

**SUBSTITUTE FOR
SENATE BILL NO. 658**

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 50b. (1) As used in this section:
2 (a) "Animal" means a vertebrate other than a human being.
3 (b) "Companion animal" means an animal that is commonly
4 considered to be, or is considered by ~~its~~**the animal's** owner to be,
5 a pet, or that is a service animal. ~~as that term is defined in~~
6 ~~section 50a.~~ Companion animal includes, but is not limited to, dogs
7 and cats.
8 (2) Except as otherwise provided in this section, a person
9 shall not do any of the following without just cause:

1 (a) Knowingly kill, torture, mutilate, maim, or disfigure an
2 animal.

3 (b) Commit a reckless act knowing or having reason to know
4 that the act will cause an animal to be killed, tortured,
5 mutilated, maimed, or disfigured.

6 (c) Knowingly administer poison to an animal, or knowingly
7 expose an animal to any poisonous substance, with the intent that
8 the substance be taken or swallowed by the animal.

9 (d) Violate or threaten to violate subdivision (a) or (c) with
10 the intent to cause mental suffering or distress to a person or to
11 exert control over a person.

12 (3) If the animal is a companion animal and if a person
13 violates subsection (2) (d) and intentionally violates subsection
14 (2) (a) or (c), the person is guilty of killing or torturing animals
15 in the first degree.

16 (4) If the animal is a companion animal and a person violates
17 subsection (2) (d), or if a person intentionally violates subsection
18 (2) (a) or (c), the person is guilty of killing or torturing animals
19 in the second degree.

20 (5) Except as otherwise provided in subsections (3) and (4), a
21 person who violates subsection (2) is guilty of killing or
22 torturing animals in the third degree.

23 (6) Killing or torturing animals in the first degree is a
24 felony punishable by 1 or more of the following:

25 (a) Imprisonment for not more than 10 years.

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

27 (c) Community service for not more than 500 hours.

28 (7) Killing or torturing animals in the second degree is a
29 felony punishable by 1 or more of the following:

1 (a) Imprisonment for not more than 7 years.

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

3 (c) Community service for not more than 500 hours.

4 (8) Killing or torturing animals in the third degree is a
5 felony punishable by 1 or more of the following:

6 (a) Imprisonment for not more than 4 years.

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

8 (c) Community service for not more than 500 hours.

9 (9) The court may order a term of imprisonment imposed for a
10 violation of this section to be served consecutively to a term of
11 imprisonment imposed for any other crime including any other
12 violation of law arising out of the same transaction as the
13 violation of this section.

14 (10) As a part of the sentence for a violation of subsection
15 (2), the court may order the defendant to pay **restitution,**
16 **including, but not limited to,** the costs of **the investigation of**
17 **the violation of this section, the costs of** the prosecution, and
18 the costs of the **seizure,** care, housing, ~~and~~ veterinary medical
19 care, ~~for~~ **and disposition of** the animal victim, as applicable. **The**
20 **costs of the seizure, care, housing, veterinary medical care, and**
21 **disposition of the animal victim should not be included in the**
22 **sentence if they were previously paid by the defendant with a**
23 **security deposit or bond as described in subsection (22), (24),**
24 **(25), or (27).** If the court does not order a defendant to pay all
25 of the applicable costs listed in this subsection, or orders only
26 partial payment of these costs, the court shall state on the record
27 the reasons for that action. **As used in this subsection,**
28 **"disposition of the animal victim" includes, but is not limited to,**
29 **the transfer, euthanasia, or adoption of the animal.**

1 (11) If a term of probation is ordered for a violation of
2 subsection (2), the court may include as a condition of that
3 probation that the defendant be evaluated to determine the need for
4 psychiatric or psychological counseling and, if determined
5 appropriate by the court, to receive psychiatric or psychological
6 counseling at ~~his or her~~ **the defendant's** own expense.

7 (12) As a part of the sentence for a violation of subsection
8 (2), the court may order the defendant not to own or possess an
9 animal for any period of time determined by the court, which may
10 include permanent relinquishment.

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

19 (14) This section does not prohibit the lawful killing of
20 livestock or a customary animal husbandry or farming practice
21 involving livestock.

22 (15) This section does not prohibit the lawful killing of an
23 animal ~~pursuant to~~ **under** any of the following:

24 (a) Fishing.

25 (b) Hunting, trapping, or wildlife control regulated under the
26 natural resources and environmental protection act, 1994 PA 451,
27 MCL 324.101 to 324.90106, and orders issued under that act.

28 (c) Pest or rodent control regulated under part 83 of the
29 natural resources and environmental protection act, 1994 PA 451,

1 MCL 324.8301 to 324.8336.

2 (d) Section 19 of the dog law of 1919, 1919 PA 339, MCL
3 287.279.

4 (16) This section does not prohibit the lawful killing or use
5 of an animal for scientific research under any of the following or
6 a rule promulgated under any of the following:

7 (a) 1969 PA 224, MCL 287.381 to 287.395.

8 (b) Sections 2226, 2671, 2676, 7109, and 7333 of the public
9 health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676,
10 333.7109, and 333.7333.

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

15 (18) This section does not prohibit the lawful killing or use
16 of an animal under the animal industry act, 1988 PA 466, MCL
17 287.701 to 287.746.

18 **(19) Except as provided in this subsection and subsection**
19 **(28), an animal that is a victim of a violation of this section and**
20 **was seized by an animal control agency pending the outcome of a**
21 **criminal action that charges a violation of this section must not**
22 **be returned to the owner or possessor of the animal if the owner or**
23 **possessor is alleged to have violated this section. A seized animal**
24 **must be taken to a local animal control agency or a local animal**
25 **control agency's designee. A service animal that is a victim of a**
26 **violation of this section may be seized by an animal control agency**
27 **under this section at the animal control agency's discretion,**
28 **taking into consideration the totality of the circumstances. If an**
29 **animal owner or possessor is convicted of violating subsection (2),**

1 the court shall award the animal involved in the violation to the
2 animal control agency for evaluation and disposition.

3 (20) An animal control agency taking custody of an animal
4 under subsection (19) shall give notice within 72 hours of the
5 seizure of the animal in person or by registered mail to the last
6 known address of the animal's owner, if the owner of the animal is
7 known. If the owner of the animal is unknown, the animal control
8 agency shall give notice within 72 hours after the seizure by 1 of
9 the following methods:

10 (a) Posting at the location of the seizure.

11 (b) Delivery to an individual that resides at the location of
12 the seizure.

13 (c) Registered mail to the location of the seizure.

14 (21) The notice required under subsection (20) must include
15 all of the following:

16 (a) A description of each animal seized.

17 (b) The time, date, location, and description of circumstances
18 under which the animal was seized.

19 (c) The address and telephone number of the location where or
20 under what animal control agency's authority the animal is being
21 held and contact information for the individual present at that
22 location from whom security deposit or bond information may be
23 obtained.

24 (d) A statement that the owner or possessor of the animal may
25 post a security deposit or bond that may prevent the forfeiture of
26 the animal for the duration of the criminal, forfeiture, or other
27 court proceeding until the court makes a final determination
28 regarding the animal's disposition; that failure to post a security
29 deposit or bond within 14 days after the date on the notice will

1 result in forfeiture of the animal; and that the owner or possessor
2 of the animal may, before the expiration of the 14-day period
3 described in this subdivision, request a hearing from the court
4 with jurisdiction over the alleged violation of subsection (2) on
5 whether the requirement to post a security deposit or bond is
6 justified, whether the cost associated with the security deposit or
7 bond is fair and reasonable for the care of and provision for the
8 seized animal as the costs are described in subsection (10), or
9 both.

10 (e) A statement that the owner or possessor of the animal is
11 responsible for all costs described in subsection (10), unless the
12 court determines that the seizure of the animal was not
13 substantially justified by law.

14 (22) A request for a hearing within 14 days after the date on
15 the notice prevents forfeiture of the animal until the court
16 determines whether the requirement to post a security deposit or
17 bond is justified, whether the amount of the security deposit or
18 bond is fair and reasonable, or both. Notice of a request for a
19 hearing under subsection (21) must be served on the animal control
20 agency holding the animal before the expiration of the 14-day
21 period described in subsection (21). A hearing on whether the
22 requirement to post a security deposit or bond is justified,
23 whether the amount of the security deposit or bond is fair and
24 reasonable, or both, must be held within 21 days of the request for
25 a hearing. The hearing is before a judge without a jury and the
26 prosecuting attorney has the burden to establish by a preponderance
27 of the evidence that a the bond meets the requirements of this
28 subsection. If the court finds that the prosecuting attorney has
29 met the burden, that the security deposit or bond is justified and

1 reasonable, or both, the animal will be forfeited to the animal
2 control agency that seized the animal unless the owner or possessor
3 of the animal posts the required security deposit or bond within 72
4 hours after the hearing. The court shall find the bond is not
5 justified if the owner or possessor is indigent or has a
6 substantial financial hardship. If the owner or possessor is
7 currently serving a sentence in a correctional institution or is
8 receiving residential treatment in a mental health or substance
9 abuse facility, the owner or possessor must be is rebuttably
10 presumed to have a substantial financial hardship. The court shall
11 consider the owner's or possessor's ability to pay, including, but
12 not limited to, employment status, employment history, and
13 financial history. If the court finds the bond is not reasonable
14 based on the owner's or possessor's ability to pay, the court may
15 forego a bond or set a reasonable bond amount. An owner's or
16 possessor's failure to appear at a scheduled hearing requested
17 under this subsection will result in automatic forfeiture of the
18 animal to the animal control agency if the date of the scheduled
19 hearing is more than 14 days after the date on the notice described
20 in subsection (21). The testimony of a defendant at a hearing held
21 under this subsection is only admissible against the defendant for
22 the purpose of impeachment or in a criminal prosecution for
23 perjury. The testimony of a defendant at a hearing held under this
24 subsection does not waive the defendant's constitutional right
25 against self-incrimination.

26 (23) An animal control agency that holds or requires to be
27 held a seized animal under subsection (19) shall hold the animal
28 for a period of 14 consecutive days, including weekends and
29 holidays, beginning on the date notice was given under subsection

1 (20). After the expiration of the 14 days, if the owner or a
2 possessor of the animal has not posted a security deposit or bond
3 as provided in subsections (21) and (24) or requested a hearing as
4 described in subsection (22), the animal is forfeited, and the
5 animal control agency may dispose of the animal by transfer to
6 another animal control agency, humane euthanasia, or adoption.

7 (24) The security deposit or bond described in subsection
8 (21) (d) must be in a sufficient amount to secure payment of all
9 costs described in subsection (10) during a 30-day period after
10 examination of the animal by a licensed veterinarian. The animal
11 control agency shall determine the amount of the security deposit
12 or bond not later than 72 hours after the seizure of the animal and
13 shall make the amount of the security deposit or bond available to
14 the owner or possessor of the animal on request. Unless the owner
15 or possessor of the animal requests a hearing as described in
16 subsection (22), the owner or possessor of the animal shall provide
17 proof of the security deposit or bond to the animal control agency
18 not later than 14 days after the date on the notice described in
19 subsection (21).

20 (25) If an animal is seized and is being held by an animal
21 control agency or an animal control agency's designee pending the
22 outcome of a criminal action charging a violation of this section
23 and the process in subsections (20) through (24) was not utilized,
24 before final disposition of the criminal charge, the prosecuting
25 attorney may file a civil action in the court that has jurisdiction
26 of the criminal action requesting that the court issue an order to
27 forfeit the animal to the animal control agency before final
28 disposition of the criminal charge. The prosecuting attorney shall
29 serve a true copy of the summons and complaint on the defendant

1 owner or possessor of the animal. On the filing of the civil
2 action, the court shall set a hearing on the complaint. The hearing
3 must be conducted within 21 days of the filing of the civil action.
4 The hearing must be before a judge without a jury. At the hearing,
5 the prosecuting attorney has the burden of establishing by a
6 preponderance of the evidence that a violation of this section
7 occurred. If the court finds that the prosecuting attorney has met
8 the burden and that the amount of the security deposit or bond
9 necessary to prevent the forfeiture of the animal from the date of
10 the seizure to 30 days after the date of the hearing is fair and
11 reasonable based on costs described in subsection (10), the court
12 shall order immediate forfeiture of the animal to the animal
13 control agency unless the defendant owner or possessor, within 72
14 hours after the hearing, submits to the court clerk a security
15 deposit or bond in a sufficient amount to secure payment of all
16 costs described in subsection (10) after examination of the animal
17 by a licensed veterinarian from the date of the seizure to the date
18 of the hearing and for an additional period of 30 days. A defendant
19 owner or possessor's failure to post a security deposit or bond
20 within 72 hours after the hearing or the defendant owner or
21 possessor's failure to appear at a scheduled hearing under this
22 subsection will result in automatic forfeiture of the animal to the
23 animal control agency. The testimony of a defendant at a hearing
24 held under this subsection is only admissible against the defendant
25 for the purpose of impeachment or in a criminal prosecution for
26 perjury. The testimony of a defendant at a hearing held under this
27 subsection does not waive the defendant's constitutional right
28 against self-incrimination.

29 (26) An animal control agency that holds or requires to be

1 held a seized animal as provided in this section may draw on a
2 security deposit or bond posted under subsection (22), (24), (25),
3 or (27) to cover the actual reasonable costs incurred as described
4 in subsection (10) from the date of the seizure to the date of the
5 official disposition of the animal in the criminal action.

6 (27) If a security deposit or bond has been posted under
7 subsection (22), (24), or (25), and trial in the criminal action
8 does not occur within the initial 30-day bond period or is
9 continued to a later date, the owner or possessor shall post an
10 additional security deposit or bond in an amount determined
11 sufficient to cover the costs described in subsection (10) as
12 anticipated to be incurred by the animal control agency caring for
13 the animal. The additional security deposit or bond must be
14 calculated in 30-day increments and continue until the criminal
15 action is resolved. If the owner or possessor of the animal fails
16 to post a new security deposit or bond with the court before the
17 previous security deposit or bond expires, the animal is forfeited
18 to the animal control agency caring for the animal.

19 (28) If the owner or possessor that posted a security deposit
20 or bond under subsection (22), (24), (25), or (27) is found not
21 guilty in the criminal action, the amount of the security deposit
22 or bond posted to prevent disposition of the animal if unused for
23 the animal cost of care and, subject to subsections (29), (30), and
24 (31), the animal must be returned to the owner.

25 (29) If a security deposit or bond is posted by an owner or
26 possessor of an animal under subsection (22), (24), (25), or (27)
27 and the court determines that the animal lacks any useful purpose
28 or poses a threat to public safety under subsection (31), the
29 posting of the security deposit or bond must not prevent

1 disposition of the animal.

2 (30) Upon receiving an animal seized under this section, or at
3 any time thereafter, an animal control agency may humanely
4 euthanize the animal or have the animal euthanized if, in the
5 opinion of a licensed veterinarian, the animal is injured or
6 diseased past recovery or the animal's continued existence is
7 inhumane so that euthanasia is necessary to relieve pain and
8 suffering. This subsection applies to an animal regardless of
9 whether a security deposit or bond has been posted under subsection
10 (22), (24), (25), or (27).

11 (31) An animal control agency that receives an animal seized
12 under this section may apply to the district court or municipal
13 court for a hearing to determine whether the animal must be
14 humanely euthanized because of the animal's lack of any useful
15 purpose or the public safety threat it poses. The court shall hold
16 a hearing not later than 30 days after the filing of the
17 application and shall give notice of the hearing to the owner of
18 the animal. Upon a finding by the court that the animal lacks any
19 useful purpose or poses a threat to public safety, the animal
20 control agency shall humanely euthanize the animal or have the
21 animal euthanized. Costs described in subsection (10) that are
22 incurred by an animal control agency, or by a person may, in the
23 court's discretion, be assessed against the owner of the animal.