

SUBSTITUTE FOR
HOUSE BILL NO. 4703

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) **"Animal control agency" means an animal control shelter,**
4 **an animal protection shelter, or a law enforcement agency.**
5 (c) **"Animal control shelter" and "animal protection shelter"**
6 **mean those terms as defined in section 1 of 1969 PA 287, MCL**
7 **287.331.**
8 (d) ~~(b)~~—"Companion animal" means an animal that is commonly
9 considered to be, or is considered by its owner to be, a pet, or

1 that is a service animal as that term is defined in section 50a.
2 Companion animal includes, but is not limited to, dogs and cats.

3 (e) "Service animal" means all of the following:

4 (i) That term as defined in 28 CFR 36.104.

5 (ii) A miniature horse that has been individually trained to do
6 work or perform tasks as described in 28 CFR 36.104 for the benefit
7 of a person with a disability.

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

10 (a) Knowingly kill, torture, mutilate, maim, or disfigure an
11 animal.

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

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

18 (d) Violate or threaten to violate subdivision (a) or (c) with
19 the intent to cause mental suffering or distress to a person or to
20 exert control over a person.

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

25 (4) If the animal is a companion animal and a person violates
26 subsection (2)(d), or if a person intentionally violates subsection
27 (2)(a) or (c), the person is guilty of killing or torturing animals
28 in the second degree.

29 (5) Except as otherwise provided in subsections (3) and (4), a

1 person who violates subsection (2) is guilty of killing or
2 torturing animals in the third degree.

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

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

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

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

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

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

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

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

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

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

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

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

18 (9) The court may order a term of imprisonment imposed for a
19 violation of this section to be served consecutively to a term of
20 imprisonment imposed for any other crime including any other
21 violation of law arising out of the same transaction as the
22 violation of this section.

23 (10) As a part of the sentence for a violation of subsection
24 (2), the court may order the defendant to pay **restitution**
25 **including, but not limited to,** the costs of **the investigation of**
26 **the violation of this section, the costs of** the prosecution, and
27 the costs of the **seizure**, care, housing, ~~and~~ veterinary medical
28 care, ~~for~~ **and disposition of** the animal victim, as applicable. **The**
29 **costs of the seizure, care, housing, veterinary medical care, and**

1 **disposition of the animal victim should not be included in the**
2 **sentence if they were previously paid by the defendant with a**
3 **security deposit or bond as described in section (21) (d).** If the
4 court does not order a defendant to pay all of the applicable costs
5 listed in this subsection, or orders only partial payment of these
6 costs, the court shall state on the record the reasons for that
7 action. **As used in this subsection, "disposition of the animal**
8 **victim" includes, but is not limited to, the transfer, euthanasia,**
9 **or adoption of the animal.**

10 (11) If a term of probation is ordered for a violation of
11 subsection (2), the court may include as a condition of that
12 probation that the defendant be evaluated to determine the need for
13 psychiatric or psychological counseling and, if determined
14 appropriate by the court, to receive psychiatric or psychological
15 counseling at his or her own expense.

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

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

28 (14) This section does not prohibit the lawful killing of
29 livestock or a customary animal husbandry or farming practice

1 involving livestock.

2 (15) This section does not prohibit the lawful killing of an
3 animal pursuant to any of the following:

4 (a) Fishing.

5 (b) Hunting, trapping, or wildlife control regulated under the
6 natural resources and environmental protection act, 1994 PA 451,
7 MCL 324.101 to 324.90106, and orders issued under that act.

8 (c) Pest or rodent control regulated under part 83 of the
9 natural resources and environmental protection act, 1994 PA 451,
10 MCL 324.8301 to 324.8336.

11 (d) Section 19 of the dog law of 1919, 1919 PA 339, MCL
12 287.279.

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

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

17 (b) Sections 2226, 2671, 2676, 7109, and 7333 of the public
18 health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676,
19 333.7109, and 333.7333.

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

24 (18) This section does not prohibit the lawful killing or use
25 of an animal under the animal industry act, 1988 PA 466, MCL
26 287.701 to 287.746.

27 **(19) Except as provided in this subsection and subsection**
28 **(27), an animal that is a victim of a violation of this section and**
29 **was confiscated by a law enforcement officer must not be returned**

1 to the owner or possessor of the animal if the owner or possessor
2 of the animal is alleged to have violated this section. A
3 confiscated animal must be taken to a local animal control agency.
4 A service animal that is a victim of a violation of this section
5 may be seized or confiscated by law enforcement under this section
6 at law enforcement's discretion taking into consideration the
7 totality of the circumstances. If an animal owner or possessor is
8 convicted of violating subsection (2), the court shall award the
9 animal involved in the violation to the animal control agency for
10 evaluation and disposition.

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

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

20 (b) Delivery to a person residing at the location of the
21 seizure.

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

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

25 (a) A description of each animal seized.

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

28 (c) The address and telephone number of the location where the
29 animal is being held and contact information for the individual

1 present at that location from whom security deposit or bond
2 information may be obtained.

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

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

21 (22) A request for a hearing within 14 days after the date on
22 the notice will prevent forfeiture of the animal until the court
23 makes a determination whether the requirement to post a security
24 deposit or bond is justified, whether the amount of the security
25 deposit or bond is fair and reasonable, or both. The defendant's
26 ability to pay is a consideration. Notice of a request for a
27 hearing under subsection (21) must be served on the animal control
28 agency holding the animal before the expiration of the 14-day
29 period described in subsection (21). A hearing on whether the

1 requirement to post a security deposit or bond is justified,
2 whether the amount of the security deposit or bond is fair and
3 reasonable, or both, must be held within 21 days of the request for
4 a hearing, and the prosecuting attorney has the burden to establish
5 by a preponderance of the evidence that a violation of this section
6 occurred. If the court finds that the prosecuting attorney has met
7 its burden, that the security deposit or bond is reasonable, or
8 both, the animal will be forfeited to the animal control agency
9 that seized the animal unless the owner or possessor of the animal
10 posts the required security deposit or bond. An owner's or
11 possessor's failure to appear at a scheduled hearing requested
12 under this subsection will result in automatic forfeiture of the
13 animal if the date of the scheduled hearing is more than 14 days
14 after the date on the notice described in subsection (21).

15 (23) An animal control agency that has custody of a seized
16 animal under subsection (19) shall hold the animal for a period of
17 14 consecutive days, including weekends and holidays, beginning on
18 the date notice was given under subsection (20). After the
19 expiration of the 14 days, if the owner or a possessor of the
20 animal has not posted a security deposit or bond as provided in
21 subsections (21) and (24) or requested a hearing as described in
22 subsection (22), the animal is forfeited, and the animal control
23 agency may dispose of the animal by adoption, transfer to another
24 animal control agency, or humane euthanasia.

25 (24) The security deposit or bond described in subsection
26 (21) (d) must be in a sufficient amount to secure payment of all
27 costs described in subsection (10) during a 30-day period of
28 boarding and veterinary treatment of the animal after examination
29 by a licensed veterinarian. The animal control agency shall

1 determine the amount of the security deposit or bond no later than
2 72 hours after the seizure of the animal, and shall make the amount
3 of the security deposit or bond available to the owner or possessor
4 of the animal upon request. Unless the owner or possessor of the
5 animal requests a hearing as described in subsection (22), the
6 owner or possessor of the animal shall provide proof of the
7 security deposit or bond to the animal control agency no later than
8 14 days after the date on the notice described in subsection (21).

9 (25) An animal control agency that is holding or requiring to
10 be held a seized animal as provided in this section may draw on a
11 security deposit or bond posted under subsection (24) or (26) to
12 cover the actual reasonable costs incurred in the seizure, care,
13 keeping, and disposition of the animal as described in subsection
14 (10) from the date of the seizure to the date of the official
15 disposition of the animal in the criminal action.

16 (26) If a security deposit or bond has been posted under
17 subsection (24), and trial in the criminal action does not occur
18 within the initial 30-day bond period or is continued to a later
19 date, the owner or possessor shall post an additional security
20 deposit or bond in an amount determined sufficient to cover the
21 costs described in subsection (10) as anticipated to be incurred by
22 the animal control agency caring for the animal. The additional
23 security deposit or bond must be calculated in 30-day increments
24 and continue until the criminal action is resolved. If the owner or
25 possessor of the animal fails to post a new security deposit or
26 bond with the court before the previous security deposit or bond
27 expires, the animal is forfeited to the animal control agency
28 caring for the animal.

29 (27) If the owner or possessor that posted a security deposit

1 or bond under subsection (24) or (26) is found not guilty in the
2 criminal action, the amount of the security deposit or bond posted
3 to prevent disposition of the animal may be returned to the owner
4 or possessor at the court's discretion, and, subject to subsections
5 (29) and (30), the animal must be returned to the owner.

6 (28) If a security deposit or bond is posted by an owner or
7 possessor of an animal under subsection (24) or (26) and the court
8 determines that the animal lacks any useful purpose or poses a
9 threat to public safety under subsection (30), the posting of the
10 security deposit or bond must not prevent disposition of the
11 animal.

12 (29) Upon receiving an animal seized under this section, or at
13 any time thereafter, an animal control agency may humanely
14 euthanize the animal or have the animal euthanized if, in the
15 opinion of a licensed veterinarian, the animal is injured or
16 diseased past recovery or the animal's continued existence is
17 inhumane so that euthanasia is necessary to relieve pain and
18 suffering. This subsection applies to an animal whether or not a
19 security deposit or bond has been posted under subsection (24) or
20 (26).

21 (30) An animal control agency that receives an animal under
22 this section may apply to the district court or municipal court for
23 a hearing to determine whether the animal must be humanely
24 euthanized because of its lack of any useful purpose or the public
25 safety threat it poses. The court shall hold a hearing not more
26 than 30 days after the filing of the application and shall give
27 notice of the hearing to the owner of the animal. Upon a finding by
28 the court that the animal lacks any useful purpose or poses a
29 threat to public safety, the animal control agency shall humanely

1 euthanize the animal or have the animal euthanized. Expenses
2 incurred in connection with the housing, care, upkeep, or
3 euthanasia of the animal by an animal control agency, or by a
4 person, firm, partnership, corporation, or other entity, may, in
5 the court's discretion, be assessed against the owner of the
6 animal.