

SENATE BILL No. 1122

February 9, 2010, Introduced by Senators BARCIA, KAHN, BASHAM and PAPPAGEORGE and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending the title and section 50b (MCL 750.50b), the title as
amended by 2005 PA 105 and section 50b as amended by 2008 PA 339.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act to revise, consolidate, codify, and add to the statutes
3 relating to crimes; to define crimes and prescribe the penalties,
4 ~~and remedies,~~ **AND SANCTIONS**; to provide for restitution **AND COSTS**
5 under certain circumstances; to provide for the competency of
6 evidence at the trial of persons accused of crime **AND FOR RELATED**
7 **PROCEDURES**; to provide immunity from prosecution for certain
8 witnesses appearing at such trials; and to repeal ~~certain acts~~ and
9 parts of acts inconsistent with or contravening any of the

1 provisions of this act.

2 Sec. 50b. (1) As used in this section, "animal" means any
3 vertebrate other than a human being.

4 (2) Except as otherwise provided in this section, a person
5 shall not do any of the following without just cause:

6 (a) Knowingly kill, torture, mutilate, maim, or disfigure an
7 animal.

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

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

14 (3) A person who violates subsection (2) is guilty of a felony
15 punishable by 1 or more of the following:

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

17 (b) A fine of not more than \$5,000.00 for a single animal and
18 \$2,500.00 for each additional animal involved in the violation, but
19 not to exceed a total of \$20,000.00.

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

21 (4) As a part of the sentence for a violation of subsection
22 (2), the court ~~may~~ **SHALL** order the defendant to pay the costs of
23 the prosecution and the costs of the care, housing, and veterinary
24 medical care for the impacted animal victim, as applicable. If the
25 court does not order a defendant to pay all of the applicable costs
26 listed in this subsection, or orders only partial payment of these
27 costs, the court shall state on the record the reasons for that

1 action. THE COURT SHALL ORDER THE ANIMAL INVOLVED IN THE VIOLATION
2 TO BE PLACED IN THE CUSTODY OF THE LOCAL HUMANE SOCIETY OR OTHER
3 WELFARE AGENCY.

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

10 (6) As a part of the sentence for a violation of subsection
11 (2), the court may order the defendant not to own or possess an
12 animal for ~~any period of time determined by the court, which may~~
13 ~~include permanent relinquishment.~~ THE FOLLOWING PERIODS AFTER
14 SENTENCING:

15 (A) FOR A FIRST VIOLATION, NOT LESS THAN 5 YEARS OR FOR THE
16 LIFETIME OF THE DEFENDANT.

17 (B) FOR A SECOND VIOLATION, NOT LESS THAN 15 YEARS OR FOR THE
18 LIFETIME OF THE DEFENDANT.

19 (C) FOR A THIRD OR SUBSEQUENT CONVICTION, NOT LESS THAN 15
20 YEARS OR FOR THE LIFETIME OF THE DEFENDANT.

21 (7) THE COURT SHALL CAUSE AN ORDER ISSUED UNDER SUBSECTION (6)
22 TO BE ENTERED INTO THE LAW ENFORCEMENT INFORMATION NETWORK AS
23 PROVIDED BY THE C.J.I.S. POLICY COUNCIL ACT, 1974 PA 163, MCL
24 28.211 TO 28.215. A person who owns or possesses an animal in
25 violation of an order issued under subsection (6) is ~~subject to~~
26 ~~revocation of probation if the order is issued as a condition of~~
27 ~~probation. A person who owns or possesses an animal in violation of~~

~~an order issued under subsection (6) is also subject to the civil and criminal contempt power of the court and, if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.~~ **GUILTY OF**

A CRIME AS FOLLOWS:

(A) FOR A FIRST VIOLATION, A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

(B) FOR A SECOND OR SUBSEQUENT VIOLATION, A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

(8) This section does not prohibit the lawful killing of livestock or a customary animal husbandry or farming practice involving livestock. As used in this subsection, "livestock" means that term as defined in section 5 of the animal industry act, 1988 PA 466, MCL 287.705.

(9) This section does not prohibit the lawful killing of an animal pursuant to any of the following:

(a) Fishing.

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

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

(d) Activities authorized under rules promulgated under section 9 of the executive organization act of 1965, 1965 PA 380,

1 MCL 16.109.

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

4 (10) 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 (11) 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.