



Senate Fiscal Agency  
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BILL



ANALYSIS

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Senate Bills 413 and 414 (as introduced 5-30-17)  
Sponsor: Senator Margaret E. O'Brien  
Committee: Judiciary

Date Completed: 6-5-17

### **CONTENT**

**Senate Bill 413 would amend the Michigan Penal Code to do the following:**

- **Mandate a term of imprisonment for a person who committed a felony related to fighting, baiting, or shooting an animal and had one or more prior convictions for such an offense.**
- **Specify that a person who failed to comply with an order prohibiting the ownership or possession of an animal would be guilty of a misdemeanor.**
- **Allow, instead of require, a humane society or other animal welfare agency to apply to a court for a hearing to euthanize a seized animal that been used or trained to fight.**

**Senate Bill 414 would amend the sentencing guidelines in the Code of Criminal Procedure to include the phrase "first or subsequent offense" in the descriptions of felonies that Senate Bill 413 would modify.**

Senate Bill 414 is tie-barred to Senate Bill 413. Each bill would take effect 90 days after its enactment. Senate Bill 413 is described in more detail below.

#### **Fighting, Baiting, or Shooting an Animal**

Section 49(2) of the Penal Code prohibits a person from knowingly engaging in any of the following activities:

- Owning, possessing, using, buying, selling, offering to buy or sell, importing, or exporting an animal for fighting, baiting, or target shooting.
- Being a party to or causing the fighting, baiting, or shooting of an animal.
- Renting, obtaining, or permitting the use of, a building, shed, room, yard, ground, or premises for the fighting, baiting, or shooting an animal.
- Organizing, promoting, or collecting money for the fighting, baiting, or shooting of an animal.

A person who engages in any of those activities is guilty of a felony punishable by up to four years' imprisonment, a fine of \$5,000 to \$50,000, and/or at least 500 hours but not more than 1,000 hours of community service. Under the bill, if the person had one or more prior convictions for violating Section 49(2), he or she would have to be punished by imprisonment for at least 18 months but not more than four years, and could be fined and/or required to perform community service as currently specified.

In addition, Section 49(2) prohibits a person from knowingly engaging in the following activities:

- Being present at a building, shed, room, yard, ground, or premises where preparations are being made for the fighting, baiting, or shooting of an animal, or when those activities are taking place or about to take place.
- Breeding, buying, selling, offering to buy or sell, exchanging, importing, or exporting an animal he or she knows has been trained or used for fighting, or its offspring.
- Owning, possessing, using, buying, selling, offering to buy or sell, transporting, or delivering any device intended for use in the fighting, baiting, or shooting of an animal.

A person who violates this prohibition is guilty of a felony punishable by up to four years' imprisonment, a fine of \$1,000 to \$5,000, and/or at least 250 hours but not more than 500 hours of community service. Under the bill, if the person had one or more prior convictions for violating Section 49(2), he or she would have to be imprisoned for at least nine months but not more than four years, and could be fined and/or required to perform community service as currently specified.

As part of the sentence for a violation of Section 49(2), the court must order the person convicted not to own or possess an animal of the same species involved in the violation for five years after the date of sentencing. Failure to comply with the order is punishable as contempt of court. Under the bill, a person who failed to comply with such an order would be guilty of a misdemeanor punishable by imprisonment for up to one year or a fine of at least \$1,000 but not more than \$2,500. Each animal that a person owned or possessed in violation of the order would constitute a separate offense.

#### Euthanasia of Animal

Under the Code, a law enforcement officer must confiscate an animal that has been used or trained to fight or is the first- or second-generation offspring of such an animal, and is incited to attack a person or attacks a person without provocation, or is not securely restrained or enclosed. The animal must be taken to a local humane society or other animal welfare agency, which must apply to the district court or municipal court for a hearing to determine whether the animal must be euthanized because of its lack of useful purpose and the public safety threat it poses. Under the bill, a humane society or other animal welfare agency would be allowed, rather than required, to apply to a court for such a hearing.

MCL 750.49 (S.B. 413)  
777.16b (S.B. 414)

Legislative Analyst: Jeff Mann

#### **FISCAL IMPACT**

##### **Senate Bill 413**

The bill could have a negative fiscal impact on the State and local government. Increased penalties for misdemeanor and felony convictions could increase resource demands on 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 414**

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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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.