

# HOUSE BILL NO. 4703

April 22, 2021, Introduced by Reps. Wozniak, Bezotte, Steckloff, Kuppa, Yaroch and Whitsett and referred to the Committee on Judiciary.

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"

1 mean those terms as defined in section 1 of 1969 PA 287, MCL  
2 287.331.

3 (d) ~~(b)~~—"Companion animal" means an animal that is commonly  
4 considered to be, or is considered by its owner to be, a pet, or  
5 that is a service animal as that term is defined in section 50a.  
6 Companion animal includes, but is not limited to, dogs and cats.

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

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

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

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

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

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

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

28 (5) Except as otherwise provided in subsections (3) and (4), a  
29 person who violates subsection (2) is guilty of killing or

1 torturing animals in the third degree.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (a) Fishing.

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

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

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

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

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

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

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

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

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

1 alleged to have violated this section. A confiscated animal must be  
2 taken to a local animal control agency. If an animal owner or  
3 possessor is convicted of violating subsection (2), the court shall  
4 award the animal involved in the violation to the animal control  
5 agency for evaluation and disposition.

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

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

15 (b) Delivery to a person residing at the location of the  
16 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 the  
24 animal is being held and contact information for the individual  
25 present at that location from whom security deposit or bond  
26 information may be obtained.

27 (d) A statement that the owner or possessor of the animal may  
28 post a security deposit or bond that may prevent the forfeiture of  
29 the animal for the duration of the criminal, forfeiture, or other

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

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

16 (22) A request for a hearing within 14 days after the date on  
17 the notice will prevent forfeiture of the animal until the court  
18 makes a determination whether the requirement to post a security  
19 deposit or bond is justified, whether the amount of the security  
20 deposit or bond is fair and reasonable, or both. The defendant's  
21 ability to pay is not a consideration. Notice of a request for a  
22 hearing under subsection (21) must be served on the animal control  
23 agency holding the animal before the expiration of the 14-day  
24 period described in subsection (21). At a hearing on whether the  
25 requirement to post a security deposit or bond is justified,  
26 whether the amount of the security deposit or bond is fair and  
27 reasonable, or both, the prosecuting attorney has the burden to  
28 establish by a preponderance of the evidence that a violation of  
29 this section occurred. If the court finds that the prosecuting

1 attorney has met its burden, that the security deposit or bond is  
2 reasonable, or both, the animal will be forfeited to the animal  
3 control agency that seized the animal unless the owner or possessor  
4 of the animal posts the required security deposit or bond. An  
5 owner's or possessor's failure to appear at a scheduled hearing  
6 requested under this subsection will result in automatic forfeiture  
7 of the animal if the date of the scheduled hearing is more than 14  
8 days after the date on the notice described in subsection (21).

9 (23) An animal control agency that has custody of a seized  
10 animal under subsection (19) shall hold the animal for a period of  
11 14 consecutive days, including weekends and holidays, beginning on  
12 the date notice was given under subsection (20). After the  
13 expiration of the 14 days, if the owner or a possessor of the  
14 animal has not posted a security deposit or bond as provided in  
15 subsections (21) and (24) or requested a hearing as described in  
16 subsection (22), the animal is forfeited, and the animal control  
17 agency may dispose of the animal by adoption, transfer to another  
18 animal control agency, or humane euthanasia.

19 (24) The security deposit or bond described in subsection  
20 (21) (d) must be in a sufficient amount to secure payment of all  
21 costs described in subsection (10) during a 30-day period of  
22 boarding and veterinary treatment of the animal after examination  
23 by a licensed veterinarian. The animal control agency shall  
24 determine the amount of the security deposit or bond no later than  
25 72 hours after the seizure of the animal, and shall make the amount  
26 of the security deposit or bond available to the owner or possessor  
27 of the animal upon request. Unless the owner or possessor of the  
28 animal requests a hearing as described in subsection (22), the  
29 owner or possessor of the animal shall provide proof of the



1 security deposit or bond to the animal control agency no later than  
2 14 days after the date on the notice described in subsection (21).

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

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

23 (27) If the owner or possessor that posted a security deposit  
24 or bond under subsection (24) or (26) is found not guilty in the  
25 criminal action, the amount of the security deposit or bond posted  
26 to prevent disposition of the animal may be returned to the owner  
27 or possessor at the court's discretion, and, subject to subsections  
28 (29) and (30), the animal must be returned to the owner.

29 (28) If a security deposit or bond is posted by an owner or

1 possessor of an animal under subsection (24) or (26) and the court  
2 determines that the animal lacks any useful purpose or poses a  
3 threat to public safety under subsection (30), the posting of the  
4 security deposit or bond must not prevent disposition of the  
5 animal.

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

15 (30) An animal control agency that receives an animal under  
16 this section may apply to the district court or municipal court for  
17 a hearing to determine whether the animal must be humanely  
18 euthanized because of its lack of any useful purpose or the public  
19 safety threat it poses. The court shall hold a hearing not more  
20 than 30 days after the filing of the application and shall give  
21 notice of the hearing to the owner of the animal. Upon a finding by  
22 the court that the animal lacks any useful purpose or poses a  
23 threat to public safety, the animal control agency shall humanely  
24 euthanize the animal or have the animal euthanized. Expenses  
25 incurred in connection with the housing, care, upkeep, or  
26 euthanasia of the animal by an animal control agency, or by a  
27 person, firm, partnership, corporation, or other entity, may, in  
28 the court's discretion, be assessed against the owner of the  
29 animal.