who willfully violates this act.

15 (4) The parole board shall rescind the parole of an individual
16 released on parole who willfully violates this act.

17 (5) An incorporated society for the prevention of cruelty to
18 animals, humane society, pound, animal shelter, or an authorized
19 agent of 1 of an incorporated society for the prevention of cruelty
20 to animals, humane society, pound, or animal shelter, who fails to
21 determine whether an individual is registered under this act prior
22 to selling or offering to sell an animal to that individual shall
23 be given a written warning for failure to comply with this act.

24 (6) An incorporated society for the prevention of cruelty to
25 animals, humane society, pound, animal shelter, or an authorized
26 agent of 1 of an incorporated society for the prevention of cruelty
27 to animals, humane society, pound, or animal shelter, who violates

1 subsection (5) 2 or more times within 2 years shall pay a fine of
2 \$250.00 for the second and each subsequent violation.

3 Sec. 9. The department shall promulgate rules and adopt
4 regulations for the administration of the Michigan animal abuse
5 registry and collection of fees.

6 Enacting section 1. This act takes effect 90 days after the
7 date it is enacted into law.