

# Legislative Analysis

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## ANIMAL FIGHTING

**Senate Bill 356 as passed by the Senate**  
**Sponsor: Sen. Rick Jones**

**Senate Bill 357 as passed by the Senate**  
**Sponsor: Sen. Bert Johnson**

**Senate Bill 358 as passed by the Senate**  
**Sponsor: Sen. Steven Bieda**

**House Committee: Judiciary**  
**Senate Committee: Judiciary**

### First Analysis (2-1-12)

**BRIEF SUMMARY:** Senate Bill 356 would subject the property of a person involved in animal fighting to forfeiture. Senate Bill 357 would declare a building, vehicle, boat, aircraft, or other place where animal fighting takes place to be a nuisance. Senate Bill 358 would include animal fighting as a predicate offense for racketeering.

**FISCAL IMPACT:** The bill would have an indeterminate fiscal impact on state and local units as discussed in more detail later in the analysis.

### THE APPARENT PROBLEM:

Animal fighting (dog fighting, cockfighting, and dog-hog fighting, where dogs fight wild hogs) continues to be a growing problem in the state, with dog fighting particularly a problem in the greater Detroit area. Besides undue the cruelty and suffering inflicted on animals, studies show a relationship between cruelty to animals and perpetrating violent crimes against people. In one study conducted by the Chicago Police Department, as reported by the Humane Society of the United States, 65 percent of people charged with animal abuse crimes went on to commit violent crimes against people. In addition, children who witness animal cruelty often suffer emotional effects for a lifetime.

In an effort to stem the rise in animal fighting rings, some feel the state's laws need to be amended. For instance, current laws limit prosecution to a specific incident of animal fighting. In one Wayne County case, though there was evidence that a man had been conducting dog fights for years in the same house, law enforcement agencies were restricted by current laws to single incidents of dog fighting rather than being able to shut down the dog fighting enterprise.

In addition, much of animal fighting is related to illegal gambling and drugs. As such, some believe that those who run animal fighting rings should be prosecuted under the state's RICO laws, usually reserved for criminal enterprises such as gambling rings,

prostitution rings, and drug operations. Moreover, local governments must spend precious resources on the care or euthanasia of injured dogs and the prosecution of individuals involved in animal fighting. More of those resources could be recouped if the offense of animal fighting were subject to the state's seizure and forfeiture laws in the same manner as for acts of terrorism.

### ***THE CONTENT OF THE BILLS:***

Senate Bill 356 would amend the Revised Judicature Act (MCL 600.4702) to allow, in the case of a crime involving animal fighting, all real or personal property to be subject to forfeiture if it contributed directly and materially to the commission of the crime, was used to conceal the crime, was used to escape from the scene of the crime, or was used to conceal the identify of one or more of the individuals who committed the crime. This would put acts of animal fighting on par with acts of terrorism for the purpose of seizure and forfeiture. Real and personal property that are the proceeds of a crime or the substituted proceeds of a crime are currently subject to seizure and forfeiture, as is any personal property that is an instrumentality of a crime.

Current exceptions and limitations to the seizure and forfeiture provisions would apply to crimes involving animal fighting. These include, but are not limited to, exemptions for seizure and forfeiture of real and personal property when the owner of the property did not have prior knowledge of the crime and had not consented to the commission of the crime and also for real property that is the primary residence of the spouse or dependent child unless those individuals had prior knowledge of, and had given consent to the commission of, the crime.

Senate Bill 357 would amend the Revised Judicature Act (MCL 600.3801). It amends the section that declares places (a building, vehicle, boat, aircraft, or place) to be a nuisance if certain conduct takes place on the premises (e.g., prostitution, controlled substance activity, or certain activities involving alcohol). The bill would add violations of animal fighting under Section 49 of the Michigan Penal Code to that list. The bill would also define "controlled substance" to mean that term as defined in the Public Health Code (MCL 333.7104).

Senate Bill 358 would amend Chapter 25A of the Michigan Penal Code, entitled "Criminal Enterprises" (750.159g et al.). Under the code, racketeering is defined as committing, attempting to commit, conspiring to commit, or aiding or abetting, soliciting, coercing, or intimidating a person to commit an offense for financial gain that includes any of the listed criminal acts. The bill would amend this list to include a violation of Section 49, concerning animal fighting.

### ***HOUSE COMMITTEE ACTION:***

The House Judiciary Committee did not amend the bills.

## ***BACKGROUND INFORMATION:***

Senate Bills 356-358 are reintroductions of House Bills 5655, 5656, and 5668 of the 2009-2010 legislative session. Those bills were passed by the House but failed to see Senate action.

## ***FISCAL INFORMATION:***

This bill package would have an indeterminate fiscal impact on state and local government. To the extent that the bills increase racketeering convictions, state prisons and local jails could incur additional incarceration costs, as well as additional probation costs. The average cost of prison incarceration in a state facility is roughly \$34,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. The cost of local jail incarceration varies by jurisdiction. Costs of parole and felony probation supervision, exclusive of the cost of electronic tether, average about \$2,200 per supervised offender per year. Fine revenues would also increase by an indeterminate amount. Any additional penal fine revenue would benefit local libraries.

In calendar year 2010, Michigan Department of Corrections statistical reports indicate there were a total of 18 convictions for violations or attempted violations of MCL 750.49. Of these offenses, five resulted in local jail sentences, three resulted in state prison sentences, and ten resulted in probation sentences.

Under MCL 600.4708, the unit of government that seized or filed a lien against the property may sell the property and dispose of the proceeds in the following order of priority: any security interest; to satisfy an order of restitution; any claims of victims; outstanding liens; and expenses. The balance remaining after the disposal of the proceeds shall be distributed in the following manner: 75% of funds to enhance enforcement of the criminal laws and 25% of funds to implement the Crime Victim's Rights Act.

## ***ARGUMENTS:***

### ***For:***

Simply put, animal fighting is animal abuse on steroids. Unlike abuse rising from neglect, animal fighting is the deliberate act of pitting two or more animals against each other and watching them tear each other to pieces solely for the entertainment value. Animal fighting has long been linked to crime rings, especially illegal gambling. The arrest and prosecution of pro-football star Michael Vick a few years ago brought dog fighting into the media forefront. Unfortunately, the problem has continued to escalate.

Dog fighting is big business. According to the Michigan Humane Society, a raid at a Monroe County dogfight resulted in more than two dozen arrests and the seizure of over \$40,000 in cash. But animal fighting also poses a safety risk to the public. The Monroe raid also resulted in the seizure of guns and drugs. Therefore, it is appropriate that members of groups or organizations that engage in animal fighting for material gain be prosecuted under the racketeering statute like other criminal enterprises. Senate Bill 358,

which would add the offense to the state RICO statute, would address this issue by allowing for more appropriate prison sentences and/or greater criminal fines.

As with other crimes, property or money gained from animal fighting can be seized by law enforcement agencies and forfeited to governmental agencies. However, allowing the seizure and forfeiture of real and personal property associated with the commission of the crime of animal fighting in the same manner as for acts of terrorism, as Senate Bill 356 would do, would benefit victims and local law enforcement agencies by expanding the property subject to seizure and forfeiture. Animal fighting, like terrorism, can entail long investigations, involve multiple agencies, leave behind damaged animals and bloody fight rings that are costly to clean up, and endanger residents if an animal escapes or is abandoned. Thus, the cash or sale of property eligible for seizure and forfeiture under the bill would help cover the claims of victims, outstanding liens, and other expenses. The balance remaining may then be distributed to the unit or units of government involved in effecting the forfeiture for law enforcement purposes.

Lastly, Senate Bill 357 would allow the place (barn, garage, field, house, etc.) where the illegal conduct took place to be declared a nuisance under the state nuisance abatement law. This will allow local authorities to shutter or padlock properties used in animal fighting in the same way as is currently available to shut down houses of prostitution, drug houses, and gambling houses.

Considering the link between violence against animals and violence against people, it is imperative that those agencies enforcing the peace be given any tools needed to effectively deter the undesired conduct in the first place, and to appropriately punish anyone choosing to engage in the prohibited activity. The bill package would give prosecutors the additional tools they so desperately need with which to fight and curtail the spread of animal fighting rings.

***Response:***

Recent news articles and editorials have called on state lawmakers to curtail property seizures unless there is a conviction. Instead, Senate Bill 356 would expand the circumstances under which crimes involving animal fighting would be subject to seizure and forfeiture. Seizure of property can be done solely upon arrest and charges being filed. Even if a person is acquitted or charges dismissed, he or she must pay fees to reclaim the property, which is burdensome for low-income individuals, who may not be able to afford to redeem a home, a vehicle, or other property. Some believe that a recent rise in seizures—which coincides with a decrease in state revenue-sharing and in property tax revenues—may be an attempt by local governments to shore up badly needed revenue.

***Rebuttal:***

Current law provides for some exceptions and limitations on whether property associated with a crime can be seized and forfeited. For instance, a house that is the primary residence of the perpetrator's spouse or dependent child cannot be seized as long as those individuals did not know about or consent to the criminal activity. Similarly, if the owner of the property did not know or consent to the criminal activity, the property would not be subject to seizure or forfeiture. Current law provides several other exemptions, as

well. In addition, if acquitted or if charges are dropped, current law provides a process for the owner to reclaim the property. With the high cost of investigation and conducting busts for crimes like animal fighting, not to mention the cleanup costs associated with the sites where the fights took place, it is imperative that law enforcement agencies be able to recoup some of the resources spent.

***POSITIONS:***

A representative of the Wayne County Office of the Prosecutor testified in support of the bills. (1-26-12)

The Michigan Humane Society submitted written testimony in support of the bills. (1-26-12)

The Humane Society of the United States submitted written testimony in support of the bills. (1-26-12)

The Lakeshore Pet Alliance, a coalition of Muskegon County animal shelters and animal rescue operations, submitted written testimony in support of the bills. (1-26-12)

A representative of the Animal Law Section of the State Bar of Michigan indicated support for the bills. (1-26-12)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.