Legislative Analysis

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ANIMAL FIGHTING:
DECLARE PREMISES A NUISANCE

House Bill 5789 (reported without amendment)
Sponsor: Rep. Andrea LaFontaine ***(Enacted as Public Act 352 of 2012)***
Committee: Judiciary

First Analysis (10-3-12)

BRIEF SUMMARY: The bill would declare a building, vehicle, boat, aircraft, or other place where animal fighting takes place to be a nuisance.

FISCAL IMPACT: The bill would allow for properties involved in animal fighting to be declared a nuisance, allowing for the removal and sale of any personal property inside the building or place. This may result in higher costs due to an increase in caseload for local courts, as well as costs associated with storing seized personal property. These costs would either be offset by fines paid by the owner of the property declared a nuisance, or by the sale of any seized personal property. Any additional revenue generated from the sale of such personal property would be paid to the state General Fund.

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 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, at least 65 percent of people charged with animal abuse crimes also had arrests for 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. Many believe that the public safety would be improved if properties used to conduct animal fighting were allowed to be considered public nuisances and shut down in the same way as houses of prostitution and other places that regularly conduct illegal activities.

THE CONTENT OF THE BILL:

The bill would amend Chapter 38 (Public Nuisances) of the Revised Judicature Act to allow for a building, vehicle, boat, aircraft, or place used for animal fighting to be declared a nuisance.

Specifically, the bill would amend the section that declares places to be a nuisance if certain conduct takes place on the premises, such as 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).

(Under current law, personal property contained in or around the structure or premises that is declared a nuisance is subject to removal and sale, as provided for in Chapter 38 of the Revised Judicature Act. The chapter provides a means by which the owner of the real property can reclaim that property.)

MCL 600.3801

BACKGROUND INFORMATION:

House Bill 5789 is identical to Senate Bill 357, which is part of a package of bills (Senate Bills 356-358) aimed at strengthening the penalties for animal fighting. The package was reported from the House Judiciary Committee on January 26, 2012.

The bill is also a reintroduction of House Bill 5668 of the 2009-2010 legislative session. That bill, and its companions (HB 5655 and 5656), passed the House but failed to see Senate action.

ARGUMENTS:

For:

The bill would allow the place (barn, garage, field, house, etc.) where animal fighting 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. It would also allow for the seizure, forfeiture, and sale of the contents (such as tools, furniture) found within the property that was padlocked.

Considering the cruelty to animals involved, as well as 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 undesirable conduct in the first place, and to appropriately punish anyone choosing to engage in the prohibited activity. House Bill 5789, and the other bills in the Senate package (which among other things would allow for the seizure, forfeiture, and sale of the real property used in animal

fighting), would give prosecutors the additional tools they so desperately need with which to fight and curtail the spread of animal fighting rings.

POSITIONS:

Representatives of the Wayne County Prosecutor's Office testified in support of the bill. (9-27-12)

A representative of the Humane Society of the United States testified in support of the bill. (9-27-12)

The ASPCA submitted written testimony in support of the bill. (9-27-12)

The Animal Law Section of the State Bar of Michigan indicated support for the bill. (9-27-12)

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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.