

# HOUSE BILL NO. 4641

May 21, 2019, Introduced by Reps. Gay-Dagnogo, Hammoud, Garza, Cynthia Johnson, Pagan, Brenda Carter, LaGrand, Tate, Brixie, Sabo, Ellison and Haadsma and referred to the Committee on Agriculture.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 50 (MCL 750.50), as amended by 2018 PA 452.

## 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



1 health.

2 (b) "Animal" means a vertebrate other than a human being.

3 (c) "Animal protection shelter" means a facility operated by a  
4 person, humane society, society for the prevention of cruelty to  
5 animals, or any other nonprofit organization, for the care of  
6 homeless animals.

7 (d) "Animal control shelter" means a facility operated by a  
8 county, city, village, or township to impound and care for animals  
9 found in streets or otherwise at large contrary to an ordinance of  
10 the county, city, village, or township or state law.

11 (e) "Breeder" means a person that breeds animals other than  
12 livestock or dogs for remuneration, or that is a large-scale dog  
13 breeding kennel as that term is defined in section 1 of 1969 PA  
14 287, MCL 287.331.

15 (f) **"Devocalization" means that term as defined in section**  
16 **18830 of the public health code, 1978 PA 368, MCL 333.18830.**

17 (g) ~~(f)~~—"Licensed veterinarian" means a person licensed or  
18 otherwise authorized to practice veterinary medicine under article  
19 15 of the public health code, 1978 PA 368, MCL 333.16101 to  
20 333.18838.

21 (h) ~~(g)~~—"Livestock" means that term as defined in section 5 of  
22 the animal industry act, 1988 PA 466, MCL 287.705.

23 (i) ~~(h)~~—"Person" means an individual, partnership, limited  
24 liability company, corporation, association, governmental entity,  
25 or other legal entity.

26 (j) ~~(i)~~—"Pet shop" means that term as defined in section 1 of  
27 1969 PA 287, MCL 287.331.

28 (k) ~~(j)~~—"Neglect" means to fail to sufficiently and properly  
29 care for an animal to the extent that the animal's health is



1 jeopardized.

2       **(l)** ~~(k)~~—"Sanitary conditions" means space free from health  
3 hazards including excessive animal waste, overcrowding of animals,  
4 or other conditions that endanger the animal's health. This  
5 definition does not include any condition resulting from a  
6 customary and reasonable practice pursuant to farming or animal  
7 husbandry.

8       **(m)** ~~(l)~~—"Shelter" means adequate protection from the elements  
9 and weather conditions suitable for the age, species, and physical  
10 condition of the animal so as to maintain the animal in a state of  
11 good health. Shelter, for livestock, includes structures or natural  
12 features such as trees or topography. Shelter, for a dog, includes  
13 1 or more of the following:

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

15       **(ii)** A doghouse that is an enclosed structure with a roof and  
16 of appropriate dimensions for the breed and size of the dog. The  
17 doghouse must have dry bedding when the outdoor temperature is or  
18 is predicted to drop below freezing.

19       **(iii)** A structure, including a garage, barn, or shed, that is  
20 sufficiently insulated and ventilated to protect the dog from  
21 exposure to extreme temperatures or, if not sufficiently insulated  
22 and ventilated, contains a doghouse as provided under subparagraph  
23 **(ii)** that is accessible to the dog.

24       **(n)** ~~(m)~~—"State of good health" means freedom from disease and  
25 illness, and in a condition of proper body weight and temperature  
26 for the age and species of the animal, unless the animal is  
27 undergoing appropriate treatment.

28       **(o)** ~~(n)~~—"Tethering" means the restraint and confinement of a  
29 dog by use of a chain, rope, or similar device.



1           **(p) "Therapeutic purpose" means that term as defined in**  
2 **section 18830 of the public health code, 1978 PA 368, MCL**  
3 **333.18830.**

4           **(q) ~~(e)~~"Water"** means potable water that is suitable for the  
5 age and species of animal and that is made regularly available  
6 unless otherwise directed by a licensed veterinarian.

7           (2) An owner, possessor, breeder, operator of a pet shop, or  
8 person having the charge or custody of an animal shall not do any  
9 of the following:

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

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

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

18           (d) Carry or cause to be carried a live animal in or upon a  
19 vehicle or otherwise without providing a secure space, rack, car,  
20 crate, or cage in which livestock may stand and in which all other  
21 animals may stand, turn around, and lie down during transportation,  
22 or while awaiting slaughter. As used in this subdivision, for  
23 purposes of transportation of sled dogs, "stand" means sufficient  
24 vertical distance to allow the animal to stand without its  
25 shoulders touching the top of the crate or transportation vehicle.

26           (e) Abandon an animal or cause an animal to be abandoned, in  
27 any place, without making provisions for the animal's adequate  
28 care, unless premises are vacated for the protection of human life  
29 or the prevention of injury to a human. An animal that is lost by



1 an owner or custodian while traveling, walking, hiking, or hunting  
2 is not abandoned under this section when the owner or custodian has  
3 made a reasonable effort to locate the animal.

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

7 (g) Tether a dog unless the tether is at least 3 times the  
8 length of the dog as measured from the tip of its nose to the base  
9 of its tail and is attached to a harness or nonchoke collar  
10 designed for tethering. This subdivision does not apply if the  
11 tethering of the dog occurs while the dog is being groomed,  
12 trained, transported, or used in a hunt or event where a shorter  
13 tether is necessary for the safety and well-being of the dog and  
14 others.

15 (h) **Perform a devocalization procedure on an animal or**  
16 **knowingly permit a devocalization procedure to be performed on an**  
17 **animal without a determination by a licensed veterinarian that the**  
18 **procedure is for a therapeutic purpose as provided in section 18830**  
19 **of the public health code, 1978 PA 368, MCL 333.18830.**

20 (3) If an animal is impounded and is being held by an animal  
21 control shelter or its designee or an animal protection shelter or  
22 its designee or a licensed veterinarian pending the outcome of a  
23 criminal action charging a violation of this section or section  
24 50b, before final disposition of the criminal charge, the  
25 prosecuting attorney may file a civil action in the court that has  
26 jurisdiction of the criminal action, requesting that the court  
27 issue an order forfeiting the animal to the animal control shelter  
28 or animal protection shelter or to a licensed veterinarian before  
29 final disposition of the criminal charge. The prosecuting attorney



1 shall serve a true copy of the summons and complaint upon the  
2 defendant and upon a person with a known ownership interest or  
3 known security interest in the animal or a person who has filed a  
4 lien with the secretary of state on the animal. The forfeiture of  
5 an animal under this section encumbered by a security interest is  
6 subject to the interest of the holder of the security interest if  
7 he or she did not have prior knowledge of or did not consent to the  
8 commission of the crime. Upon the filing of the civil action, the  
9 court shall set a hearing on the complaint. The hearing must be  
10 conducted within 14 days of the filing of the civil action, or as  
11 soon as practicable. The hearing must be before a judge without a  
12 jury. At the hearing, the prosecuting attorney has the burden of  
13 establishing by a preponderance of the evidence that a violation of  
14 this section or section 50b occurred. If the court finds that the  
15 prosecuting attorney has met this burden, the court shall order  
16 immediate forfeiture of the animal to the animal control shelter or  
17 animal protection shelter or the licensed veterinarian unless the  
18 defendant, within 72 hours of the hearing, submits to the court  
19 clerk cash or other form of security in an amount determined by the  
20 court to be sufficient to repay all reasonable costs incurred, and  
21 anticipated to be incurred, by the animal control shelter or animal  
22 protection shelter or the licensed veterinarian in caring for the  
23 animal from the date of initial impoundment to the date of trial.  
24 If cash or other security has been submitted, and the trial in the  
25 action is continued at a later date, any order of continuance must  
26 require the defendant to submit additional cash or security in an  
27 amount determined by the court to be sufficient to repay all  
28 additional reasonable costs anticipated to be incurred by the  
29 animal control shelter or animal protection shelter or the licensed



1 veterinarian in caring for the animal until the new date of trial.  
2 If the defendant submits cash or other security to the court under  
3 this subsection the court may enter an order authorizing the use of  
4 that cash or other security before final disposition of the  
5 criminal charges to pay the reasonable costs incurred by the animal  
6 control shelter or animal protection shelter or the licensed  
7 veterinarian in caring for the animal from the date of impoundment  
8 to the date of final disposition of the criminal charges. The  
9 testimony of a person at a hearing held under this subsection is  
10 not admissible against him or her in any criminal proceeding except  
11 in a criminal prosecution for perjury. The testimony of a person at  
12 a hearing held under this subsection does not waive the person's  
13 constitutional right against self-incrimination. An animal seized  
14 under this section or section 50b is not subject to any other civil  
15 action pending the final judgment of the forfeiture action under  
16 this subsection.

17 (4) A person who violates subsection (2) is guilty of a crime  
18 as follows:

19 (a) Except as otherwise provided in subdivisions (c) to (f),  
20 if the violation involved 1 animal, the person is guilty of a  
21 misdemeanor punishable by 1 or more of the following and may be  
22 ordered to pay the costs of prosecution:

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

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

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

26 (b) Except as otherwise provided in subdivisions (c) to (f),  
27 if the violation involved 2 or 3 animals or the death of any  
28 animal, the person is guilty of a misdemeanor punishable by 1 or  
29 more of the following and may be ordered to pay the costs of



1 prosecution:

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

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

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

5 (c) If the violation involved 4 or more animals but fewer than  
6 10 animals or the person had 1 prior conviction under subsection  
7 (2), the person is guilty of a felony punishable by 1 or more of  
8 the following and may be ordered to pay the costs of prosecution:

9 (i) Imprisonment for not more than 2 years.

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

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

12 (d) If the violation involved 10 or more animals but fewer  
13 than 25 animals or the person had 2 prior convictions for violating  
14 subsection (2), the person is guilty of a felony punishable by 1 or  
15 more of the following and may be ordered to pay the costs of  
16 prosecution:

17 (i) Imprisonment for not more than 4 years.

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

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

20 (e) If the violation involved 25 or more animals or the person  
21 has had 3 or more prior convictions for violating subsection (2),  
22 the person is guilty of a felony punishable by 1 or more of the  
23 following and may be ordered to pay the costs of prosecution:

24 (i) Imprisonment for not more than 7 years.

25 (ii) A fine of not more than \$10,000.00.

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

27 (f) If the person is a breeder, or if the person is an  
28 operator of a pet shop and he or she has had 5 or more prior





1 convictions for violating 1969 PA 287, MCL 287.331 to 287.340, the  
2 person is guilty of a felony punishable by imprisonment for not  
3 more than 2 years or a fine of not more than \$5,000.00, or both.

4 (5) The court may order a person convicted of violating  
5 subsection (2) to be evaluated to determine the need for  
6 psychiatric or psychological counseling and, if determined  
7 appropriate by the court, to receive psychiatric or psychological  
8 counseling. The evaluation and counseling must be at the  
9 defendant's own expense.

10 (6) This section does not prohibit a person from being charged  
11 with, convicted of, or punished for any other violation of law  
12 arising out of the same transaction as the violation of this  
13 section.

14 (7) The court may order a term of imprisonment imposed for a  
15 violation of this section to be served consecutively to a term of  
16 imprisonment imposed for any other crime including any other  
17 violation of law arising out of the same transaction as the  
18 violation of this section.

19 (8) As a part of the sentence for a violation of subsection  
20 (2), the court may order the defendant to pay the costs of the  
21 care, housing, and veterinary medical care for the animal, as  
22 applicable. If the court does not order a defendant to pay all of  
23 the applicable costs listed in this subsection, or orders only  
24 partial payment of these costs, the court shall state on the record  
25 the reason for that action.

26 (9) As a part of the sentence for a violation of subsection  
27 (2), the court may, as a condition of probation, order the  
28 defendant not to own or possess an animal for a period of time not  
29 to exceed the period of probation. If a person is convicted of a



1 second or subsequent violation of subsection (2), the court may  
2 order the defendant not to own or possess an animal for any period  
3 of time, including permanent relinquishment of animal ownership.

4 (10) A person who owns or possesses an animal in violation of  
5 an order issued under subsection (9) is subject to revocation of  
6 probation if the order is issued as a condition of probation. A  
7 person who owns or possesses an animal in violation of an order  
8 issued under subsection (9) is also subject to the civil and  
9 criminal contempt power of the court, and if found guilty of  
10 criminal contempt, may be punished by imprisonment for not more  
11 than 90 days or a fine of not more than \$500.00, or both.

12 (11) As part of the sentence imposed under subsection (4) (e),  
13 the court may place the defendant on probation for any term of  
14 years, but not less than 5 years.

15 (12) This section does not prohibit the lawful killing or  
16 other use of an animal, including the following:

17 (a) Fishing.

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

21 (c) Horse racing.

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

23 (e) Pest or rodent control regulated under part 83 of the  
24 natural resources and environmental protection act, 1994 PA 451,  
25 MCL 324.8301 to 324.8336.

26 (f) Farming or a generally accepted animal husbandry or  
27 farming practice involving livestock.

28 (g) Scientific research under 1969 PA 224, MCL 287.381 to  
29 287.395.



1 (h) Scientific research or the lawful killing of an animal  
2 under sections 2226, 2671, 2676, and 7333 of the public health  
3 code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, and 333.7333.

4 (i) The lawful killing or use of an animal under the animal  
5 industry act, 1988 PA 466, MCL 287.701 to 287.746.

6 (13) This section does not apply to a veterinarian or a  
7 veterinary technician lawfully engaging in the practice of  
8 veterinary medicine under part 188 of the public health code, 1978  
9 PA 368, MCL 333.18801 to 333.18838.

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

12 Enacting section 2. This amendatory act does not take effect  
13 unless Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no.  
14 00549'19) of the 100th Legislature is enacted into law.

