

ABUSING ANIMAL IN FRONT OF CHILD

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House Bill 5670 (reported from committee as H-1)

Sponsor: Rep. Robert L. Kosowski

Committee: Criminal Justice

Complete to 11-2-16

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: The bill will subject a person to an enhanced penalty for committing the crime of animal neglect in front of a child. "Child" is defined to mean an individual less than 18 years of age.

FISCAL IMPACT: The bill will have an indeterminate fiscal impact on state and local correctional systems.

THE APPARENT PROBLEM:

It is well documented that people who commit violence against others often have a history of abusing animals. Observers say that it is now becoming apparent that even witnessing animal abuse as a child increases the risk of that child committing violent acts not just against animals, but also against other people. A 2009 study that looked at the connection between animal cruelty, child abuse, and domestic violence found that witnessing animal abuse was the largest predictor of future violence by the witness of the abuse, with the witness being eight times more likely to also commit animal cruelty. With other studies revealing that up to 76 percent of animal cruelty in the home occurs in front of children and a study that 37 percent of children living in a family violence shelter had progressed to harming or killing pets, it is no wonder that the FBI added several animal abuse crimes to the National Incident Based Reporting System earlier in 2016. Further, studies report that animal abuse is present in about 60 percent of homes being investigated for child abuse and 88 percent of homes investigated for physical abuse, according to information submitted to the Committee in written testimony.

One approach taken by several states to stop the cycle of child witnesses of animal cruelty becoming perpetrators of abuse against animals and others has been to enhance penalties for animal abuse if that abuse occurred in front of a child. Legislation has been offered to provide such an enhancement to Michigan's animal neglect statute.

THE CONTENT OF THE BILL:

House Bill 5670 amends the Michigan Penal Code, Chapter IX (Animals). Section 50 of the Code prohibits neglect of an animal (e.g., failure to provide adequate care or beat, starve, or abandon an animal) and has a tiered penalty structure with an enhanced penalty based on the number of animals harmed, if the animal died, and/or the number of prior convictions for animal neglect.

Under the bill, the range of punishments currently in place for an enhanced penalty would apply to any violation committed in the presence of a child, regardless of the number of animals involved or whether an animal died.

Therefore, under the bill, a person who engages in any of the prohibited conduct against any number of animals in the presence of a child will be guilty—for a first offense—of a misdemeanor punishable by imprisonment for not more than one year, a fine of not more than \$2,000, and/or community service for not more than 300 hours. A second or subsequent violation will result in a felony offense punishable by imprisonment for up to two years (second offense) or four years (three or more prior convictions), in addition to fines and/or community service as prescribed in the code.

In addition, Section 50 allows a court to order a term of imprisonment to be served *consecutively* to a term of imprisonment imposed for any other crime (e.g., domestic violence), order an evaluation to determine if the offender is in need of psychological counseling, impose costs for the care of the animal, and prohibit ownership or possession of an animal during a period of probation or, in the case of a repeat violation, for any period of time (including life). These sanctions would also apply to a person who neglected an animal in the presence of a child.

MCL 750.50

FISCAL INFORMATION:

House Bill 5670 would have an indeterminate fiscal impact on the state and on local units of government. The fiscal impact would depend on whether a violation constituted a first, second, or subsequent offense. For first offenses, misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. For violations involving repeat offenses, felony convictions would result in increased costs related to state prisons and state probation supervision. The average cost of prison incarceration in a state facility is roughly \$34,900 per prisoner per year, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision average about \$3,400 per supervised offender per year. The fiscal impact on local court funding units would depend on how the bill affected caseloads and related administrative costs. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

ARGUMENTS:

For:

Studies, some dating back to the 1980s, offer a compelling picture of a link between children witnessing violence and then progressing to becoming perpetrators of violence, whether the violence witnessed was against a person or an animal. Children who witness animal abuse are more likely to engage in animal abuse and bullying behaviors. These

children often grow up to pose threats in their own families and intimate relationships as well as in their communities. Reportedly, 43 percent of school shooters had histories of being cruel to animals.

Advocates say more must be done to stop this cycle. The bill addresses the problem by enhancing the penalty for animal neglect if the offense is committed in the presence of a child. A first offense, regardless of how many animals were involved, would be a one-year misdemeanor, the same penalty in place for causing the death of an animal or an offense involving two or three animals. A second or subsequent violation would be a felony.

Considering the negative impact on a child of witnessing violence against an animal, it is appropriate that the penalty be increased. Offenders should be held accountable. Further, by taking animal abuse in the presence of a child seriously, more children who witness the abuse of their pets or other animals may receive interventions such as counseling or therapy that may enable them to escape the cycle of also becoming an abuser.

Response:

The bill is a good first start, but the penalty enhancement should also be added to Section 50b, the animal cruelty statute.

POSITIONS:

A representative of Attorneys for Animals and the Animal Section of the State Bar of Michigan testified in support of the bill. (9-20-16)

A representative of Sheltering Animals & Families Together (SAF-T) testified in support of the bill. (9-20-16)

The Animal Welfare Institute submitted written testimony in support of the bill. (9-20-16)

The Midwest Region of the American Society for the Prevention of Cruelty to Animals (ASPCA) submitted written testimony in support of the bills. (9-20-16)

The Michigan Humane Society indicated support for the bill. (9-20-16)

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