

Legislative Analysis



"LOGAN'S LAW" AND OTHER ANIMAL PROTECTION REVISIONS

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House Bill 4534 (Substitute H-7)
Sponsor: Rep. Paul Muxlow

House Bill 4755 (Substitute H-2)
House Bill 5061 (Substitute H-2)
House Bill 5062 (Substitute H-1)
Sponsor: Rep. Harvey Santana

Committee: Judiciary
Complete to 2-17-14

A SUMMARY OF HOUSE BILLS 4534, 4755, 5061, AND 5062 AS REPORTED BY COMMITTEE 2-13-14

House Bill 4534 would create Logan's Law to require animal control or protection shelters to conduct an ICHAT search before adopting out an animal.

House Bill 4755 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.

House Bill 5061 would create the Animal Adoption Protection Act to prohibit animal shelters from adopting an animal for a specified period of time to an individual with a prior conviction for animal abuse and to define the term "animal abuse offense."

House Bill 5062 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.

House Bills 4534 and 5061 are tie-barred to each other and to Senate Bill 603. House Bill 5062 is tie-barred to House Bills 4534 and 5061. A tie-bar means that a bill cannot take effect unless a bill or bills it is tie-barred to is enacted into law.

House Bill 4534

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.¹

["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.]

House Bill 5061

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 has elapsed since the date of the conviction.

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

¹The 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.

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 except livestock as defined in PA 284 of 1937.

House Bill 5062 would amend Public Act 120 of 1935 (MCL 28.273), which regulates the fingerprinting of residents. The bill would exempt an animal control shelter or animal protection shelter performing a name-based background check for purposes of animal adoption checks through ICHAT from being charged the \$10 per name processing fee.

The Department of State Police would have to prepare a report annually of animal abuse offenses reported to the department for inclusion in the criminal history record information database. The report would have to include the number of offenses reported during the year, broken down into categories considered appropriate by the department. A copy would have to be provided to the Secretary of the Senate, Clerk of the House of Representatives, and director of the Department of Agriculture and Rural Development within 30 days after the calendar year in which the report is due.

"Animal abuse" and "ICHAT" would be defined the same as described above for House Bill 5061.

House Bill 4755 would amend the Michigan Penal Code (MCL 750.49, 750.50, and 750.50b) to do the following (underlining denotes changes):

- ❖ As part of the sentence for a violation of the *animal fighting law*, specify that the current prohibition on owning or possessing an animal of the same species involved in the violation is for a period of at least five years after the date of sentencing or the date of release from incarceration, whichever is later.
- ❖ As part of the sentence for *animal neglect or cruelty*, require, instead of allow, a court to impose as a condition of probation an order prohibiting the defendant to own or possess an animal for a period not to exceed the period of probation.
- ❖ For a second or subsequent violation of *animal neglect or cruelty*, require, instead of allow, a court to order the defendant not to own or possess an animal for at least five years after the date of sentencing or the date of release from incarceration, whichever is later (instead of for any period of time). A court could still order permanent relinquishment of animal ownership.
- ❖ As part of the sentence for *killing or torturing an animal*, require, instead of allow, a court to order the defendant not to own or possess an animal for at least five years after the date of sentencing or the date of release from incarceration, whichever is later (instead of for any period of time). The court could still order permanent relinquishment of animal ownership.
- ❖ Specify that for the above violations, a court could not order the person convicted not to own or possess livestock. However, if the violation involved livestock, the court would have to order the person convicted not to own or possess livestock for any period of time determined by the court.
- ❖ Make numerous changes of a technical nature, such as correcting references to legal citations.

FISCAL IMPACT:

House Bill 4755 would have an indeterminate fiscal impact on the judiciary and local court funding units. The bill's new requirements could cause an increase in caseloads and related administrative costs.

House Bill 5061 would not have a significant fiscal impact on the Department of Agriculture and Rural Development.

HB 5062 would have no significant fiscal impact on the Department of State Police. The department incurs only nominal costs in generating a report through the Internet Criminal History Access Tool (ICHAT) for which a fee is not paid by the requesting person. Moreover, the department already maintains data on violations of criminal statutes, and can compile and report data on animal abuses within its existing budgetary resources.

POSITIONS:

The following testified, submitted written testimony, or indicated support for the bills:

Department of State Police (2-6-14)
United Kennel Club (2-14-14)
Michigan Retailers Association (2-6-14)
Animal Legal Defense Fund/House Bill 4755 (1-30-14)
Michigan Humane Society (1-30-14)
Mikita Kruse Law Center (1-30-14)
ASPCA (1-30-14)
Animal Law Section/State Bar of Michigan (6-6-13)
Humane Society of West Michigan (6-6-13)
A representative of the Ingham County animal control (6-6-13)
Mapleview Animal Hospital (6-6-13)
Michigan Association of Animal Control Officers (6-6-13)
Pipers Rescue Ranch
Michigan Protection and Advocacy (6-6-13)

The following indicated a neutral position on the bills:

Michigan Association for Pure Bred Dogs (2-6-14)
Michigan Farm Bureau (2-6-14)
Protect Michigan Dogs (2-6-14)
Michigan Department of Agriculture and Rural Development/House Bill 4534 (6-6-13)

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