

# Legislative Analysis

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## "ANIMAL ADOPTION PROTECTION ACT" AND "LOGAN'S LAW"

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**House Bill 4353 (reported from committee as H-1)**  
**Sponsor: Rep. Harvey Santana**

Analysis available at  
<http://www.legislature.mi.gov>

**House Bill 4355 (reported without amendment)**  
**Sponsor: Rep. Paul Muxlow**

**Committee: Judiciary**  
**Complete to 5-13-15**

**BRIEF SUMMARY:** House Bill 4353 would create the Animal Adoption Protection Act to prohibit animal shelters from adopting out an animal to an individual with a prior conviction for animal abuse for at least five years after the conviction, and to define the term "animal abuse offense."

House Bill 4355 would create Logan's Law to require animal control or protection shelters to conduct an ICHAT search before adopting out an animal.

**FISCAL IMPACT:** Based on the fiscal analysis of similar bills in the 2013-2014 legislative session, there would not be a significant fiscal impact on the Department of Agriculture and Resource Development.

### **THE APPARENT PROBLEM:**

There is a well-established connection between abusing animals and engaging in violent and/or abusive behaviors towards another person. Animal abuse has been linked to domestic violence, child and/or elder abuse, and other violent crimes. Animal hoarding cases, which often result in animals being abused and neglected, burden local governments when dozens or even hundreds of sick or injured animals must be removed, cared for, or euthanized. Many animal hoarders repeat their hoarding, and owning one cat or dog can easily and quickly escalate into the numbers that make proper care impossible. Moreover, though current law allows ownership of an animal to be prohibited for a specified period of time for certain animal abuse related offenses, many ex-offenders still find it easy to circumvent the restrictions and obtain other animals.

Since animal control shelters operated by local governments and animal protection shelters operated by nonprofits provide a quick means for low-cost adoption of a healthy animal, many believe that Michigan law should be amended to assist shelters in ensuring that the animals, many of which were rescued from abusive settings, go to safe and caring homes. For instance, some shelters will conduct a name-based criminal history check to verify the appropriateness of a potential adopter. However, since each check through ICHAT, the name-based criminal history database maintained by the Michigan State Police, costs a shelter \$10, such background checks may be done randomly. Shelter employees and

volunteers thus run the risk of being accused of profiling a potential adopter, and there is no lawful reason for a shelter to refuse to adopt out a pet to someone.

Legislation to address these issues has been offered to require shelters to conduct an ICHAT background check on potential adopters, prohibit adoptions for some convictions for a specified time, and allow a shelter to use discretion in approving or denying an adoption based on information in a person's criminal history. The bills under consideration are part of a larger package that includes Senate Bills 219-220 (see ***Background Information*** below for more information).

### ***THE CONTENT OF THE BILLS:***

#### **House Bill 4353**

The bill would amend Section 1 of the Pet Shop Law (MCL 287.331), and add Section 8c to create the Animal Adoption Protection Act. The bill would allow an animal control shelter or animal protection shelter to consider an individual's criminal history when deciding whether to allow that individual to adopt an animal. The shelter could not allow an individual to adopt an animal if the individual had been convicted of an animal abuse offense, unless a period of at least five years had elapsed since the date of the conviction.

The bill would revise the current definition of "animal" (a mammal except livestock as defined in Public Act 284 of 1937 and rodents) to instead mean a vertebrate other than a human being.

An animal control or protection shelter could choose not to allow an individual to adopt an animal if that individual is charged with committing an animal abuse offense and enters a plea to any other crime in exchange for dismissal of that charge.

"Animal abuse offense" would mean a violation of one or more of the following laws (but does not include the lawful use of an animal to hunt or to participate in field trials or the lawful killing or other use of an animal in farming or a generally accepted animal husbandry or farming practice involving livestock):

- Section 49 of the Michigan Penal Code (MCL 750.49), pertaining to animal fighting.
- Section 50 of the Michigan Penal Code (MCL 750.50), pertaining to animal neglect or cruelty.
- Section 50a of the Michigan Penal Code (MCL 750.50a), pertaining to abuse of a leader dog.
- Section 50b of the Michigan Penal Code (MCL 750.50b), pertaining to killing or torturing an animal.
- Section 50c of the Michigan Penal Code (MCL 750.50c), pertaining to abuse of a law enforcement dog.
- Section 158 of the Michigan Penal Code (MCL 750.158), sodomy involving an animal.
- A violation of a local ordinance substantially corresponding to any of the above.

- An attempt or conspiracy to commit an offense described above.

The bill would define "ICHAT" to mean the Internet Criminal History Access Tool maintained by the Department of State Police. The definition of "animal" would be revised to mean a vertebrate other than a human being, and except livestock as defined in PA 284 of 1937.

### **House Bill 4355**

The bill would add Section 8b to the Pet Shop Law (1969 PA 287), which would be known as "Logan's Law," to require animal control shelters and animal protection shelters—before allowing an individual to adopt an animal—to conduct a search using ICHAT to determine whether that individual has a prior criminal history for an animal abuse offense.

A shelter would not be in violation of the act if it searched ICHAT as required and the search failed to disclose that the individual has a prior criminal history for an animal abuse offense.

The bill would not apply to a pet shop that allows an animal control or animal protection shelter to use its resources, including, but not limited to, the shop's premises, facilities, employees, equipment, and advertising for pet adoptions. The bill also would not apply to a pet shop that works with an animal protection shelter but does not perform adoptions except as an agent of the animal protection shelter. A pet shop described in this provision would not be considered an animal protection shelter and would not be liable for any pet adoptions performed by an animal protection shelter.<sup>1</sup>

["Animal control shelter" is defined in the Pet Shop Act as a facility operated by a municipality for the impoundment and care of animals that are found in the streets or at large, animals that are otherwise held due to the violation of a municipal ordinance or state law, or animals that are surrendered to the animal control shelter.

"Animal protection shelter" means a facility operated by a person, humane society, society for the prevention of cruelty to animals, or any other nonprofit organization for the care of homeless animals.]

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<sup>1</sup> The Pet Shop Law is administered by the Department of Agriculture and Rural Development. A notice on the department's website says, "[s]ince 1969 the Michigan Department of Agriculture & Rural Development (MDARD) has licensed and regulated pet shops offering mammals other than livestock or rodents for sale. Due to state financial constraints, MDARD can no longer operate the pet shop program. Therefore, effective August 1, 2009, the department is suspending the pet shop program. In addition, MDARD will no longer accept new applications for a pet shop license. Although MDARD will no longer be regulating pet shops, all pet shop operators are advised to use the laws and regulations concerning pet shops as guidelines for animal care in their facilities. As the department is suspending the program, MDARD will also no longer be supplying pet shop health certificates effective August 1, 2009. Complainants wishing to file complaints against pet shops will be directed to local law enforcement agencies." See, [http://www.michigan.gov/mdard/0,4610,7-125-1569\\_16979\\_21259-171138--,00.html](http://www.michigan.gov/mdard/0,4610,7-125-1569_16979_21259-171138--,00.html).]

## ***BACKGROUND INFORMATION:***

House Bills 4353 and 4355 are reintroductions of House Bills 5061 and 4534 of the previous session. The bills were passed by the House but died on the Senate floor.

There are two additional bills in the animal protection package—Senate Bills 219 and 220. Senate Bill 219 would require a court to order a person convicted of certain animal abuse offenses not to own or possess an animal for at least five years post-sentencing or release from incarceration, whichever is later. Senate Bill 220 would allow an animal control shelter or animal protection shelter to perform a name-based criminal background check through ICHAT for free, require the Michigan State Police to prepare an annual report of animal abuse offenses based on information included in the criminal history record information database, and provide the report to the Legislature and Department of Agriculture and Rural Development.

## ***ARGUMENTS:***

### ***For:***

House Bill 4353 is seen as an important first step in protecting animals from would-be abusers by allowing animal shelters to consider a person's criminal history in deciding whether to allow a pet adoption and to deny adoption to any person with a recent conviction of certain animal abuse/cruelty/neglect offenses. House Bill 4355, named after Logan—a shelter dog who was disfigured in an acid attack, would require shelters to run a name-based criminal history check to screen for the types of offenses that would prohibit an adoption. The bills are unlikely to stop all potential abusers from obtaining an animal, but they do provide an extra layer of protection for animals placed by shelters.

Since violence against animals is seen as an indicator of future abuse directed toward people, and since persons with an animal hoarding disorder tend to collect large numbers of pets (and even after having other animals removed), it is important to erect barriers that will make it harder for persons with a history of abusing animals from obtaining other animals. At a minimum, the bills will discourage these potential abusers, and in some instances prevent them, from obtaining animals from animal control and animal protection shelters – entities dedicated to rescuing unwanted pets and finding them new and loving homes.

Importantly, the bills would not interfere with the sport of hunting, and they would not apply to ranchers or farmers or others with livestock such as chickens, pigs, cows, or horses when engaging in generally accepted activities related to animal husbandry or farming practices.

### ***Response:***

Some feel the bill package would be strengthened further if the following concerns were addressed:

- Reportedly, even though animal control shelters and animal protection shelters are supposed to be registered with the Michigan Department of Agriculture and Rural

Development, a significant amount of entities identifying themselves as animal shelters are not registered. If shelters are able to conduct ICHAT checks for free, they should be registered and some oversight by MDARD should be required.

- The entities required to conduct ICHAT checks should be expanded to include those who sell animals such as breeders and pet shops, not just those that provide for animal adoptions.

***POSITIONS:***

A representative of Logan's Law testified in support of the bills. (5-5-15)

A representative of the Animal Law Section of the State Bar of Michigan and of Attorneys for Animals testified in support of the bills. (5-5-15)

A representative of the Blue Water Area Humane Society testified in support of the bills. (5-5-15)

The Animal Legal Defense Fund submitted testimony in support of the bills. (5-5-15)

Michigan Retailers Association indicated support for the bills. (5-5-15)

Michigan Humane Society indicated support for the bills. (5-5-15)

American Society for Prevention of Cruelty to Animals submitted written testimony in support of the bills. (5-5-15)

The Student Animal Legal Defense Fund at Cooley Law School indicated support for the bills. (5-5-15)

The Michigan Association for Pure Bred Dogs submitted written testimony that it would support the bills if the free ICHAT checks were extended only to animal control shelters and animal protection shelters that are registered with the Department of Agriculture and Rural Development, and if the bills addressed shelter compliance or oversight of ICHAT users. (5-11-15)

Protect Michigan Dogs is neutral on the bills. (5-5-15)

Michigan Farm Bureau is neutral on the bills. (5-5-15)

Legislative Analyst: Susan Stutzky

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.