



**Senate Fiscal Agency**  
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BILL



ANALYSIS

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Senate Bill 276 (Substitute S-1 as reported)  
Senate Bill 277 (as reported without amendment)  
Sponsor: Senator Steven Bieda (S.B. 276)  
          Senator Rick Jones (S.B. 277)  
Committee: Judiciary

Date Completed: 5-3-17

### **RATIONALE**

Under the Michigan Penal Code, a person who owns, possesses, is in charge of, or has custody of an animal is subject to criminal penalties for acts of animal neglect or cruelty. Depending on the number of animals involved, and the number of prior convictions for animal neglect or cruelty, a violation is either a misdemeanor or a felony. The highest penalty for this offense, which applies to a violation involving 10 or more animals, includes up to four years' imprisonment, a \$5,000 maximum fine, and up to 500 hours of community service.

The Penal Code also prohibits a person from knowingly killing, torturing, mutilating, maiming, disfiguring, or poisoning an animal, or committing a reckless act knowing or having reason to know that it will cause an animal to be killed, tortured, mutilated, maimed, or disfigured. This offense is a felony punishable by up to four years' imprisonment, a maximum fine of \$5,000 to \$20,000, depending on the number of animals, and up to 500 hours of community service.

Some people believe that these penalties are not sufficient for egregious violations. It has been suggested that the Code should include enhanced penalties for different degrees of these crimes, and the penalties should take into account whether an offense involved numerous animals or a pet, and whether the offender intended to manipulate a victim or cause mental suffering.

### **CONTENT**

**Senate Bill 276 (S-1) would amend the Michigan Penal Code to do the following:**

- **Establish first, second, and third degrees of killing or torturing an animal, and increase the maximum prison term for a first- or second-degree offense.**
- **Revise and enhance the graduated penalties for animal neglect or cruelty.**
- **Extend current animal neglect or cruelty prohibitions to a breeder or pet shop operator.**
- **Establish a felony penalty for animal neglect or cruelty by a breeder or pet shop operator who had five or more prior convictions under Public Act 287 of 1969 (which regulates pet shops).**
- **Allow a court to include at least five years' probation as part of a sentence for an animal neglect or cruelty offense involving 25 or more animals, or three or more prior convictions.**

**Senate Bill 277 would amend the sentencing guidelines in the Code of Criminal Procedure to do the following:**

- **Revise the guidelines for animal neglect or cruelty and establish designations for the penalties proposed by Senate Bill 276 (S-1).**

- Establish designations for first-, second-, and third-degree violations involving animal torture.
- Revise scoring requirements for several offense variables.

Senate Bill 277 is tie-barred to Senate Bill 276. Each bill would take effect 90 days after its enactment.

### **Senate Bill 276 (S-1)**

#### **Animal Neglect or Cruelty**

Under Section 50 of the Penal Code, a person who owns, possesses, is in charge of, or has custody of an animal is prohibited from doing any of the following:

- Failing to provide an animal with adequate care.
- Cruelly driving, working, or beating an animal, or causing it to be cruelly driven, worked, or beaten.
- Carrying or causing to be carried in or upon a vehicle or otherwise any live animal whose feet or legs are tied together, except an animal being transported for medical care or a horse whose feet are hobbled to protect it during transport, or in any other cruel and inhumane manner.
- Carrying or causing to be carried a live animal in or upon a vehicle or otherwise without providing a secure space, rack, car, crate, or cage in which livestock may stand and in which all other animals may stand, turn around, and lie down during transport or while awaiting slaughter.
- Abandoning an animal or causing an animal to be abandoned, without making provisions for the animal's adequate care, unless premises are vacated for the protection of human life or the prevention of injury to a human.
- Negligently allowing any animal, including one that is aged, diseased, maimed, hopelessly sick, disabled, or nonambulatory, to suffer unnecessary neglect, torture, or pain.
- Tethering a dog unless the tether is at least three times the length of the dog and is attached to a harness or nonchoke collar designed for tethering.

The bill would extend those prohibitions to a breeder and an operator of a pet shop. "Breeder" would mean a person who breeds animals other than livestock for remuneration. "Pet shop" would mean a place where animals are sold or offered for sale, exchange, or transfer. The bill specifies that the operator of a pet shop could use a tether less than three times the length of a dog if the tethering occurred while the dog was being groomed on the premises of the shop. Also, the tethering provision would not apply to field hunting, field dog trials, or dog shows.

Currently, a violation of Section 50 is punishable as shown in Table 1, based on the number of animals involved, the prior convictions of the offender for this crime, and whether an animal died. An offender also may be ordered to pay the costs of prosecution.

**Table 1**

<b>Animals Involved or Prior Convictions</b>	<b>Maximum Imprisonment</b>	<b>Maximum Fine</b>	<b>Maximum Community Service</b>
1 animal <sup>1)</sup>	93 days	\$1,000	200 hours
2 or 3 animals, or the death of an animal <sup>1)</sup>	1 year	\$2,000	300 hours
4 to 9 animals, or 1 prior conviction <sup>2)</sup>	2 years	\$2,000	300 hours
10 or more animals, or 2 or more priors <sup>2)</sup>	4 years	\$5,000	500 hours
<sup>1)</sup> misdemeanor. <sup>2)</sup> felony.			

Under the bill, the first three levels of penalties would be the same. The current penalty for a violation involving 10 or more animals (or two prior convictions) would apply to a violation involving 10 to 24 animals. A violation involving 25 or more animals, or three or more prior convictions, would be a felony punishable by up to seven years' imprisonment, a maximum fine of \$10,000, and up to 500 hours of community service.

Also, as part of the sentence imposed for a violation involving 25 or more animals, or an offender with three or more prior convictions, the court could place the defendant on probation for any term of years, but not less than five years.

If a breeder or pet shop owner violated Section 50 (regardless of the number of animals or prior convictions) and he or she had five or more prior convictions for violating Public Act 287 of 1969, the violation of Section 50 would be a felony punishable by imprisonment for up to two years, a maximum fine of \$5,000, or both. (Public Act 287 of 1969 generally prohibits pet shop operators from selling dogs or cats that are too young, have not been inoculated, or lack veterinarian health certificates and other health records. A violation of the Act is a misdemeanor.)

#### Killing or Torturing Animals

Section 50b of the Code prohibits a person from doing any of the following without just cause:

- Knowingly killing, torturing, mutilating, maiming, disfiguring, or poisoning an animal.
- Committing a reckless act knowing or having reason to know that it will cause an animal to be killed, tortured, mutilated, maimed, or disfigured.

The bill also would prohibit a person from knowingly killing, torturing, mutilating, maiming, disfiguring, or poisoning an animal or threatening to do so with the intent to cause mental suffering or distress to a person or to exert control over a person.

The bill would establish first, second, and third degrees of the offense of killing or torturing animals. Except as provided below, an offense would be third-degree killing or torturing animals.

A person would be guilty of a first-degree offense if he or she intentionally and knowingly killed, tortured, mutilated, maimed, disfigured, or poisoned a companion animal *and* did so or threatened to do so with the intent to cause mental suffering or distress to a person or to exert control over a person.

A person would be guilty of a second-degree offense if he or she intentionally and knowingly killed, tortured, mutilated, maimed, disfigured, or poisoned a companion animal *or* knowingly did so or threatened to do so with the intent to cause mental suffering or distress to a person or to exert control over a person.

Currently, a violation is a felony punishable by up to four years' imprisonment and/or a maximum fine of \$5,000 for a single animal and \$2,500 for each additional animal involved in the violation, but not more than a total of \$20,000, and/or up to 500 hours of community service.

Under the bill, first-, second-, and third-degree killing or torturing of animals would be felonies, punishable as shown in Table 2.

**Table 2**

<b>Degree of Offense</b>	<b>Maximum Imprisonment</b>	<b>Maximum Fine</b>	<b>Maximum Community Service</b>
First	10 years	\$5,000	500 hours
Second	7 years	\$5,000	500 hours
Third	4 years	\$5,000	500 hours

In addition, the court could order a term of imprisonment imposed for the violation to be served consecutively to a term of imprisonment imposed for any other crime, including any other violation of law arising out of the same transaction as a violation of Section 50b.

The Code defines "animal" as any vertebrate other than a human being. The bill would define "companion animal" as an animal that is commonly considered to be, or is considered by its owner to be, a pet. The term would include, but not be limited to, canines and felines.

## **Senate Bill 277**

### **Sentencing Guidelines Designations**

Currently, animal neglect or cruelty involving four or more animals but fewer than 10, or one prior conviction, is a Class G felony against the public order, with a statutory maximum sentence of two years' imprisonment. Under the bill, that offense would be a Class F felony.

Animal neglect or cruelty involving 10 or more animals, or two or more prior convictions, is a Class F felony against the public order, with a statutory maximum sentence of four years' imprisonment. Under the bill, instead, animal neglect or cruelty involving 10 or more animals, but fewer than 25, or two prior convictions would be a Class E felony against the public order with a statutory maximum sentence of four years' imprisonment.

The bill also would add sentencing guidelines designations, as shown in [Table 3](#).

**Table 3**

<b>Offense</b>	<b>Felony Class &amp; Category</b>	<b>Statutory Maximum Sentence</b>
Neglect or cruelty involving 25 or more animals, or 3 or more prior convictions	E-Public Order	7 years
Neglect or cruelty by breeder or pet shop operator with 5 or more prior violations of Public Act 287 of 1969	E-Public Order	2 years

Currently, killing or torturing animals is a Class F felony against property, punishable by a statutory maximum sentence of four years' imprisonment. The bill would classify first-, second-, and third-degree offenses of killing or torturing animals, as shown in [Table 4](#).

**Table 4**

<b>Offense</b>	<b>Felony Class &amp; Category</b>	<b>Statutory Maximum Sentence</b>
First degree	D-Property	10 years
Second degree	E-Property	7 years
Third degree	F-Property	4 years

### **Sentencing Guidelines Scoring**

The Code of Criminal Procedure includes instructions for calculating sentencing guidelines scores, based on a formula that considers offense variables (OVs) and prior record variables.

Offense variable 4 is psychological injury to a victim. The bill would require five points to be assigned for OV 4 for first-, second-, or third-degree killing or torturing of animals if serious psychological injury requiring professional treatment occurred to the owner of a companion animal.

Offense variable 10 is exploitation of a vulnerable victim. The Code requires 10 points to be assigned for OV 10 if the offender exploited a victim's physical disability, mental disability, or youth or agedness, or a domestic relationship, or the offender abused his or her authority status. Five points must be assigned if the offender exploited a victim by his or her difference in size or strength, or both, or exploited a victim who was intoxicated, under the influence of drugs, asleep, or unconscious. "Exploit" means to manipulate a victim for selfish or unethical purposes. Under the bill, the term also would mean to violate Section 50b of the Michigan Penal Code (killing or torturing animals) for the purpose of manipulating a victim for selfish or unethical purposes.

Offense variable 16 is property obtained, damaged, lost, or destroyed. The bill would require 25 points to be assigned for OV 16 for a conviction under Section 50 of the Penal Code (animal neglect or cruelty) if the property involved were more than 25 animals. Ten points would have to be

assigned for a conviction under Section 50 if the property involved were 10 or more, but fewer than 25, animals.

Offense variable 19 is threat to the security of a penal institution or court or interference with the administration of justice or the rendering of emergency services. The bill would require 10 points to be assigned for OV 19 if the offender directly or indirectly violated a personal protection order.

MCL 750.50 & 750.50b (S.B. 276)  
777.16b et al. (S.B. 277)

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

The current penalties for crimes against animals fall far short in egregious cases. In particular, Michigan law should include enhanced penalties for offenses that involve large numbers of animals, companion animals, intentional abuse, psychological trauma to a pet owner, and repeat offenders, as well as pet shop owners or breeders with multiple violations of the pet shop law. Currently, the most severe penalty for animal neglect or cruelty applies to cases involving 10 or more animals, or two or more prior offenses. Crimes involving the killing or torturing of animals do not differentiate between whether the animal was someone's pet, or whether the offender intentionally committed the act or intended to cause someone mental distress or to control a person. The bills would factor in these circumstances, and adjust penalties accordingly.

Also, Senate Bill 276 (S-1) would include enhanced sentencing scoring for acts intended to manipulate, or cause psychological injury to, a victim. In cases of domestic abuse and child abuse, abusers often attempt to control victims through threats and violence against family pets, which can cause psychological harm to the pet owner. In November 2014, for example, a man in Kalamazoo County punched his girlfriend and then pummeled her with a two-week-old puppy, killing the puppy and causing severe physical, psychological, and emotional trauma to the woman.<sup>1</sup> Those types of actions should be considered when an offender's sentence is determined.

According to the American Society for the Prevention of Cruelty to Animals (ASPCA), the bills are a necessary response to cases involving deliberate cruelty to specific kinds of animals, neglect of large numbers of animals in breeding facilities and pet stores, and threatening or retaliatory abuse of animals in domestic situations. The bills also would combat animal hoarding, cases of which, according to the Michigan Humane Society, involve large numbers of animals with high rates of recidivism among defendants.

There are numerous accounts of animal hoarders who have subjected animals to cruel and inhumane conditions. According to Fox 17, in July 2013, a Holland woman had 22 cats in her home. Reportedly, the home was littered with feces and urine, and the cats were covered in fleas. Fox 17 also reported that in March 2013, after 352 dogs were rescued from the home of an Allegan County couple, the offenders received a sentence of two months in jail for two counts of animal cruelty. The dogs had feces in their fur, and nails that curled under their paws. According to the *Ann Arbor News*, in January 2013, a woman in Washtenaw County had 45 dogs and two cats removed from her home after she could no longer care for them. Many of the dogs suffered from heartworms. In June 2016, CBS Detroit reported that at least 70 dogs, many covered in feces and urine, were removed from a home in Cottrellville Township.

An example of an egregious offense by a pet shop operator involves a 2012 case against a Dearborn Heights pet shop. Reportedly, after hearing complaints about animals being subjected to abuse and deplorable living conditions, authorities raided the shop and found dead animals on the floor, scarce food and water for pets, and unsanitary conditions. According to multiple media

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<sup>1</sup> Rex Hall, Jr., "Puppy killed when used as a weapon by man in beating of girlfriend in Kalamazoo", MLive, 1-20-15.

sources, over 200 animals had to be relocated to the Michigan Humane Society. The pet shop operator pleaded no contest to one count of cruelty to over 10 animals, 20 counts of pet shop statute violations for failure to properly inoculate the animals, and 26 other charges, and was sentenced to five years' probation.

These examples illustrate the need for stronger penalties in the worst cases of animal neglect, abuse, and cruelty.

Also, the bills could make it easier for law enforcement to target and isolate individuals, such as murderers, domestic abusers, and other violent offenders, who pose a danger to society. Many studies and reports suggest that animal abusers are likely to commit other violent crimes. For example, many sources refer to a 2001-2004 study by the Chicago Police Department that evidently examined the arrest records of more than 300 people who had been arrested for animal cruelty. According to the Humane Society of the United States (HSUS), this study found that over 65% of those people also had been arrested for battery against another individual. In a 2005 study that attempted to identify risk factors for abuse and intimate partner violence, the researchers identified pet abuse is one of four predictors of intimate partner violence.<sup>2</sup>

Ultimately, by establishing harsher penalties for crimes against animals, the bills could help prevent violent crimes against individuals.

Legislative Analyst: Jeff Mann

## **FISCAL IMPACT**

### **Senate Bill 276 (S-1)**

The bill could have a negative fiscal impact on State and local government. The proposed changes could increase the number of individuals charged under the Penal Code and could result in longer sentences for those convicted. In 2015, there were 67 convictions under this offense category with eight offenders sentenced to prison. More misdemeanor and felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government would be approximately \$3,764 per prisoner per year. Any associated increase in fine revenue would increase funding to public libraries.

### **Senate Bill 277**

The bill would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge* (in which the Court struck down portions of the sentencing guidelines law). According to one interpretation of that decision, the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

Fiscal Analyst: Ryan Bergan

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<sup>2</sup> Walton-Moss, B.J., et al., "Risk factors for intimate partner violence and associated injury among urban women", *Journal of Community Health*, Vol. 30:5, p. 377-389 (October 2005).