

SENATE BILL No. 990

June 11, 2014, Introduced by Senators PAPPAGEORGE, BRANDENBURG, COLBECK and HUNE and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 49 (MCL 750.49), as amended by 2006 PA 129.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 49. (1) As used in this section, "animal" means a
2 vertebrate other than a human **BEING**.

3 (2) A person shall not knowingly do any of the following:

4 (a) Own, possess, use, buy, sell, offer to buy or sell,
5 import, or export an animal for fighting or baiting, or as a target
6 to be shot at as a test of skill in marksmanship.

7 (b) Be a party to or cause the fighting, baiting, or shooting
8 of an animal as described in subdivision (a).

9 (c) Rent or otherwise obtain the use of a building, shed,

1 room, yard, ground, or premises for fighting, baiting, or shooting
2 an animal as described in subdivision (a).

3 (d) Permit the use of a building, shed, room, yard, ground, or
4 premises belonging to him or her or under his or her control for
5 any of the purposes described in this section.

6 (e) Organize, promote, or collect money for the fighting,
7 baiting, or shooting of an animal as described in subdivisions (a)
8 to (d).

9 (f) Be present at a building, shed, room, yard, ground, or
10 premises where preparations are being made for an exhibition
11 described in subdivisions (a) to (d), or be present at the
12 exhibition, knowing that an exhibition is taking place or about to
13 take place.

14 (g) Breed, buy, sell, offer to buy or sell, exchange, import,
15 or export an animal the person knows has been trained or used for
16 fighting as described in subdivisions (a) to (d), or breed, buy,
17 sell, offer to buy or sell, exchange, import, or export the
18 offspring of an animal the person knows has been trained or used
19 for fighting as described in subdivisions (a) to (d). This
20 subdivision does not prohibit owning, breeding, buying, selling,
21 offering to buy or sell, exchanging, importing, or exporting an
22 animal for agricultural or agricultural exposition purposes. **THIS**
23 **SUBDIVISION DOES NOT PROHIBIT AN ANIMAL CONTROL SHELTER, ANIMAL**
24 **PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY FROM OWNING,**
25 **ADOPTING, OR TRANSFERRING OWNERSHIP TO A HUMANE SOCIETY, ANIMAL**
26 **WELFARE AGENCY, OR PERSON FOR THE PURPOSE OF ADOPTION OF AN ANIMAL**
27 **TRAINED OR USED FOR FIGHTING AS DESCRIBED IN SUBDIVISIONS (A) TO**

1 (D) OR AN ANIMAL THAT IS THE FIRST- OR SECOND-GENERATION OFFSPRING
2 OF AN ANIMAL TRAINED OR USED FOR FIGHTING AS DESCRIBED IN
3 SUBDIVISIONS (A) TO (D), IF THE ANIMAL CONTROL SHELTER, ANIMAL
4 PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY FINDS THAT THE ANIMAL
5 IS FIT FOR PLACEMENT AND DOES NOT POSE A THREAT TO THE PUBLIC
6 SAFETY.

7 (h) Own, possess, use, buy, sell, offer to buy or sell,
8 transport, or deliver any device or equipment intended for use in
9 the fighting, baiting, or shooting of an animal as described in
10 subdivisions (a) to (d).

11 (3) A person who violates subsection (2)(a) to (e) is guilty
12 of a felony punishable by 1 or more of the following:

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

14 (b) A fine of not less than \$5,000.00 or more than \$50,000.00.

15 (c) Not less than 500 or more than 1,000 hours of community
16 service.

17 (4) A person who violates subsection (2)(f) to (h) is guilty
18 of a felony punishable by 1 or more of the following:

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

20 (b) A fine of not less than \$1,000.00 or more than \$5,000.00.

21 (c) Not less than 250 or more than 500 hours of community
22 service.

23 (5) The court may order a person convicted of violating this
24 section to pay the costs of prosecution.

25 (6) The court may order a person convicted of violating this
26 section to pay the costs for housing and caring for the animal,
27 including, but not limited to, providing veterinary medical

1 treatment, INVESTIGATING THE VIOLATION OF THIS SECTION, FOOD,
2 WATER, SHELTER, AND DISPOSITION OF THE ANIMAL. AS USED IN THIS
3 SUBSECTION, "DISPOSITION" INCLUDES THE TRANSFER, EUTHANASIA, OR
4 ADOPTION OF AN ANIMAL.

5 (7) As part of the sentence for a violation of subsection (2),
6 the court shall order the person convicted not to own or possess an
7 animal of the same species involved in the violation of this
8 section for 5 years after the date of sentencing. Failure to comply
9 with the order of the court pursuant to this subsection is
10 punishable as contempt of court.

11 (8) If a person incites an animal trained or used for fighting
12 or an animal that is the first or second generation offspring of an
13 animal trained or used for fighting to attack a person and ~~thereby~~
14 **THE ATTACK** causes the death of that person, the owner is guilty of
15 a felony punishable by imprisonment for life or for a term of years
16 greater than 15 years.

17 (9) If a person incites an animal trained or used for fighting
18 or an animal that is the first or second generation offspring of an
19 animal trained or used for fighting to attack a person, but the
20 attack does not result in the death of the person, the owner is
21 guilty of a felony punishable by imprisonment for not more than 4
22 years or a fine of not more than \$2,000.00, or both.

23 (10) If an animal trained or used for fighting or an animal
24 that is the first or second generation offspring of an animal
25 trained or used for fighting attacks a person without provocation
26 and causes the death of that person, the owner of the animal is
27 guilty of a felony punishable by imprisonment for not more than 15

1 years.

2 (11) If an animal trained or used for fighting or an animal
3 that is the first or second generation offspring of an animal
4 trained or used for fighting attacks a person without provocation,
5 but the attack does not cause the death of the person, the owner is
6 guilty of a misdemeanor punishable by imprisonment for not more
7 than 1 year or a fine of not more than \$1,000.00, or both.

8 (12) Subsections (8) to (11) do not apply if the person
9 attacked was committing or attempting to commit an unlawful act on
10 the property of the owner of the animal.

11 (13) If an animal trained or used for fighting or an animal
12 that is the first or second generation offspring of a dog trained
13 or used for fighting goes beyond the property limits of its owner
14 without being securely restrained, the owner is guilty of a
15 misdemeanor punishable by imprisonment for not more than 90 days or
16 a fine of not less than \$50.00 nor more than \$500.00, or both.

17 (14) If an animal trained or used for fighting or an animal
18 that is the first or second generation offspring of a dog trained
19 or used for fighting is not securely enclosed or restrained on the
20 owner's property, the owner is guilty of a misdemeanor punishable
21 by imprisonment for not more than 90 days or a fine of not more
22 than \$500.00, or both.

23 (15) Subsections (8) to (14) do not apply to any of the
24 following:

25 (a) A dog trained or used for fighting, or the first or second
26 generation offspring of a dog trained or used for fighting, that is
27 used by a law enforcement agency of ~~the~~**THIS** state or a county,

1 city, village, or township.

2 (b) A certified leader dog recognized and trained by a
3 national guide dog association for the blind or for persons with
4 disabilities.

5 (c) A corporation licensed under the private security business
6 and security alarm act, 1968 PA 330, MCL 338.1051 to ~~338.1083,~~
7 **338.1092**, when a dog trained or used for fighting, or the first or
8 second generation offspring of a dog trained or used for fighting,
9 is used in accordance with the private security business and
10 security alarm act, 1968 PA 330, MCL 338.1051 to ~~338.1083-~~**338.1092.**

11 (16) An animal that has been used to fight in violation of
12 this section or that is involved in a violation of subsections (8)
13 to (14) shall be confiscated as contraband by a law enforcement
14 officer and shall not be returned to the owner, trainer, or
15 possessor of the animal. The animal shall be taken to a local
16 ~~humane society or other animal welfare~~ **CONTROL SHELTER, ANIMAL**
17 **PROTECTION SHELTER, OR LAW ENFORCEMENT** agency. If an animal owner,
18 trainer, or possessor is convicted of violating subsection (2) or
19 subsections (8) to (14), the court shall award the animal involved
20 in the violation to the ~~local humane society or other animal~~
21 ~~welfare~~ **CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR LAW**
22 **ENFORCEMENT** agency **FOR EVALUATION AND ADOPTION OR HUMANE**
23 **DISPOSITION.**

24 (17) **AN ANIMAL CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR**
25 **LAW ENFORCEMENT AGENCY TAKING CUSTODY OF AN ANIMAL UNDER SUBSECTION**
26 **(16) SHALL GIVE NOTICE WITHIN 72 HOURS AFTER SEIZURE OF THE ANIMAL**
27 **BY 1 OF THE FOLLOWING METHODS:**

1 (A) POSTING AT THE LOCATION OF THE SEIZURE.

2 (B) DELIVERY TO A PERSON RESIDING AT THE LOCATION OF THE
3 SEIZURE.

4 (C) REGISTERED MAIL TO THE OWNER OF THE ANIMAL'S LAST-KNOWN
5 ADDRESS, IF THE OWNER OF THE ANIMAL IS KNOWN.

6 (D) REGISTERED MAIL TO THE LOCATION OF THE SEIZURE, IF THE
7 OWNER OF THE ANIMAL IS UNKNOWN.

8 (18) THE NOTICE REQUIRED UNDER SUBSECTION (17) SHALL INCLUDE
9 ALL OF THE FOLLOWING:

10 (A) A DESCRIPTION OF EACH ANIMAL SEIZED.

11 (B) THE TIME, DATE, LOCATION, AND DESCRIPTION OF CIRCUMSTANCES
12 UNDER WHICH THE ANIMAL WAS SEIZED.

13 (C) THE ADDRESS AND TELEPHONE NUMBER OF THE LOCATION WHERE THE
14 ANIMAL IS BEING HELD AND CONTACT INFORMATION FOR THE INDIVIDUAL
15 FROM WHOM SECURITY DEPOSIT OR BOND INFORMATION MAY BE OBTAINED.

16 (D) A STATEMENT THAT THE OWNER OR POSSESSOR OF THE ANIMAL MAY
17 POST A SECURITY DEPOSIT OR BOND TO PREVENT THE DISPOSITION OF THE
18 ANIMAL, THAT FAILURE TO POST A SECURITY DEPOSIT OR BOND WITHIN 14
19 DAYS AFTER THE DATE ON THE NOTICE WILL RESULT IN DISPOSITION OF THE
20 ANIMAL, AND THAT THE OWNER OR POSSESSOR OF THE ANIMAL MAY REQUEST A
21 HEARING ON WHETHER THE COST ASSOCIATED WITH THE SECURITY DEPOSIT OR
22 BOND IS FAIR AND REASONABLE FOR THE CARE OF AND PROVISION FOR THE
23 SEIZED ANIMAL.

24 (E) A STATEMENT THAT THE OWNER OR POSSESSOR OF THE ANIMAL IS
25 RESPONSIBLE FOR ALL COSTS DESCRIBED IN SUBSECTION (6), UNLESS THE
26 COURT DETERMINES THAT THE SEIZURE OF THE ANIMAL WAS NOT
27 SUBSTANTIALLY JUSTIFIED BY LAW.

1 (19) AN ANIMAL CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR
2 LAW ENFORCEMENT AGENCY THAT HAS SEIZED AN ANIMAL UNDER SUBSECTION
3 (16) SHALL HOLD THE ANIMAL FOR A PERIOD OF 14 CONSECUTIVE DAYS,
4 INCLUDING WEEKENDS AND HOLIDAYS, BEGINNING ON THE DATE NOTICE WAS
5 GIVEN UNDER SUBSECTION (17). AFTER THE EXPIRATION OF THE 14 DAYS,
6 IF THE OWNER OR A POSSESSOR OF THE ANIMAL HAS NOT POSTED A SECURITY
7 DEPOSIT OR BOND AS PROVIDED IN SUBSECTION (20), THE ANIMAL CONTROL
8 SHELTER, ANIMAL PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY MAY
9 DISPOSE OF THE ANIMAL BY ADOPTION, TRANSFER TO ANOTHER ANIMAL
10 CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR LAW ENFORCEMENT
11 AGENCY, OR HUMANE EUTHANASIA. AN ANIMAL CONTROL SHELTER, ANIMAL
12 PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY THAT TRANSFERS OR
13 ADOPTS AN ANIMAL AS DESCRIBED IN THIS SUBSECTION SHALL PROVIDE A
14 COPY OF THE ANIMAL'S HISTORY, INCLUDING A DESCRIPTION OF WHY THE
15 ANIMAL WAS SEIZED, VETERINARY RECORDS AND BEHAVIORAL ASSESSMENTS,
16 AND A COPY OF SUBSECTIONS (8) TO (14), TO THE PERSON TO WHOM THE
17 ANIMAL IS TRANSFERRED OR ADOPTED.

18 (20) THE OWNER OR POSSESSOR OF AN ANIMAL SEIZED UNDER
19 SUBSECTION (16) MAY PREVENT DISPOSITION OF THE ANIMAL BY AN ANIMAL
20 CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR LAW ENFORCEMENT
21 AGENCY BY POSTING A SECURITY DEPOSIT OR BOND WITH THE COURT WITHIN
22 14 DAYS AFTER RECEIVING THE NOTICE DESCRIBED IN SUBSECTION (18).
23 THE BOND SHALL BE IN A SUFFICIENT AMOUNT TO SECURE PAYMENT OF ALL
24 COSTS DESCRIBED IN SUBSECTION (6) DURING A 30-DAY PERIOD OF
25 BOARDING AND VETERINARY TREATMENT OF THE ANIMAL AFTER EXAMINATION
26 BY A LICENSED VETERINARIAN. THE ANIMAL CONTROL SHELTER, ANIMAL
27 PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY SHALL DETERMINE THE

1 AMOUNT OF THE BOND NO LATER THAN 72 HOURS AFTER THE SEIZURE OF THE
2 ANIMAL, AND SHALL MAKE THE AMOUNT OF THE BOND AVAILABLE TO THE
3 OWNER OR POSSESSOR OF THE ANIMAL UPON REQUEST. THE OWNER OR
4 POSSESSOR OF THE ANIMAL SHALL PROVIDE PROOF OF THE SECURITY DEPOSIT
5 OR BOND TO THE ANIMAL CONTROL SHELTER, ANIMAL PROTECTION SHELTER,
6 OR LAW ENFORCEMENT AGENCY NO LATER THAN 14 DAYS AFTER RECEIVING THE
7 NOTICE DESCRIBED IN SUBSECTION (18).

8 (21) AN ANIMAL CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR
9 LAW ENFORCEMENT AGENCY THAT IS HOLDING A SEIZED ANIMAL AS PROVIDED
10 IN THIS SECTION MAY DRAW ON A SECURITY DEPOSIT OR BOND POSTED UNDER
11 SUBSECTION (20) TO COVER THE ACTUAL REASONABLE COSTS INCURRED IN
12 THE SEIZURE, CARE, KEEPING, AND DISPOSITION OF THE ANIMAL AS
13 DESCRIBED IN SUBSECTION (6) FROM THE DATE OF THE SEIZURE TO THE
14 DATE OF THE OFFICIAL DISPOSITION OF THE ANIMAL IN THE CRIMINAL
15 ACTION.

16 (22) IF A SECURITY DEPOSIT OR BOND HAS BEEN POSTED UNDER
17 SUBSECTION (20), AND TRIAL IN THE CRIMINAL ACTION IS CONTINUED TO A
18 LATER DATE, THE ORDER OF CONTINUANCE SHALL REQUIRE THE DEFENDANT TO
19 POST AN ADDITIONAL SECURITY DEPOSIT OR BOND IN AN AMOUNT DETERMINED
20 SUFFICIENT BY THE COURT TO COVER THE COSTS DESCRIBED IN SUBSECTION
21 (6) AS ANTICIPATED TO BE INCURRED BY THE ANIMAL CONTROL SHELTER,
22 ANIMAL PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY CARING FOR THE
23 ANIMAL. THE ADDITIONAL SECURITY DEPOSIT OR BOND SHALL BE CALCULATED
24 IN 30-DAY INCREMENTS AND SHALL CONTINUE UNTIL THE CRIMINAL ACTION
25 IS RESOLVED. IF THE OWNER OR POSSESSOR OF THE ANIMAL FAILS TO POST
26 A NEW SECURITY DEPOSIT OR BOND WITH THE COURT BEFORE THE PREVIOUS
27 SECURITY DEPOSIT OR BOND EXPIRES, THE ANIMAL IS FORFEITED TO THE

1 ANIMAL CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR LAW
2 ENFORCEMENT AGENCY CARING FOR THE ANIMAL.

3 (23) IF THE OWNER OR POSSESSOR IS FOUND NOT GUILTY IN THE
4 CRIMINAL ACTION, THE AMOUNT OF THE SECURITY DEPOSIT OR BOND POSTED
5 TO PREVENT DISPOSITION OF THE ANIMAL MAY BE RETURNED TO THE OWNER
6 OR POSSESSOR, MINUS THE REASONABLE COSTS INCURRED BY THE ANIMAL
7 CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR LAW ENFORCEMENT
8 AGENCY FOR THE CARE OF THE ANIMAL AS DESCRIBED IN SUBSECTION (6).

9 (24) IF A SECURITY DEPOSIT OR BOND IS POSTED BY AN OWNER OR
10 POSSESSOR OF AN ANIMAL UNDER SUBSECTION (20) AND THE COURT
11 DETERMINES THAT THE ANIMAL LACKS ANY USEFUL PURPOSE AND POSES A
12 THREAT TO PUBLIC SAFETY, THE POSTING OF THE SECURITY DEPOSIT OR
13 BOND SHALL NOT PREVENT DISPOSITION OF THE ANIMAL. THE AMOUNT OF THE
14 SECURITY DEPOSIT OR BOND POSTED TO PREVENT DISPOSITION OF THE
15 ANIMAL SHALL BE RETURNED TO THE OWNER OR POSSESSOR, MINUS THE
16 REASONABLE COSTS INCURRED BY THE ANIMAL CONTROL SHELTER, ANIMAL
17 PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY FOR THE CARE AND
18 EUTHANASIA OF THE ANIMAL AS DESCRIBED IN SUBSECTION (6).

19 (25) ~~(17)~~ Upon receiving an animal confiscated under this
20 section, or at any time thereafter, an ~~appointed veterinarian, the~~
21 ~~humane society, or other animal welfare agency~~ **CONTROL SHELTER,**
22 **ANIMAL PROTECTION SHELTER, OR LAW ENFORCEMENT AGENCY** may humanely
23 euthanize the animal if, in the opinion of ~~that~~ **A LICENSED**
24 ~~veterinarian, humane society, or other animal welfare agency,~~ the
25 animal is injured or diseased past recovery or the animal's
26 continued existence is inhumane so that euthanasia is necessary to
27 relieve pain and suffering. **THIS SUBSECTION APPLIES TO AN ANIMAL**

1 WHETHER OR NOT A SECURITY DEPOSIT OR BOND HAS BEEN POSTED UNDER
2 SUBSECTION (20).

3 (26) ~~(18) A humane society or other~~ **AN ANIMAL CONTROL SHELTER,**
4 ~~animal welfare~~ **PROTECTION SHELTER, OR LAW ENFORCEMENT** agency that
5 receives an animal under this section shall apply to the district
6 court or municipal court for a hearing to determine whether the
7 animal shall be humanely euthanized because of its lack of any
8 useful purpose and the public safety threat it poses. The court
9 shall hold a hearing not more than 30 days after the filing of the
10 application and shall give notice of the hearing to the owner of
11 the animal. Upon a finding by the court that the animal lacks any
12 useful purpose and poses a threat to public safety, the humane
13 ~~society or other animal welfare~~ **CONTROL SHELTER, ANIMAL PROTECTION**
14 **SHELTER, OR LAW ENFORCEMENT** agency shall humanely euthanize the
15 animal. Expenses incurred in connection with the housing, care,
16 upkeep, or euthanasia of the animal by ~~a humane society or other~~ **AN**
17 ~~animal welfare~~ **CONTROL SHELTER, ANIMAL PROTECTION SHELTER, OR LAW**
18 **ENFORCEMENT** agency, or by a person, firm, partnership, corporation,
19 or other entity, shall be assessed against the owner of the animal.

20 (27) ~~(19)~~ Subject to subsections (16), ~~to~~ **(18), AND (25),** all
21 animals being used or to be used in fighting, equipment, devices
22 and money involved in a violation of subsection (2) shall be
23 forfeited to ~~the~~ **THIS** state. All other instrumentalities, proceeds,
24 and substituted proceeds of a violation of subsection (2) are
25 subject to forfeiture under chapter 47 of the revised judicature
26 act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709.

27 (28) ~~(20)~~ The seizing agency may deposit money seized under

subsection ~~(19)~~ **(27)** into an interest-bearing account in a financial institution. As used in this subsection, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state under the laws of this state or the United States.

(29) ~~(21)~~—An attorney for a person who is charged with a violation of subsection (2) involving or related to money seized under subsection ~~(19)~~ **(27)** shall be afforded a period of 60 days within which to examine that money. This 60-day period shall begin to run after notice of forfeiture is given but before the money is deposited into a financial institution under subsection ~~(20)~~ **(28)**. If the attorney general, prosecuting attorney, or city or township attorney fails to sustain his or her burden of proof in forfeiture proceedings under subsection ~~(19)~~ **(27)**, the court shall order the return of the money, including any interest earned on money deposited into a financial institution under subsection ~~(20)~~ **(28)**.

(30) ~~(22)~~—This section does not apply to conduct that is permitted by and is in compliance with any of the following:

(a) Part 401 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40101 to ~~324.40119~~ **324.40120**.

(b) Part 435 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43501 to 324.43561.

(c) Part 427 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.42701 to 324.42714.

1 (d) Part 417 of the natural resources and environmental
2 protection act, 1994 PA 451, MCL 324.41701 to 324.41712.

3 (31) ~~(23)~~—This section does not prohibit a person from being
4 charged with, convicted of, or punished for any other violation of
5 law that is committed by that person while violating this section.