

Legislative Analysis



CREATE ANIMAL ABUSERS REGISTRY AND PROHIBIT ANIMAL ADOPTION BY REGISTERED ABUSERS

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4534

Sponsor: Rep. Paul Muxlow

House Bill 4535

Sponsor: Rep. Harvey Santana

Committee: Judiciary

Complete to 6-5-13

A SUMMARY OF HOUSE BILLS 4534 & 4535 AS INTRODUCED 4-10-13

House Bill 4535 would create a new act known as the State of Michigan Animal Abuser Registry Law. The bill would require individuals convicted of certain crimes involving animals to register with the Michigan Department of State Police (MSP). The bill would take effect 90 days after enactment. House Bill 4534 would prohibit individuals included in the animal abuse registry from adopting an animal from an animal shelter.

House Bill 4534

The bill would amend the Pet Shop Law (1969 PA 287) to prohibit animal control shelters and animal protection shelters from permitting an individual to adopt an animal without first verifying the individual's registration status against the animal abuse registry established under House Bill 4535. If the individual is registered, the shelter would be prohibited from permitting the individual to adopt the animal.¹

House Bill 4535

Section 2 – Definitions

Among other things the bill defines "animal abuse offense" to mean a violation of one or more of the following laws:

- Section 49 of the Michigan Penal Code (MCL 750.49), pertaining to animal fighting.

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.

- 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.
- Any other violation of a state law or local ordinance that, by its nature, constitutes an animal abuse offense.
- An attempt or conspiracy to commit an offense described above.
- An offense of the law of the U.S., another state, another country, or Native American tribe that is similar to an offense described above.

Section 3 – General Registration Requirements

The bill requires that individuals at least 18 years of age who reside in the state and who are convicted of an animal abuse offense on or after the bill's effective date to register with the Michigan State Police. The bill also requires out-of-state individuals who currently are domiciled in state and who were convicted of an animal abuse offense under the laws of another state to also register with the MSP.²

Section 4 – Registration Time Requirements

The bill would require that state residents convicted of an animal abuse offense to register with the MSP within 5 days after the release from incarceration or, if the offender was not incarcerated, within 5 days after sentencing. The bill would also require that out-of-state individuals convicted of a similar animal abuse offense in another state to register with the MSP within 21 days after becoming domiciled in the state.

Section 5 – Animal Abuse Registry Contents

Upon conviction of an offender of an animal abuse offense, the prosecutor would forward the name and address of the offender and nature of the offense to the MSP. Individuals required to register with MSP would be required to provide MSP with their name (and any known aliases), residential address, photograph taken from the shoulders and above, social security number, date of birth, and fingerprints. (Registrants who happen to

² Presumably, this provision should also require registration for convictions occurring on or after the bill's effective date.

participate in the witness security program would only be required to provide information reflecting their new identity.)

Registrants would remain in the animal abuse registry for a period of 5 years from the date of release from incarceration or the sentencing date, whichever is later. Registrants subsequently convicted of another animal abuse offense would remain on the registry for an additional 5 years from the date of the conviction.

Registrants would have to provide up-to-date address information each time they move, and would have to annually verify their address. Registrants would also have to report to the appropriate local law enforcement agency and verify their address within 5 days of registering.

Registrants would also have to maintain a valid driver's license or state identification card with a current address. A valid card would have to be obtained within 14 days after sentencing or release from incarceration, whichever is later.

Section 6 – Annual Fee

The bill would impose a fee of \$250 payable each year the registrant is listed on the registry. The fee would be payable to the MSP and would be allocated as follows:

- \$150 to a new Animal Abuse Offenders Registration Fund maintained by the MSP to be expended for training, maintenance, and operation of the registry database.
- \$50 to the local court and law enforcement agency that is involved in the registrant's case.
- \$50 to the state General Fund.

Section 7 – Michigan State Police Database

The bill would require the MSP to maintain a computerized database containing identifying information on registrants. Information containing the name, date of birth, and zip code of registrants would have to be accessible to the public.

Other written reports, documents, and photographs filed with the MSP would be confidential and may be disclosed in only a certain number of circumstances.³ These documents and other information may be disclosed to animal protective agencies investigating alleged animal abuse or neglect, law enforcement agencies, veterinarians treating animals subjected to abuse or neglect, individuals that may place an animal in protective custody, persons responsible for the animal's health, the person identified in the information as the alleged perpetrator, courts, grand juries, guardians ad litem and other appointed attorneys, animal placing agencies, and animal care regulatory agencies. The MSP could not disclose information compiled by local law enforcement agencies related to any ongoing investigation. A person who discloses otherwise confidential

³ While the bill deems this information to be "confidential," it does not explicitly exempt this information from disclosure under the Freedom of Information Act.

information would be liable to the person that is the subject of the information for triple damages.

Individuals who are the subject of a record in the database may request that MSP remedy an inaccurate record or expunge a report or record if no relevant or accurate evidence of abuse or neglect exists. If the department fails or refuses to amend or expunge a record, it shall conduct a hearing to determine by a preponderance of the evidence on whether the record should be amended or expunged. If a conviction of an animal abuse offense is set-aside, the MSP would be required to remove the record.

Section 8 – Penalties

Individuals who are required to register under the bill but willfully fail to do so would be guilty of a misdemeanor punishable by imprisonment of up to 1 year and/or a fine of \$1,000.

If a humane society animal shelter or similar organization (or their authorized agents) knowingly offers or sells an animal to a registrant, the organization or authorized agent would be guilty of a misdemeanor punishable by imprisonment of up to 1 year and/or a fine of \$1,000. If the organization fails to verify whether a person to whom an animal is offered or sold is registered under the bill, the organization shall be given a "written warning." If the organization fails to verify the registration status of a person at least two times within a two year span, the organization would be subject to a fine of \$250 for the second and each subsequent violation.

Probationers and parolees would willfully violate the bill would have their probation/parole revoked.

Section 9 – Administrative Rules

The bill would give the MSP rulemaking authority.

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact on the Department of State Police. The department estimates that each year that 150 to 170 people are convicted of animal abuse offenses. (The bill would require only those individuals convicted of animal abuse offenses on or after the bill's effective date to register with the department.) These offenders would be placed on a registry maintained by the department, and would be required to pay a fee of \$250 for each year the offender must register. The annual \$250 registration fee would be distributed among as follows: \$150 to the Animal Abuse Registration Fund (Department of State Police administrative costs); \$50 to the local court and law enforcement agency; and \$50 to the state's General Fund.

Offenders would remain on the registry for a period of 5 years following their release from incarceration or sentencing for an animal abuse offense. The offenses listed in the bill include misdemeanors subject to imprisonment of up to 90/93 days and felonies subject to imprisonment of up to 2-5 years and/or some amount of community service.

The listed offenses also include more severe crimes with a potential term of imprisonment of 15 years to life. Given the range of offenses and potential penalties, the amount of time following conviction and the frequency with which individuals would be added to the registry isn't immediately known.

The bill creates new misdemeanor penalties. The cost of local incarceration in a county jail and local misdemeanor probation supervision varies by jurisdiction. Penal fine revenues benefit local libraries, which are the constitutionally-designated recipients of those revenues.

Fiscal Analyst: Mark Wolf

■ 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.