



Senate Fiscal Agency
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House Bill 4703 (Substitute H-1 as passed by the House)
House Bill 4704 (Substitute H-1 as passed by the House)
Sponsor: Representative Douglas C. Wozniak
House Committee: Judiciary
Senate Committee: Judiciary and Public Safety

Date Completed: 6-13-22

CONTENT

House Bills 4703 (H-1) and 4704 (H-1), taken together, would amend Chapter 9 (Animals) of the Michigan Penal Code to do the following:

- **Modify provisions allowing a court to order a defendant to pay restitution as part of a sentence for certain violations Chapter 9.**
- **Prohibit an animal that was the victim of abuse and was confiscated by a law enforcement officer from being returned to its owner or possessor if the owner or possessor were alleged to have violated Chapter 9, and require the animal to be taken to a local animal control agency.**
- **Require a court to award the animal to the animal control agency for evaluation and disposition if the owner or possessor were convicted under Chapter 9.**
- **Require an animal control agency taking custody of an animal to give notice within 72 hours after seizing the animal.**
- **Require a notice to include, among other things, a statement that the animal's owner or possessor could post a security deposit or bond that could prevent the forfeiture of the animal during the criminal, forfeiture, or other court proceeding until the court made a final determination regarding the animal's disposition.**
- **Specify that a request for a hearing within 14 days after the date on the notice would prevent forfeiture of the animal until the court made a determination whether the requirement to post a security deposit or bond was justified, whether the amount of the security deposit or bond was fair and reasonable, or both.**
- **Require an animal control agency that had custody of a seized animal to hold it for 14 consecutive days beginning on the date notice was given, and specify that if the owner or possessor had not posted a security deposit or bond or requested a hearing with the 14-day period, the animal would be forfeited and the animal control agency could dispose of the animal by adoption, transfer to another animal control agency, or humane euthanasia.**
- **Specify that if the owner or possessor that posted a security deposit or bond were found not guilty in the criminal action, the amount of the security deposit or bond posted to prevent disposition of the animal could be returned to the owner or possessor at the court's discretion, and the animal would have to be returned to the owner.**
- **Allow an animal control agency, after receiving a seized animal, to humanely euthanize it or have it euthanized under certain circumstances.**

- **Allow an animal control agency that received an animal to apply to the district court or municipal court for a hearing to determine whether the animal would have to be humanely euthanized because of its lack of any useful purpose or the public safety threat it posed.**

Section 50 of the Penal Code prohibits the owner, possessor, breeder, operator of a pet shop, or person having the charge or custody of an animal from doing any of the following:

- Failing to provide an animal with adequate care.
- Cruelly driving, working, or beating an animal, or causing an animal to be cruelly driven, worked, or beaten.
- Carrying or causing to be carried in or upon a vehicle or otherwise any live animal having the feet or legs tied together, other than an animal being transported for medical care or a horse whose feet are hobbled to protect the horse during transport, or in any other cruel and inhumane manner.
- Carrying or causing to be carried a live animal in or upon a vehicle or otherwise without providing a secure space, rack, car, crate, or cage in which livestock may stand and in which all other animals may stand, turn around, and lie down during transportation, or while awaiting slaughter.
- Abandoning an animal or causing an animal to be abandoned, in any place, without making provisions for the animal's adequate care, unless premises are vacated for the protection of human life or the prevention of injury to a human.
- Negligently allowing any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or nonambulatory to suffer unnecessary neglect, torture, or pain.
- Tethering a dog unless the tether is at least three times the length of the dog as measured from the tip of its nose to the base of its tail and is attached to a harness or nonchoke collar designed for tethering.

Section 50b prohibits a person from doing any of the following without just cause:

- Knowingly killing, torturing, mutilating, maiming, or disfiguring an animal.
- Committing a reckless act knowing or having reason to know that the act will cause an animal to be killed, tortured, mutilated, maimed, or disfigured.
- Knowingly administering poison to an animal, or knowingly exposing an animal to any poisonous substance, with the intent that the substance be taken or swallowed by the animal.
- Violating or threatening to violate any of the prohibitions described above with intent to cause mental suffering or distress to a person or to exert control over a person.

Violations of Sections 50 or 50b constitute various misdemeanors or felonies punishable by certain prescribed terms of imprisonment or a fine, or both.

As part of a sentence for a violation of Sections 50 or 50b, a court may order the defendant to pay the costs of the prosecution, and the costs of the care, housing, and veterinary medical care, for the animal victim, as applicable.

Instead, under the bills, as part of a sentence for a violation of Sections 50 (House Bill 4704 (H-1)) or 50b (House Bill 4703 (H-1)), a court could order the defendant to pay restitution including the costs of the investigation of the violation, the costs of the prosecution, and the costs of seizure, care, housing, veterinary medical care, and disposition of the animal victim, as applicable. The costs of the seizure, care, housing, veterinary care, and disposition of the animal could not be included in the sentence if they were paid previously by the defendant with a security deposit or bond. "Disposition of the animal victim" would include the transfer, euthanasia, or adoption of the animal.

Currently, if an animal is being held while the outcome of a criminal action charging a violation of Sections 50 is pending, Section 50 generally prescribes a process by which a prosecuting may file a civil action to request that a court order the forfeiture of an animal to an animal control shelter or animal protection shelter to a licensed veterinarian. House Bill 4704 (H-1) would delete these provisions.

Under both bills, except as otherwise provided, an animal that was a victim of Sections 50 or 50b and was confiscated by a law enforcement officer could not be returned to the owner or possessor of the animal if the owner or possessor of the animal were alleged to have violated Sections 50 or 50b. A confiscated animal would have to be taken to a local animal control agency. A service animal that was a victim could be seized or confiscated by law enforcement at law enforcement's discretion taking into consideration the totality of the circumstances. If an animal owner or possessor were convicted of violating Sections 50 or 50b, a court would have to award the animal involved in the violation to the animal control agency for evaluation and disposition. "Animal control agency" would mean an animal control shelter, an animal protection shelter, or a law enforcement agency. "Animal control shelter" and "animal protection shelter" would mean those terms as defined in Public Act (PA) 287 of 1969, which governs pet shops, animal control shelters, and animal protection shelters. (Under PA 287, "animal control shelter" means 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.)

(Section 50 defines "animal control shelter as a facility operated by a county, city, village, or township to impound and care for animals found in streets or otherwise at large contrary to an ordinance of the county, city, village, or township or State law. "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. The bill would delete these definitions.)

An animal control agency taking custody of an animal would have to give notice within 72 hours after seizing the animal in person or by registered mail to the last known address of the animal's owner, if the owner of the animal were known. If the owner of the animal were unknown, an animal control agency taking custody of an animal would have to give notice within 72 hours after seizing the animal by one of the following methods:

- Posting at the location of the seizure.
- Delivery to a person residing at the location of the seizure.
- Registered mail to the location of the seizure.

The notice would have to include all of the following:

- A description of each animal seized.
- The time, date, location, and description of circumstances under which the animal was seized.
- The address and telephone number of the location where the animal was being held and contact information for the individual present at that location from whom security deposit or bond information may be obtained.
- A statement that the owner or possessor of the animal could post a security deposit or bond that could prevent the forfeiture of the animal during the criminal, forfeiture, or other court proceeding until the court made a final determination regarding the animal's

disposition, that failure to post a security deposit or bond within 14 days after the date on the notice would result in forfeiture of the animal, and that the owner or possessor of the animal could, before the 14-day period expired, requested a hearing from the court with jurisdiction over the alleged violation of Section 50b on whether the requirement to post a security deposit or bond was justified, whether the cost associated with the security deposit or bond was fair and reasonable for the care of and provision for the seized animal, or both.

- A statement that the owner or possessor of the animal was responsible for all costs described in the bill, unless the court determined that the seizure of the animal was not substantially justified by law.

A request for a hearing within 14 days after the date on the notice would prevent forfeiture of the animal until the court made a determination whether the requirement to post a security deposit or bond was justified, whether the amount of the security deposit or bond was fair and reasonable, or both. The defendant's ability to pay would be considered. Notice of a request for a hearing would have to be served on the animal control agency holding the animal before the 14-day period expired. A hearing on whether the requirement to post a security deposit or bond was justified, whether the amount of the security deposit or bond was fair and reasonable, or both, would have to be held within 21 days after the request for a hearing, and the prosecuting attorney would have the burden to establish by a preponderance of the evidence that a violation occurred. If the court found that the prosecuting attorney had met its burden, that the security deposit or bond was reasonable, or both, the animal would be forfeited to the animal control agency that seized the animal unless the owner or possessor of the animal posted the security deposit or bond. An owner's or possessor's failure to appear at a scheduled hearing would result in automatic forfeiture of the animal if the date of the scheduled hearing were more than 14 days after the date on the notice.

An animal control agency that had custody of a seized animal would have to hold the animal for a period of 14 consecutive days, including weekends and holidays, beginning on the date notice was given. After the 14-day period expired, if the owner or a possessor of the animal had not posted a security deposit or bond or requested a hearing, the animal would be forfeited, and the animal control agency could dispose of the animal by adoption, transfer to another animal control agency, or humane euthanasia.

The security deposit or bond would have to be in an amount sufficient to secure payment of all costs during a 30-day period of boarding and veterinary treatment of the animal after examination by a licensed veterinarian. The animal control agency would have to determine the amount of the security deposit or bond within 72 hours after seizing the animal, and would have to make the amount of the security deposit or bond available to the owner or possessor of the animal upon request. Unless the owner or possessor of the animal requested a hearing, the or she would have to provide proof of the security deposit or bond to the animal control agency within 14 days after the date on the notice.

An animal control agency that was holding or requiring to be held a seized animal could draw on a posted security deposit or bond to cover the actual reasonable costs incurred in the seizure, care, keeping, and disposition of the animal from the date of the seizure to the date of the official disposition of the animal in the criminal action.

If a security deposit or bond had been and trial in the criminal action did not occur within the initial 30-day bond period or was continued to a later date, the owner or possessor would have to post an additional security deposit or bond in an amount determined sufficient to cover the costs as anticipated to be incurred by the animal control agency caring for the animal. The additional security deposit or bond would have to be calculated in 30-day increments and would continue until the criminal action was resolved. If the owner or

possessor of the animal failed to post a new security deposit or bond with the court before the previous security deposit or bond expires, the animal would be forfeited to the animal control agency caring for the animal.

If the owner or possessor that posted a security deposit or bond were found not guilty in the criminal action, the amount of the security deposit or bond posted to prevent disposition of the animal could be returned to the owner or possessor at the court's discretion, and the animal would have to be returned to the owner.

If a security deposit or bond were posted by an owner or possessor of an animal and the court determined that the animal lacked any useful purpose or posed a threat to public safety, the posting of the security deposit or bond could not prevent disposition of the animal.

After receiving an animal seized under the bills, or at any time thereafter, an animal control agency could humanely euthanize the animal or have it euthanized if, in the licensed veterinarian's opinion, the animal was injured or diseased past recovery or the animal's continued existence was inhumane so that euthanasia was necessary to relieve pain and suffering. This provision would apply to an animal whether a security deposit or bond had been posted.

An animal control agency that received an animal could apply to the district court or municipal court for a hearing to determine whether the animal would have to be humanely euthanized because of its lack of any useful purpose or the public safety threat it posed. The court would have to hold a hearing within 30 days after the filing of the application and would have to give notice of the hearing to the animal's owner. Upon a finding by the court that the animal lacked any useful purpose or posed a threat to public safety, the animal control agency would have to humanely euthanize the animal or have the animal euthanized. Expenses incurred in connection with the housing, care, upkeep, or euthanasia of the animal by an animal control agency, or by a person, firm, partnership, corporation, or other entity, in the court's discretion, could be assessed against the animal's owner.

MCL 750.50b (H.B. 4703)
750.50 (H.B. 4704)

Legislative Analyst: Stephen P. Jackson

FISCAL IMPACT

The bills would have no fiscal impact on State government. The bills could have possible fiscal impacts on local and county governments, but in amounts that cannot be determined at this time. Expenditures by local or county government-funded animal control agencies could increase with animal confiscations, but those costs could be mitigated somewhat by the allowance of cost recovery from defendants. The bills would have no fiscal impact on local court systems.

Fiscal Analyst: Bruce R. Baker
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.