

Legislative Analysis



CRIMES AGAINST ANIMALS

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Senate Bill 285 reported from House committee with amendment
Sponsor: Sen. Steven Bieda

Senate Bill 286 reported from House committee with amendment
Sponsor: Sen. Rick Jones

House Committee: Criminal Justice
Senate Committee: Judiciary

First Analysis (2-12-14)

BRIEF SUMMARY: Senate Bill 285 would (1) increase the penalties for animal neglect or cruelty involving multiple animals and/or prior convictions for animal neglect or cruelty; (2) apply the penalties for neglect or cruelty to conduct on the part of breeders and pet shop owners; (3) establish a tiered penalty structure for the crime of killing or torturing animals and include acts against a companion animal; and (4) define terms.

Senate Bill 286 would place the penalties for felony convictions in the sentencing guidelines; require points for certain elements of a crime to be scored for Offense Variables 4, 16, and 19; and revise Offense Variable 10 to expand the definition of "exploit."

The bills would take effect April 1, 2014.

FISCAL IMPACT: The bills could impact state and local correctional costs, as discussed in more detail later in the analysis.

THE APPARENT PROBLEM:

Numerous studies reveal a link between acts of violence towards animals escalating into acts of violence against humans. All too often, observers say, a look into a criminal's background will show multiple incidents of animal abuse that started at a young age. In addition, most women entering domestic violence shelters report that their abuser also injured or killed the family pet. In fact, fear of an attack on a family pet is one of the main reasons cited by battered women, even those with children, as a reason for not leaving the home, as most shelters will not allow animals.

In addition, there have been recent cases in the state of animal hoarding in which people keep such large numbers of animals in their homes or on their premises that the animals cannot be cared for properly and so suffer from extreme neglect to the extent that many need to be put down once rescued. Besides there being a high risk of recidivism, the cost to taxpayers for a municipality to clean up after scores of dead and diseased animals is significant.

Further, according to committee testimony, current law pertaining to pet shops and animal breeders are not sufficient to appropriately penalize operators who neglect or abuse animals intended for commercial sale. All too often, these "puppy mills," as some are called, keep the animals in such deplorable conditions that they die before or shortly after being sold or new owners return them because they are too sick.

Some feel that current penalties for animal abuse, or abusing large numbers of animals, are too low to act as a deterrent or to provide any meaningful help to the human victims. This is all the more true when the animal was a beloved part of the family. Legislation to increase the penalties for certain conduct towards animals, or involving large numbers of animals, has been offered.

THE CONTENT OF THE BILLS:

Senate Bill 285 would amend the Michigan Penal Code to do the following:

- ❖ Apply the prohibitions against and penalties for animal neglect and cruelty to a breeder or operator of a pet shop. "Breeder" means a person who breeds animals other than livestock for the purpose of making a profit. "Pet shop" means that term as defined in Public Act 287 of 1969, which regulates pet shops, dog pounds, and animal shelters.
- ❖ Create an enhanced penalty for violations involving 25 or more animals or three or more prior convictions of animal neglect or cruelty, as specified in the bill. If probation was imposed as part of the sentence, probation could be for any term of years but not less than five years.
- ❖ Make it a felony punishable by not more than two years and/or a fine of not more than \$5,000 for a violation by a breeder or pet shop operator having five or more prior convictions under Public Act 287 of 1969, which regulates pet shops, dog pounds, and animal shelters.
- ❖ Define "companion animal" as an animal that is commonly considered to be, or is considered by its owner to be, a pet. The term includes, but is not limited to, canines and felines (dogs and cats).
- ❖ Prohibit knowingly killing, torturing, maiming, or mutilating an animal; committing a reckless act knowing that the same will occur; or poisoning an animal with the intent to cause mental suffering or distress to a person or to exert control over a person. Enhanced penalties would apply if the animal involved was a companion animal.
- ❖ Revise the penalty structure for knowingly killing, torturing, maiming, or mutilating an animal; committing a reckless act knowing that the same will occur; or poisoning an animal. Currently the penalty is four-year felony and/or a fine of not more than \$5,000. This would be replaced by a 3-tier penalty structure based

on the elements of the crime. Penalties would range from incarceration for not more than four years, a fine up to \$5,000, and/or community service for not more than 500 hours for killing or torturing an animal in the third degree to imprisonment for not more than 10 years and/or a fine of not more than \$5,000 for killing or torturing an animal in the first degree.

- ❖ A judge could order a term of imprisonment imposed for killing or torturing an animal to be served consecutively to a term of imprisonment imposed for any other crime, including any other violation of law arising out of the same transaction as the violation of this provision.

Senate Bill 286, which is tie barred to Senate Bill 285, would amend the Code of Criminal Procedure (MCL 777.16b et al.) to do the following:

- ❖ Require five points to be scored under Offense Variable 4 (psychological injury to a victim) for a conviction involving killing or torturing an animal and serious psychological injury requiring professional treatment occurred to the owner of a companion animal.
- ❖ Revise Offense Variable 16 (property obtained, damaged, lost, or destroyed) to require 25 points to be scored for a conviction of animal neglect or cruelty involving 25 or more animals and 10 points if the conviction involved 10 or more animals but fewer than 25 animals.
- ❖ Revise the definition of the term "exploit" for the purpose of scoring Offense Variable 10 (exploitation of a vulnerable victim) to include a violation of killing or torturing an animal for the purpose of manipulating a victim for selfish or unethical purposes.
- ❖ Require 10 points to be scored under Offense Variable 19 (threat to the security of a penal institution or court or interference with the administration of justice or the rendering of emergency service) if the offender directly or indirectly violated a personal protection order.
- ❖ Designate animal neglect or cruelty involving 4 or more animals but fewer than 10 animals or with one prior conviction as a Class F felony instead of a Class G.
- ❖ Designate animal neglect or cruelty involving 10 or more animals but fewer than 25 or with two priors as a Class E felony instead of a Class F.
- ❖ Specify that animal neglect or cruelty involving 25 or more animals or with 3 or more prior convictions is a Class E felony against the public order with a maximum term of imprisonment of seven years.

- ❖ Specify that animal neglect or cruelty by a breeder or pet shop operator with five or more prior violations of PA 287 of 1969 is a Class E felony against the public order with a two-year maximum term of imprisonment.
- ❖ Specify that first degree killing or torturing animals is a Class D felony involving property with a 10-year maximum term of imprisonment.
- ❖ Specify that second degree killing or torturing animals is a Class E felony involving property with a 7-year maximum term of imprisonment.
- ❖ Specify that third degree killing or torturing animals is a Class F felony involving property with a 4-year maximum term of imprisonment.

HOUSE COMMITTEE ACTION:

An effective date of April 1, 2014, was added to each bill.

FISCAL INFORMATION:

The bills could increase costs on state and local correctional systems. Information is not available on the number of persons that might be convicted under the new provisions of the bill. New felony convictions could result in increased costs related to state prisons, county jails, and/or state probation supervision. The average cost of prison incarceration in a state facility is roughly \$35,600 per prisoner per year, a figure that includes various fixed administrative and operational costs. The costs of local probation supervision vary by jurisdiction. State costs for parole and felony probation supervision average about \$3,600 per supervised offender per year. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

The bill would have no significant impact on the Department of Agriculture and Rural Development.

ARGUMENTS:

For:

The bills recognize the correlation between animal abuse and violence towards humans, including domestic violence. They establish more appropriate penalties for violators of the animal cruelty laws and pet shop laws. Both bills would result in longer prison sentences for any person who deliberately tortured or killed an animal, especially a pet, as a means to exert control over another person or to inflict mental suffering or distress on another. They also give prosecutors more tools to address animal hoarders – a form of mental illness but one that presents various public health risks and is costly to taxpayers for cleanup. The bills will also make it easier to shut down or penalize pet shop operators or breeders who abuse or neglect their animals.

For the child whose pet was killed as a means to manipulate his or her mother, or the person whose beloved dog or cat was brutally tortured by a neighbor, the bills represent a path for meaningful justice that is not available now. The bills may also increase public safety by getting dangerous people off the streets before they can escalate to torturing or killing humans. Longer incarceration may also help to break the cycle of violence and enable rehabilitation. To victims, animal lovers, and law enforcement alike, the bills are long overdue.

POSITIONS:

A representative of the Wayne County Prosecutor's Office testified in support of the bills. (1-29-14)

A representative of the ASPCA testified, and submitted written testimony, in support of the bills. (1-29-13)

The Human Society of the United States submitted written testimony in support of the bills. (1-29-14)

The Kalamazoo Humane Society submitted written testimony in support of the bills. (1-28-14)

The Michigan Humane Society indicated support for the bills. (1-29-14)

Protect Michigan Dogs indicated opposition to the bills. (1-29-14)

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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.