

HOUSE BILL NO. 4704

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 50 (MCL 750.50), as amended by 2019 PA 135.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 50. (1) As used in this section and section 50b:
- 2 (a) "Adequate care" means the provision of sufficient food,
- 3 water, shelter, sanitary conditions, exercise, and veterinary
- 4 medical attention in order to maintain an animal in a state of good
- 5 health.

1 (b) "Animal" means a vertebrate other than a human being.

2 ~~(c) "Animal control shelter" means a facility operated by a~~
3 ~~county, city, village, or township to impound and care for animals~~
4 ~~found in streets or otherwise at large contrary to an ordinance of~~
5 ~~the county, city, village, or township or state law.~~

6 ~~(d) "Animal protection shelter" means a facility operated by a~~
7 ~~person, humane society, society for the prevention of cruelty to~~
8 ~~animals, or any other nonprofit organization, for the care of~~
9 ~~homeless animals.~~

10 (c) "Animal control agency" means an animal control shelter,
11 an animal protection shelter, or a law enforcement agency.

12 (d) "Animal control shelter" and "animal protection shelter"
13 mean those terms as defined in section 1 of 1969 PA 287, MCL
14 287.331.

15 (e) "Breeder" means a person that breeds animals other than
16 livestock or dogs for remuneration, or that is a large-scale dog
17 breeding kennel as that term is defined in section 1 of 1969 PA
18 287, MCL 287.331.

19 (f) "Licensed veterinarian" means a person licensed or
20 otherwise authorized to practice veterinary medicine under article
21 15 of the public health code, 1978 PA 368, MCL 333.16101 to
22 333.18838.

23 (g) "Livestock" means that term as defined in section 3 of the
24 animal industry act, 1988 PA 466, MCL 287.703.

25 (h) "Neglect" means to fail to sufficiently and properly care
26 for an animal to the extent that the animal's health is
27 jeopardized.

28 (i) "Person" means an individual, partnership, limited
29 liability company, corporation, association, governmental entity,

1 or other legal entity.

2 (j) "Pet shop" means that term as defined in section 1 of 1969
3 PA 287, MCL 287.331.

4 (k) "Sanitary conditions" means space free from health hazards
5 including excessive animal waste, overcrowding of animals, or other
6 conditions that endanger the animal's health. This definition does
7 not include any condition resulting from a customary and reasonable
8 practice pursuant to farming or animal husbandry.

9 (l) "Shelter" means adequate protection from the elements and
10 weather conditions suitable for the age, species, and physical
11 condition of the animal so as to maintain the animal in a state of
12 good health. Shelter, for livestock, includes structures or natural
13 features such as trees or topography. Shelter, for a dog, includes
14 1 or more of the following:

15 (i) The residence of the dog's owner or other individual.

16 (ii) A doghouse that is an enclosed structure with a roof and
17 of appropriate dimensions for the breed and size of the dog. The
18 doghouse must have dry bedding when the outdoor temperature is or
19 is predicted to drop below freezing.

20 (iii) A structure, including a garage, barn, or shed, that is
21 sufficiently insulated and ventilated to protect the dog from
22 exposure to extreme temperatures or, if not sufficiently insulated
23 and ventilated, contains a doghouse as provided under subparagraph
24 (ii) that is accessible to the dog.

25 (m) "State of good health" means freedom from disease and
26 illness, and in a condition of proper body weight and temperature
27 for the age and species of the animal, unless the animal is
28 undergoing appropriate treatment.

29 (n) "Tethering" means the restraint and confinement of a dog

1 by use of a chain, rope, or similar device.

2 (o) "Water" means potable water that is suitable for the age
3 and species of animal and that is made regularly available unless
4 otherwise directed by a licensed veterinarian.

5 (2) An owner, possessor, breeder, operator of a pet shop, or
6 person having the charge or custody of an animal shall not do any
7 of the following:

8 (a) Fail to provide an animal with adequate care.

9 (b) Cruelly drive, work, or beat an animal, or cause an animal
10 to be cruelly driven, worked, or beaten.

11 (c) Carry or cause to be carried in or upon a vehicle or
12 otherwise any live animal having the feet or legs tied together,
13 other than an animal being transported for medical care or a horse
14 whose feet are hobbled to protect the horse during transport, or in
15 any other cruel and inhumane manner.

16 (d) Carry or cause to be carried a live animal in or upon a
17 vehicle or otherwise without providing a secure space, rack, car,
18 crate, or cage in which livestock may stand and in which all other
19 animals may stand, turn around, and lie down during transportation,
20 or while awaiting slaughter. As used in this subdivision, for
21 purposes of transportation of sled dogs, "stand" means sufficient
22 vertical distance to allow the animal to stand without its
23 shoulders touching the top of the crate or transportation vehicle.

24 (e) Abandon an animal or cause an animal to be abandoned, in
25 any place, without making provisions for the animal's adequate
26 care, unless premises are vacated for the protection of human life
27 or the prevention of injury to a human. An animal that is lost by
28 an owner or custodian while traveling, walking, hiking, or hunting
29 is not abandoned under this section when the owner or custodian has

1 made a reasonable effort to locate the animal.

2 (f) Negligently allow any animal, including one who is aged,
3 diseased, maimed, hopelessly sick, disabled, or nonambulatory to
4 suffer unnecessary neglect, torture, or pain.

5 (g) Tether a dog unless the tether is at least 3 times the
6 length of the dog as measured from the tip of its nose to the base
7 of its tail and is attached to a harness or nonchoke collar
8 designed for tethering. This subdivision does not apply if the
9 tethering of the dog occurs while the dog is being groomed,
10 trained, transported, or used in a hunt or event where a shorter
11 tether is necessary for the safety and well-being of the dog and
12 others.

13 ~~(3) If an animal is impounded and is being held by an animal
14 control shelter or its designee or an animal protection shelter or
15 its designee or a licensed veterinarian pending the outcome of a
16 criminal action charging a violation of this section or section
17 50b, before final disposition of the criminal charge, the
18 prosecuting attorney may file a civil action in the court that has
19 jurisdiction of the criminal action, requesting that the court
20 issue an order forfeiting the animal to the animal control shelter
21 or animal protection shelter or to a licensed veterinarian before
22 final disposition of the criminal charge. The prosecuting attorney
23 shall serve a true copy of the summons and complaint upon the
24 defendant and upon a person with a known ownership interest or
25 known security interest in the animal or a person who has filed a
26 lien with the secretary of state on the animal. The forfeiture of
27 an animal under this section encumbered by a security interest is
28 subject to the interest of the holder of the security interest if
29 he or she did not have prior knowledge of or did not consent to the~~

1 ~~commission of the crime. Upon the filing of the civil action, the~~
2 ~~court shall set a hearing on the complaint. The hearing must be~~
3 ~~conducted within 14 days of the filing of the civil action, or as~~
4 ~~soon as practicable. The hearing must be before a judge without a~~
5 ~~jury. At the hearing, the prosecuting attorney has the burden of~~
6 ~~establishing by a preponderance of the evidence that a violation of~~
7 ~~this section or section 50b occurred. If the court finds that the~~
8 ~~prosecuting attorney has met this burden, the court shall order~~
9 ~~immediate forfeiture of the animal to the animal control shelter or~~
10 ~~animal protection shelter or the licensed veterinarian unless the~~
11 ~~defendant, within 72 hours of the hearing, submits to the court~~
12 ~~elk cash or other form of security in an amount determined by the~~
13 ~~court to be sufficient to repay all reasonable costs incurred, and~~
14 ~~anticipated to be incurred, by the animal control shelter or animal~~
15 ~~protection shelter or the licensed veterinarian in caring for the~~
16 ~~animal from the date of initial impoundment to the date of trial.~~
17 ~~If cash or other security has been submitted, and the trial in the~~
18 ~~action is continued at a later date, any order of continuance must~~
19 ~~require the defendant to submit additional cash or security in an~~
20 ~~amount determined by the court to be sufficient to repay all~~
21 ~~additional reasonable costs anticipated to be incurred by the~~
22 ~~animal control shelter or animal protection shelter or the licensed~~
23 ~~veterinarian in caring for the animal until the new date of trial.~~
24 ~~If the defendant submits cash or other security to the court under~~
25 ~~this subsection the court may enter an order authorizing the use of~~
26 ~~that cash or other security before final disposition of the~~
27 ~~criminal charges to pay the reasonable costs incurred by the animal~~
28 ~~control shelter or animal protection shelter or the licensed~~
29 ~~veterinarian in caring for the animal from the date of impoundment~~

1 ~~to the date of final disposition of the criminal charges. The~~
2 ~~testimony of a person at a hearing held under this subsection is~~
3 ~~not admissible against him or her in any criminal proceeding except~~
4 ~~in a criminal prosecution for perjury. The testimony of a person at~~
5 ~~a hearing held under this subsection does not waive the person's~~
6 ~~constitutional right against self-incrimination. An animal seized~~
7 ~~under this section or section 50b is not subject to any other civil~~
8 ~~action pending the final judgment of the forfeiture action under~~
9 ~~this subsection.~~**Except as provided in subsection (21), an animal**
10 **that is a victim of a violation of this section and was confiscated**
11 **by a law enforcement officer must not be returned to the owner or**
12 **possessor of the animal if the owner or possessor is alleged to**
13 **have violated this section. A confiscated animal must be taken to a**
14 **local animal control agency. If an animal owner or possessor is**
15 **convicted of violating subsection (2), the court shall award the**
16 **animal involved in the violation to the animal control agency for**
17 **evaluation and disposition.**

18 (4) A person who violates subsection (2) is guilty of a crime
19 as follows:

20 (a) Except as otherwise provided in subdivisions (c) to (f),
21 if the violation involved 1 animal, the person is guilty of a
22 misdemeanor punishable by 1 or more of the following and may be
23 ordered to pay the costs of prosecution:

24 (i) Imprisonment for not more than 93 days.

25 (ii) A fine of not more than \$1,000.00.

26 (iii) Community service for not more than 200 hours.

27 (b) Except as otherwise provided in subdivisions (c) to (f),
28 if the violation involved 2 or 3 animals or the death of any
29 animal, the person is guilty of a misdemeanor punishable by 1 or

1 more of the following and may be ordered to pay the costs of
2 prosecution:

3 (i) Imprisonment for not more than 1 year.

4 (ii) A fine of not more than \$2,000.00.

5 (iii) Community service for not more than 300 hours.

6 (c) If the violation involved 4 or more animals but fewer than
7 10 animals or the person had 1 prior conviction under subsection
8 (2), the person is guilty of a felony punishable by 1 or more of
9 the following and may be ordered to pay the costs of prosecution:

10 (i) Imprisonment for not more than 2 years.

11 (ii) A fine of not more than \$2,000.00.

12 (iii) Community service for not more than 300 hours.

13 (d) If the violation involved 10 or more animals but fewer
14 than 25 animals or the person had 2 prior convictions for violating
15 subsection (2), the person is guilty of a felony punishable by 1 or
16 more of the following and may be ordered to pay the costs of
17 prosecution:

18 (i) Imprisonment for not more than 4 years.

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

20 (iii) Community service for not more than 500 hours.

21 (e) If the violation involved 25 or more animals or the person
22 has had 3 or more prior convictions for violating subsection (2),
23 the person is guilty of a felony punishable by 1 or more of the
24 following and may be ordered to pay the costs of prosecution:

25 (i) Imprisonment for not more than 7 years.

26 (ii) A fine of not more than \$10,000.00.

27 (iii) Community service for not more than 500 hours.

28 (f) If the person is a breeder, or if the person is an

1 operator of a pet shop and he or she has had 5 or more prior
2 convictions for violating 1969 PA 287, MCL 287.331 to 287.340, the
3 person is guilty of a felony punishable by imprisonment for not
4 more than 2 years or a fine of not more than \$5,000.00, or both.

5 (5) The court may order a person convicted of violating
6 subsection (2) to be evaluated to determine the need for
7 psychiatric or psychological counseling and, if determined
8 appropriate by the court, to receive psychiatric or psychological
9 counseling. The evaluation and counseling ~~shall~~**must** be at the
10 defendant's own expense.

11 (6) This section does not prohibit a person from being charged
12 with, convicted of, or punished for any other violation of law
13 arising out of the same transaction as the violation of this
14 section.

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

20 (8) As a part of the sentence for a violation of subsection
21 (2), the court may order the defendant to pay **restitution**
22 **including, but not limited to,** the costs **of the investigation of**
23 **the violation of this section, the costs of the prosecution, and**
24 **the costs** of the **seizure,** care, housing, ~~and~~ veterinary medical
25 care, ~~for~~ **and disposition of** the animal **victim,** as applicable. **The**
26 **costs of the seizure, care, housing, veterinary medical care, and**
27 **disposition of the animal victim should not be included in the**
28 **sentence if they were previously paid by the defendant with a**
29 **security deposit or bond as described in subsection (15) (d).** If the

1 court does not order a defendant to pay all of the applicable costs
2 listed in this subsection, or orders only partial payment of these
3 costs, the court shall state on the record the reason for that
4 action. **As used in this subsection, "disposition of the animal
5 victim" includes, but is not limited to, the transfer, euthanasia,
6 or adoption of the animal.**

7 (9) As a part of the sentence for a violation of subsection
8 (2), the court may, as a condition of probation, order the
9 defendant not to own or possess an animal for a period of time not
10 to exceed the period of probation. If a person is convicted of a
11 second or subsequent violation of subsection (2), the court may
12 order the defendant not to own or possess an animal for any period
13 of time, including permanent relinquishment of animal ownership.

14 (10) A person who owns or possesses an animal in violation of
15 an order issued under subsection (9) is subject to revocation of
16 probation if the order is issued as a condition of probation. A
17 person who owns or possesses an animal in violation of an order
18 issued under subsection (9) is also subject to the civil and
19 criminal contempt power of the court, and if found guilty of
20 criminal contempt, may be punished by imprisonment for not more
21 than 90 days or a fine of not more than \$500.00, or both.

22 (11) As part of the sentence imposed under subsection (4) (e),
23 the court may place the defendant on probation for any term of
24 years, but not less than 5 years.

25 (12) This section does not prohibit the lawful killing or
26 other use of an animal, including the following:

27 (a) Fishing.

28 (b) Hunting, trapping, or wildlife control regulated under the
29 natural resources and environmental protection act, 1994 PA 451,

1 MCL 324.101 to 324.90106.

2 (c) Horse racing.

3 (d) The operation of a zoological park or aquarium.

4 (e) Pest or rodent control regulated under part 83 of the
5 natural resources and environmental protection act, 1994 PA 451,
6 MCL 324.8301 to 324.8336.

7 (f) Farming or a generally accepted animal husbandry or
8 farming practice involving livestock.

9 (g) Scientific research under 1969 PA 224, MCL 287.381 to
10 287.395.

11 (h) Scientific research or the lawful killing of an animal
12 under sections 2226, 2671, 2676, and 7333 of the public health
13 code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, and 333.7333.

14 (i) The lawful killing or use of an animal under the animal
15 industry act, 1988 PA 466, MCL 287.701 to 287.746.

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

20 **(14) An animal control agency taking custody of an animal**
21 **under subsection (3) shall give notice within 72 hours after**
22 **seizure of the animal in person or by registered mail to the last**
23 **known address of the animal's owner, if the owner of the animal is**
24 **known. If the owner of the animal is unknown, an animal control**
25 **agency taking custody of an animal under subsection (3) shall give**
26 **notice within 72 hours after seizure of the animal by 1 of the**
27 **following methods:**

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

29 (b) Delivery to a person residing at the location of the

1 seizure.

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

3 (15) The notice required under subsection (14) must include
4 all of the following:

5 (a) A description of each animal seized.

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

8 (c) The address and telephone number of the location where the
9 animal is being held and contact information for the individual
10 present at that location from whom security deposit or bond
11 information may be obtained.

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

26 (e) A statement that the owner or possessor of the animal is
27 responsible for all costs described in subsection (8), unless the
28 court determines that the seizure of the animal was not
29 substantially justified by law.

1 (16) A request for a hearing within 14 days after the date on
2 the notice will prevent forfeiture of the animal until the court
3 makes a determination whether the requirement to post a security
4 deposit or bond is justified, whether the amount of the security
5 deposit or bond is fair and reasonable, or both. The defendant's
6 ability to pay is not a consideration. Notice of a request for a
7 hearing under subsection (15) must be served on the animal control
8 agency holding the animal before the expiration of the 14-day
9 period described in subsection (15). A hearing on whether the
10 requirement to post a security deposit or bond is justified,
11 whether the amount of the security deposit or bond is fair and
12 reasonable, or both, must be held within 21 days of the request for
13 the hearing, and the prosecuting attorney has the burden at the
14 hearing to establish by a preponderance of the evidence that a
15 violation of this section occurred. If the court finds that the
16 prosecuting attorney has met its burden, that the security deposit
17 or bond is reasonable, or both, the animal will be forfeited to the
18 animal control agency that seized the animal unless the owner or
19 possessor of the animal posts the required security deposit or
20 bond. An owner or possessor's failure to appear at a scheduled
21 hearing requested under this subsection will result in automatic
22 forfeiture of the animal if the date of the scheduled hearing is
23 more than 14 days after the date on the notice described in
24 subsection (15).

25 (17) An animal control agency that has custody of a seized
26 animal under subsection (3) shall hold the animal for a period of
27 14 consecutive days, including weekends and holidays, beginning on
28 the date notice was given under subsection (14). After the
29 expiration of the 14 days, if the owner or a possessor of the

1 animal has not posted a security deposit or bond as provided in
2 subsections (8) and (18) or requested a hearing as described in
3 subsection (16), the animal is forfeited, and the animal control
4 agency may dispose of the animal by adoption, transfer to another
5 animal control agency, or humane euthanasia.

6 (18) The security deposit or bond described in subsection
7 (15) (d) must be in a sufficient amount to secure payment of all
8 costs described in subsection (8) during a 30-day period of
9 boarding and veterinary treatment of the animal after examination
10 by a licensed veterinarian. The animal control agency shall
11 determine the amount of the security deposit or bond no later than
12 72 hours after the seizure of the animal, and shall make the amount
13 of the security deposit or bond available to the owner or possessor
14 of the animal upon request. Unless the owner or possessor of the
15 animal requests a hearing as described in subsection (16), the
16 owner or possessor of the animal shall provide proof of the
17 security deposit or bond to the animal control agency no later than
18 14 days after the date on the notice described in subsection (15).

19 (19) An animal control agency that is holding or requiring to
20 be held a seized animal as provided in this section may draw on a
21 security deposit or bond posted under subsection (18) or (20) to
22 cover the actual reasonable costs incurred in the seizure, care,
23 keeping, and disposition of the animal as described in subsection
24 (8) from the date of the seizure to the date of the official
25 disposition of the animal in the criminal action.

26 (20) If a security deposit or bond has been posted under
27 subsection (16), and trial in the criminal action does not occur
28 within the initial 30-day bond period or is continued to a later
29 date, the owner or possessor shall post an additional security

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

10 (21) If the owner or possessor that posted a security deposit
11 or bond under subsection (18) or (20) is found not guilty in the
12 criminal action, the amount of the security deposit or bond posted
13 to prevent disposition of the animal may be returned to the owner
14 or possessor at the court's discretion, and, subject to subsections
15 (23) and (24), the animal must be returned to the owner.

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

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

1 (20) .

2 (24) An animal control agency that receives an animal under
3 this section may apply to the district court or municipal court for
4 a hearing to determine whether the animal must be humanely
5 euthanized because of its lack of any useful purpose or the public
6 safety threat it poses. The court shall hold a hearing not more
7 than 30 days after the filing of the application and shall give
8 notice of the hearing to the owner of the animal. Upon a finding by
9 the court that the animal lacks any useful purpose or poses a
10 threat to public safety, the animal control agency shall humanely
11 euthanize the animal or have the animal euthanized. Expenses
12 incurred in connection with the housing, care, upkeep, or
13 euthanasia of the animal by an animal control agency, or by a
14 person, firm, partnership, corporation, or other entity, may, in
15 the court's discretion, be assessed against the owner of the
16 animal.