



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 837 (as introduced 2-7-96)
Sponsor: Senator Leon Stille
Committee: Agriculture and Forestry

Date Completed: 3-5-96

CONTENT

The bill would amend the Michigan Penal Code to do the following:

- **Allow an animal control or protection shelter or a licensed veterinarian to file a petition for forfeiture of an animal before the final disposition of a criminal action for certain animal cruelty violations.**
- **Make it a felony to commit a second or subsequent animal cruelty violation.**
- **Authorize a court to order permanent relinquishment of animal ownership for an animal cruelty violation.**
- **Revise provisions that permit specific lawful uses of animals.**

Forfeiture Petition

If an animal were impounded and were being held by an animal control or protection shelter or a licensed veterinarian pending outcome of criminal action charging a violation of the Code's animal cruelty provisions (described below), or the provisions concerning the willful and malicious killing or injuring of animals (MCL 750.50b) prior to final disposition of the criminal charge, the animal control or protection shelter or a licensed veterinarian could file a petition in the criminal action requesting that the court issue an order forfeiting the animal to the animal control or protection shelter or a licensed veterinarian prior to final disposition of the criminal charge. ("Animal shelter" would mean 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 petitioner would have to serve a true copy of the petition on the defendant and the prosecuting attorney. Upon receiving a petition, the court would have to set a hearing on it, which would have to be conducted within 14 days of the petition's filing or as soon as practicable. At the hearing, the petitioner would have the burden of establishing probable cause to believe that a violation, as specified above, had occurred. If the court found that probable cause existed, it would have to order immediate forfeiture of the animal to the petitioner, unless the defendant, within 72 hours of the hearing, posted a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the animal from the date of initial impoundment to the trial date.

If a security deposit or bond had been posted, and the trial in the action were continued at a later date, any order of continuance would have to require the defendant to post an additional security deposit or bond in an amount determined by the court that would be sufficient to repay all additional

reasonable costs anticipated to be incurred by the petitioner in caring for the animal until the new trial date.

Criminal Penalty

The Code's animal cruelty provisions prohibit a person from 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 in or upon a vehicle or otherwise any live animal whose feet or legs are tied together, or a horse whose feet are hobbled; carrying a live animal in or upon a vehicle or otherwise without providing a secure space or cage in which livestock may stand and other animals may turn around and lie down; abandoning an animal without making provisions for its adequate care; or willfully or negligently allowing any animal to suffer unnecessary neglect, torture, or pain. A person who violates these provisions is guilty of a misdemeanor, punishable by imprisonment for up to 93 days, a fine of up to \$1,000, community service for up to 200 hours, or any combination of these penalties. Under the bill, a person who violated the animal cruelty provisions on a second or subsequent occasion would be guilty of a felony punishable by imprisonment for up to four years, a fine of up to \$5,000, community service for up to 500 hours, or any combination of these penalties.

The Code permits the court, as part of the sentence for an animal cruelty violation, to order the defendant, as a condition of probation, not to own or possess an animal for a period of time not to exceed the period of probation. Under the bill, as part of the sentence, the court could order a defendant not to own or possess an animal for any period of time as authorized by law and determined to be appropriate by the court based on the pertinent facts. If a person were convicted of a second or subsequent violation, a court order could include permanent relinquishment of animal ownership.

Lawful Use

The Code specifies that the animal cruelty provisions do not prohibit the lawful use of an animal, including but not limited to the following: fishing, hunting, trapping, or wildlife control, horse racing, the operation of a zoological park or aquarium, pest or rodent control, scientific research, or farming or animal husbandry. The bill specifies that the Code would not prohibit the "lawful killing or other use" of an animal. The bill would retain the currently permitted activities but would refer to hunting, trapping, or wildlife control regulated pursuant to the Natural Resources and Environmental Protection Act; farming or a generally accepted animal husbandry or farming practice involving livestock; scientific research pursuant to Public Act 224 of 1969 (which regulates dealers in and research facilities using dogs and cats for research purposes); scientific research pursuant to sections of the Public Health Code governing the use of animals in research; and activities authorized pursuant to rules promulgated under Section 9 of the Executive Reorganization Act (which authorizes department heads to promulgate rules and regulations).

MCL 750.50

Legislative Analyst: L. Arasim
S. Margules

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State government.

The enhanced penalties for repeat offenders as proposed by the bill, could result in additional prison commitments to the Department of Corrections. While the bill would allow up to four years

in prison, the judge also could sentence these individuals to jail or other local sanctions that would not result in increased State costs. There are currently no available data that might indicate the potential number of repeat offenders.

The bill would have no fiscal impact on the courts.

Fiscal Analyst: M. Hansen
M. Bain

S9596\S837SA

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.