



Senate Fiscal Agency
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Senate Bills 356, 357, and 358 (as reported without amendment)

Sponsor: Senator Rick Jones (S.B. 356)

Senator Bert Johnson (S.B. 357)

Senator Steven Bieda (S.B. 358)

Committee: Judiciary

CONTENT

Senate Bill 356 would amend Chapter 47 (Forfeiture or Seizure of Certain Property) of the Revised Judicature Act (RJA) to include a violation of Section 49 of the Michigan Penal Code in the list of crimes for which property may be seized and forfeited.

(Section 49 prohibits various activities relating to the use of an animal for fighting or baiting, or as a shooting target. Those activities carry felony penalties, while other violations of the section are misdemeanors. Subject to requirements for turning an animal over to a humane society or animal welfare agency, all animals being used or to be used in fighting, baiting, and target shooting, and equipment, devices, and money involved in those violations, must be forfeited to the State.)

Under Chapter 47 of the RJA, the following property is subject to seizure by, and forfeiture to, a local unit of government or the State:

- All personal property that is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime.
- All real property that is the proceeds or substituted proceeds of a crime, except real property that is the primary residence of the spouse or a dependent child of the owner, unless the spouse or child had prior knowledge of the crime and consented to it.

In addition, in the case of a crime that is a violation of Chapter 83-A of the Michigan Penal Code (the Michigan Anti-Terrorism Act), all property described above and all real or personal property that performed one of the following functions is subject to seizure and forfeiture:

- 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.
- Was used to conceal the identity of any of the individuals who committed the crime.

Under the bill, the forfeiture provisions that apply to a violation of Chapter 83-A also would apply to a violation of Section 49 of the Penal Code.

Senate Bill 357 would amend the Chapter 38 (Public Nuisances) of the RJA to designate a building, vehicle, boat, aircraft, or place used for conduct prohibited by Section 49 of the Michigan Penal Code as a nuisance.

Under Chapter 38 of the RJA, a building, vehicle, boat, aircraft, or place is a nuisance if it is used for certain illegal activities. The bill would include a building, vehicle, boat, aircraft, or place used for conduct prohibited by Section 49 of the Penal Code.

(Chapter 38 allows the Attorney General, a county prosecuting attorney, or any citizen to maintain an action for equitable relief in the name of the State to abate a nuisance and to enjoin any person from using nuisance property for any of the purposes specified in Chapter 38. If the existence of a nuisance is established, an order of abatement must be entered, and property may be seized and forfeited. The proceeds of the sale of the personal property must be applied to the costs of the action and abatement, and any balance must be paid to people entitled to it as directed by the court. Upon the payment of costs and a penal sum, and the filing of a bond, a building may be returned to an owner if the owner immediately abates the nuisance and prevents it from being established or kept there within one year from the date of the judgment.)

Senate Bill 358 would amend the Michigan Penal Code to include animal fighting as a predicate offense of racketeering.

The Penal Code prohibits a person from engaging in certain activities through a "pattern of racketeering activity" (at least two incidents of racketeering that have interrelated characteristics and amount to or pose a threat of continuing criminal activity). "Racketeering" means committing, attempting to commit, conspiring to commit, or aiding or abetting, soliciting, coercing, or intimidating a person to commit an offense for financial gain, involving any of the violations specified in the Code. The bill would include a violation of Section 49 concerning animal fighting.

MCL 600.4702 (S.B. 356)
600.3801 (S.B. 357)
750.159g (S.B. 358)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bill 356 would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of an animal fighting offense.

Senate Bill 357 would have no fiscal impact on State or local government.

Senate Bill 358 would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of an animal fighting offense. To the extent that violations of MCL 750.49 increased the number of racketeering convictions, the State could incur additional costs related to incarceration. Additional penal fine revenue would benefit public libraries.

Date Completed: 5-11-11

Fiscal Analyst: Bruce Baker
Matthew Grabowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.