

SENATE BILL No. 496

June 28, 2017, Introduced by Senators HERTEL, JONES, BIEDA, KNEZEK, ROCCA and ANANICH 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 2007 PA 152.

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.

6 (b) "Animal" means ~~any~~ **A** vertebrate other than a human being.

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

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

5 (D) **"ANIMAL PROTECTION SHELTER" MEANS A FACILITY OPERATED BY A**
6 **PERSON, HUMANE SOCIETY, SOCIETY FOR THE PREVENTION OF CRUELTY TO**
7 **ANIMALS, OR ANY OTHER NONPROFIT ORGANIZATION, FOR THE CARE OF**
8 **HOMELESS ANIMALS.**

9 (e) "Licensed veterinarian" means a person licensed to
10 practice veterinary medicine under article 15 of the public health
11 code, 1978 PA 368, MCL 333.16101 to 333.18838.

12 (f) "Livestock" means that term as defined in **SECTION 5 OF** the
13 animal industry act, ~~of 1987,~~ 1988 PA 466, MCL ~~287.701 to~~
14 ~~287.747.~~ **287.705.**

15 (g) "Person" means an individual, partnership, limited
16 liability company, corporation, association, governmental entity,
17 or other legal entity.

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

21 (i) "Sanitary conditions" means space free from health hazards
22 including excessive animal waste, overcrowding of animals, or other
23 conditions that endanger the animal's health. ~~This definition does~~
24 **SANITARY CONDITIONS DO** not include any condition resulting from a
25 customary and reasonable practice pursuant to farming or animal
26 husbandry.

27 (j) "Shelter" means adequate protection from the elements and

1 weather conditions suitable for the age, species, and physical
2 condition of the animal so as to maintain the animal in a state of
3 good health. Shelter, for livestock, includes structures or natural
4 features such as trees or topography. Shelter, for a dog, includes
5 1 or more of the following:

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

7 (ii) A doghouse that is an enclosed structure with a roof and
8 of appropriate dimensions for the breed and size of the dog. The
9 doghouse ~~shall~~**MUST** have dry bedding when the outdoor temperature
10 is or is predicted to drop below freezing.

11 (iii) A structure, including a garage, barn, or shed, that is
12 sufficiently insulated and ventilated to protect the dog from
13 exposure to extreme temperatures or, if not sufficiently insulated
14 and ventilated, contains a doghouse as provided under subparagraph
15 (ii) that is accessible to the dog.

16 (k) "State of good health" means freedom from disease and
17 illness, and in a condition of proper body weight and temperature
18 for the age and species of the animal, unless the animal is
19 undergoing appropriate treatment.

20 (l) "Tethering" means the restraint and confinement of a dog
21 by use of a chain, rope, or similar device.

22 (m) "Water" means potable water that is suitable for the age
23 and species of animal **AND** that is made regularly available unless
24 otherwise directed by a licensed veterinarian.

25 (2) An owner, possessor, or person having the charge or
26 custody of an animal shall not do any of the following:

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

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

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

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

17 (e) Abandon an animal or cause an animal to be abandoned, in
18 any place, without making provisions for the animal's adequate
19 care, unless premises are vacated for the protection of human life
20 or the prevention of injury to a human **BEING**. An animal that is
21 lost by an owner or custodian while traveling, walking, hiking, or
22 hunting is not abandoned under this section when the owner or
23 custodian has made a reasonable effort to locate the animal.

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

27 (g) Tether a dog unless the tether is at least 3 times the

1 length of the dog as measured from the tip of its nose to the base
2 of its tail and is attached to a harness or nonchoke collar
3 designed for tethering.

4 (H) LEAVE OR CONFINES AN ANIMAL IN AN UNATTENDED MOTOR VEHICLE
5 UNDER CONDITIONS THAT ENDANGER THE HEALTH OR WELL-BEING OF THE
6 ANIMAL, INCLUDING, BUT NOT LIMITED TO, HEAT, COLD, LACK OF ADEQUATE
7 VENTILATION, LACK OF FOOD OR WATER, OR OTHER CIRCUMSTANCES THAT
8 COULD REASONABLY BE EXPECTED TO CAUSE SUFFERING, DISABILITY, OR
9 DEATH OF THE ANIMAL.

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

1 Upon the filing of the civil action, the court shall set a hearing
2 on the complaint. The hearing ~~shall~~**MUST** be conducted within 14
3 days of the filing of the civil action, or as soon as practicable.
4 The hearing ~~shall~~**MUST** be before a judge without a jury. At the
5 hearing, the prosecuting attorney has the burden of establishing by
6 a preponderance of the evidence that a violation of this section or
7 section 50b occurred. If the court finds that the prosecuting
8 attorney has met this burden, the court shall order immediate
9 forfeiture of the animal to the animal control shelter or animal
10 protection shelter or the licensed veterinarian unless the
11 defendant, within 72 hours of the hearing, submits to the court
12 clerk 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 ~~shall~~
19 **MUST** require the defendant to submit additional cash or security in
20 an 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 ~~money~~**CASH** or other security before final disposition of the
27 criminal charges to pay the reasonable costs incurred by the animal

1 control shelter or animal protection shelter or the licensed
2 veterinarian in caring for the animal from the date of impoundment
3 to the date of final disposition of the criminal charges. The
4 testimony of a person at a hearing held under this subsection is
5 not admissible against him or her in any criminal proceeding except
6 in a criminal prosecution for perjury. The testimony of a person at
7 a hearing held under this subsection does not waive the person's
8 constitutional right against self-incrimination. An animal seized
9 under this section or section 50b is not subject to any other civil
10 action pending the final judgment of the forfeiture action under
11 this subsection.

12 (4) A person who violates subsection ~~(2)~~ **(2) (A) TO (G)** is
13 guilty of a crime as follows:

14 (a) Except as otherwise provided in subdivisions (c) and (d),
15 if the violation involved 1 animal, the person is guilty of a
16 misdemeanor punishable by 1 or more of the following and may be
17 ordered to pay the costs of prosecution:

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

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

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

21 (b) Except as otherwise provided in subdivisions (c) and (d),
22 if the violation involved 2 or 3 animals or the death of any
23 animal, the person is guilty of a misdemeanor punishable by 1 or
24 more of the following and may be ordered to pay the costs of
25 prosecution:

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

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

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

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

(i) Imprisonment for not more than 2 years.

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

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

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

(i) Imprisonment for not more than 4 years.

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

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

(5) A PERSON WHO VIOLATES SUBSECTION (2) (H) IS GUILTY OF A CRIME AS FOLLOWS:

(A) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS (B) TO (D), THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 45 DAYS OR A FINE OF NOT MORE THAN \$350.00, OR BOTH.

(B) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS (C) AND (D), FOR A SECOND OR SUBSEQUENT VIOLATION OF SUBSECTION (2) (H), THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.

(C) IF THE VIOLATION RESULTS IN SERIOUS PHYSICAL HARM TO THE ANIMAL, THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY

1 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
2 \$1,000.00, OR BOTH. AS USED IN THIS SUBDIVISION, "SERIOUS PHYSICAL
3 HARM" MEANS ANY PHYSICAL INJURY TO AN ANIMAL THAT SERIOUSLY IMPAIRS
4 THE ANIMAL'S HEALTH OR PHYSICAL WELL-BEING.

5 (D) IF THE VIOLATION RESULTS IN THE DEATH OF THE ANIMAL, THE
6 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
7 MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

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

14 (7) ~~(6)~~—This section does not prohibit a person from being
15 charged with, convicted of, or punished for any other violation of
16 law arising out of the same transaction as the violation of this
17 section.

18 (8) ~~(7)~~—The court may order a term of imprisonment imposed for
19 a violation of this section to be served consecutively to a term of
20 imprisonment imposed for any other crime including any other
21 violation of law arising out of the same transaction as the
22 violation of this section.

23 (9) ~~(8)~~—As a part of the sentence for a violation of
24 subsection (2), the court may order the defendant to pay the costs
25 of the care, housing, and veterinary medical care for the animal,
26 as applicable. If the court does not order a defendant to pay all
27 of the applicable costs listed in this subsection, or orders only

1 partial payment of these costs, the court shall state on the record
2 the reason for that action.

3 (10) ~~(9)~~—As a part of the sentence for a violation of
4 subsection (2), the court may, as a condition of probation, order
5 the defendant not to own or possess an animal for a period of time
6 not to exceed the period of probation. If a person is convicted of
7 a second or subsequent violation of subsection (2), the court may
8 order the defendant ~~not to~~ **NOT** own or possess an animal for any
9 period of time, including permanent relinquishment of animal
10 ownership.

11 (11) ~~(10)~~—A person who owns or possesses an animal in
12 violation of an order issued under subsection ~~(9)~~ **(10)** is subject
13 to revocation of probation if the order is issued as a condition of
14 probation. A person who owns or possesses an animal in violation of
15 an order issued under subsection ~~(9)~~ **(10)** is also subject to the
16 civil and criminal contempt power of the court, and if found guilty
17 of criminal contempt, may be punished by imprisonment for not more
18 than 90 days, or by a fine of not more than \$500.00, or both.

19 (12) ~~(11)~~—This section does not prohibit the lawful killing or
20 other use of an animal, including the following:

21 (a) Fishing.

22 (b) Hunting, trapping, or wildlife control regulated under the
23 natural resources and environmental protection act, 1994 PA 451,
24 MCL 324.101 to 324.90106.

25 (c) Horse racing.

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

27 (e) Pest or rodent control regulated under part 83 of the

1 natural resources and environmental protection act, 1994 PA 451,
2 MCL 324.8301 to 324.8336.

3 (f) Farming or a generally accepted animal husbandry or
4 farming practice involving livestock.

5 (g) Activities authorized under rules promulgated under
6 section 9 of the executive organization act of 1965, 1965 PA 380,
7 MCL 16.109.

8 (h) Scientific research under 1969 PA 224, MCL 287.381 to
9 287.395.

10 (i) Scientific research under sections 2226, 2671, 2676, and
11 7333 of the public health code, 1978 PA 368, MCL 333.2226,
12 333.2671, 333.2676, and 333.7333.

13 (13) ~~(12)~~ This section does not apply to a veterinarian or a
14 veterinary technician lawfully engaging in the practice of
15 veterinary medicine under part 188 of the public health code, 1978
16 PA 368, MCL 333.18801 to 333.18838.

17 Enacting section 1. This amendatory act takes effect 90 days
18 after the date it is enacted into law.