

# HOUSE BILL NO. 5808

May 20, 2020, Introduced by Rep. Wozniak and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 50b (MCL 750.50b), as amended by 2018 PA 452.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1       Sec. 50b. (1) As used in this section:
- 2       (a) "Animal" means a vertebrate other than a human being.
- 3       (b) "Animal control agency" means an animal control shelter,
- 4       an animal protection shelter, or a law enforcement agency.



1           **(c) "Animal control shelter" and "animal protection shelter"**  
2 **mean those terms as defined in section 1 of 1969 PA 287, MCL**  
3 **287.331.**

4           **(d) ~~(b)~~**—"Companion animal" means an animal that is commonly  
5 considered to be, or is considered by its owner to be, a pet, or  
6 that is a service animal as that term is defined in section 50a.  
7 Companion animal includes, but is not limited to, dogs and cats.

8           (2) Except as otherwise provided in this section, a person  
9 shall not do any of the following without just cause:

10           (a) Knowingly kill, torture, mutilate, maim, or disfigure an  
11 animal.

12           (b) Commit a reckless act knowing or having reason to know  
13 that the act will cause an animal to be killed, tortured,  
14 mutilated, maimed, or disfigured.

15           (c) Knowingly administer poison to an animal, or knowingly  
16 expose an animal to any poisonous substance, with the intent that  
17 the substance be taken or swallowed by the animal.

18           (d) Violate or threaten to violate subdivision (a) or (c) with  
19 the intent to cause mental suffering or distress to a person or to  
20 exert control over a person.

21           (3) If the animal is a companion animal and if a person  
22 violates subsection (2) (d) and intentionally violates subsection  
23 (2) (a) or (c), the person is guilty of killing or torturing animals  
24 in the first degree.

25           (4) If the animal is a companion animal and a person violates  
26 subsection (2) (d), or if a person intentionally violates subsection  
27 (2) (a) or (c), the person is guilty of killing or torturing animals  
28 in the second degree.

29           (5) Except as otherwise provided in subsections (3) and (4), a



1 person who violates subsection (2) is guilty of killing or  
2 torturing animals in the third degree.

3 (6) Killing or torturing animals in the first degree is a  
4 felony punishable by 1 or more of the following:

5 (a) Imprisonment for not more than 10 years.

6 (b) A fine of not more than \$5,000.00.

7 (c) Community service for not more than 500 hours.

8 (7) Killing or torturing animals in the second degree is a  
9 felony punishable by 1 or more of the following:

10 (a) Imprisonment for not more than 7 years.

11 (b) A fine of not more than \$5,000.00.

12 (c) Community service for not more than 500 hours.

13 (8) Killing or torturing animals in the third degree is a  
14 felony punishable by 1 or more of the following:

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

16 (b) A fine of not more than \$5,000.00.

17 (c) Community service for not more than 500 hours.

18 (9) The court may order a term of imprisonment imposed for a  
19 violation of this section to be served consecutively to a term of  
20 imprisonment imposed for any other crime including any other  
21 violation of law arising out of the same transaction as the  
22 violation of this section.

23 (10) As a part of the sentence for a violation of subsection  
24 (2), the court may order the defendant to pay the costs of the  
25 prosecution and the costs of the care, housing, and veterinary  
26 medical care for the animal victim, as applicable. If the court  
27 does not order a defendant to pay all of the applicable costs  
28 listed in this subsection, or orders only partial payment of these  
29 costs, the court shall state on the record the reasons for that



1 action.

2 (11) If a term of probation is ordered for a violation of  
3 subsection (2), the court may include as a condition of that  
4 probation that the defendant be evaluated to determine the need for  
5 psychiatric or psychological counseling and, if determined  
6 appropriate by the court, to receive psychiatric or psychological  
7 counseling at his or her own expense.

8 (12) As a part of the sentence for a violation of subsection  
9 (2), the court may order the defendant not to own or possess an  
10 animal for any period of time determined by the court, which may  
11 include permanent relinquishment.

12 (13) A person who owns or possesses an animal in violation of  
13 an order issued under subsection (12) is subject to revocation of  
14 probation if the order is issued as a condition of probation. A  
15 person who owns or possesses an animal in violation of an order  
16 issued under subsection (12) is also subject to the civil and  
17 criminal contempt power of the court and, if found guilty of  
18 criminal contempt, may be punished by imprisonment for not more  
19 than 90 days or a fine of not more than \$500.00, or both.

20 (14) This section does not prohibit the lawful killing of  
21 livestock or a customary animal husbandry or farming practice  
22 involving livestock.

23 (15) This section does not prohibit the lawful killing of an  
24 animal pursuant to any of the following:

25 (a) Fishing.

26 (b) Hunting, trapping, or wildlife control regulated under the  
27 natural resources and environmental protection act, 1994 PA 451,  
28 MCL 324.101 to 324.90106, and orders issued under that act.

29 (c) Pest or rodent control regulated under part 83 of the



1 natural resources and environmental protection act, 1994 PA 451,  
2 MCL 324.8301 to 324.8336.

3 (d) Section 19 of the dog law of 1919, 1919 PA 339, MCL  
4 287.279.

5 (16) This section does not prohibit the lawful killing or use  
6 of an animal for scientific research under any of the following or  
7 a rule promulgated under any of the following:

8 (a) 1969 PA 224, MCL 287.381 to 287.395.

9 (b) Sections 2226, 2671, 2676, 7109, and 7333 of the public  
10 health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676,  
11 333.7109, and 333.7333.

12 (17) This section does not apply to a veterinarian or a  
13 veterinary technician lawfully engaging in the practice of  
14 veterinary medicine under part 188 of the public health code, 1978  
15 PA 368, MCL 333.18801 to 333.18838.

16 (18) This section does not prohibit the lawful killing or use  
17 of an animal under the animal industry act, 1988 PA 466, MCL  
18 287.701 to 287.746.

19 **(19) As a part of the sentence for a violation of subsection**  
20 **(2), the court may order the defendant to pay the costs of**  
21 **investigating the violation of this section and the disposition of**  
22 **the animal. As used in this subsection, "disposition of the animal"**  
23 **includes, but is not limited to, the transfer, euthanasia, or**  
24 **adoption of the animal.**

25 **(20) Except as provided in subsection (27), an animal that is**  
26 **a victim of a violation of this section and was confiscated by a**  
27 **law enforcement officer must not be returned to the owner or**  
28 **possessor of the animal. The confiscated animal must be taken to a**  
29 **local animal control agency. If an animal owner or possessor is**



1 convicted of violating subsection (2), the court shall award the  
2 animal involved in the violation to the animal control agency for  
3 evaluation and disposition.

4 (21) An animal control agency taking custody of an animal  
5 under subsection (20) shall give notice within 72 hours after  
6 seizure of the animal in person or by registered mail to the last  
7 known address of the animal's owner, if the owner of the animal is  
8 known. If the owner of the animal is unknown, an animal control  
9 agency taking custody of an animal under subsection (20) shall give  
10 notice within 72 hours after seizure of the animal by 1 of the  
11 following methods:

12 (a) Posting at the location of the seizure.

13 (b) Delivery to a person residing at the location of the  
14 seizure.

15 (c) Registered mail to the location of the seizure.

16 (22) The notice required under subsection (21) must include  
17 all of the following:

18 (a) A description of each animal seized.

19 (b) The time, date, location, and description of circumstances  
20 under which the animal was seized.

21 (c) The address and telephone number of the location where the  
22 animal is being held and contact information for the individual  
23 present at that location from whom security deposit or bond  
24 information may be obtained.

25 (d) A statement that the owner or possessor of the animal may  
26 post a security deposit or bond that may prevent the forfeiture of  
27 the animal for the duration of the criminal, forfeiture, or other  
28 court proceeding until the court makes a final determination  
29 regarding the animal's disposition, that failure to post a security



1 deposit or bond within 14 days after the date on the notice will  
2 result in forfeiture of the animal, and that the owner or possessor  
3 of the animal may, before the expiration of the 14-day period  
4 described in this subdivision, request a hearing on whether the  
5 requirement to post a security deposit or bond is justified or  
6 whether the cost associated with the security deposit or bond is  
7 fair and reasonable for the care of and provision for the seized  
8 animal. Notice of a request for a hearing under this subsection  
9 shall be served on the animal control agency holding the animal  
10 before the expiration of the 14-day period described in this  
11 subsection. At a hearing on whether the requirement to post a  
12 security deposit or bond is justified, the prosecuting attorney has  
13 the burden to establish by a preponderance of the evidence that a  
14 violation of this section occurred. If the court finds that the  
15 prosecuting attorney has met its burden, the animal will be  
16 forfeited to the animal control agency that seized the animal  
17 unless the owner or possessor of the animal posts the required  
18 security deposit or bond. An owner's or possessor's failure to  
19 appear at a scheduled hearing requested under this subdivision will  
20 result in automatic forfeiture of the animal if the date of the  
21 scheduled hearing is more than 14 days after the date on the notice  
22 described in this subsection.

23 (e) A statement that the owner or possessor of the animal is  
24 responsible for all costs described in subsections (10) and (19),  
25 unless the court determines that the seizure of the animal was not  
26 substantially justified by law.

27 (23) An animal control agency that has custody of a seized  
28 animal under subsection (20) shall hold the animal for a period of  
29 14 consecutive days, including weekends and holidays, beginning on



1 the date notice was given under subsection (21). After the  
2 expiration of the 14 days, if the owner or a possessor of the  
3 animal has not posted a security deposit or bond as provided in  
4 subsection (24), the animal is forfeited, and the animal control  
5 agency may dispose of the animal by adoption, transfer to another  
6 animal control agency, or humane euthanasia.

7 (24) The owner or possessor of an animal seized under  
8 subsection (20) may prevent forfeiture and disposition of the  
9 animal by an animal control agency for the duration of the  
10 criminal, forfeiture, or other court proceeding until the court  
11 makes a final determination regarding the animal's disposition by  
12 posting a security deposit or bond with the court within 14 days  
13 after the date on the notice described in subsection (22). The bond  
14 must be in a sufficient amount to secure payment of all costs  
15 described in subsections (10) and (19) during a 30-day period of  
16 boarding and veterinary treatment of the animal after examination  
17 by a licensed veterinarian. The animal control agency shall  
18 determine the amount of the bond no later than 72 hours after the  
19 seizure of the animal, and shall make the amount of the bond  
20 available to the owner or possessor of the animal upon request. The  
21 owner or possessor of the animal shall provide proof of the  
22 security deposit or bond to the animal control agency no later than  
23 14 days after the date on the notice described in subsection (22).

24 (25) An animal control agency that is holding or requiring to  
25 be held a seized animal as provided in this section may draw on a  
26 security deposit or bond posted under subsection (24) or (26) to  
27 cover the actual reasonable costs incurred in the seizure, care,  
28 keeping, and disposition of the animal as described in subsections  
29 (10) and (19) from the date of the seizure to the date of the



1 official disposition of the animal in the criminal action.

2 (26) If a security deposit or bond has been posted under  
3 subsection (24), and trial in the criminal action does not occur  
4 within the initial 30-day bond period or is continued to a later  
5 date, the owner or possessor shall post an additional security  
6 deposit or bond in an amount determined sufficient to cover the  
7 costs described in subsections (10) and (19) as anticipated to be  
8 incurred by the animal control agency caring for the animal. The  
9 additional security deposit or bond must be calculated in 30-day  
10 increments and continue until the criminal action is resolved. If  
11 the owner or possessor of the animal fails to post a new security  
12 deposit or bond with the court before the previous security deposit  
13 or bond expires, the animal is forfeited to the animal control  
14 agency caring for the animal.

15 (27) If the owner or possessor that posted a security deposit  
16 or bond under subsection (24) or (26) is found not guilty in the  
17 criminal action, the amount of the security deposit or bond posted  
18 to prevent disposition of the animal may be returned to the owner  
19 or possessor at the court's discretion, and, subject to subsections  
20 (29) and (30), the animal must be returned to the owner.

21 (28) If a security deposit or bond is posted by an owner or  
22 possessor of an animal under subsection (24) or (26) and the court  
23 determines that the animal is a dangerous animal or lacks any  
24 useful purpose under subsection (30), the posting of the security  
25 deposit or bond must not prevent disposition of the animal.

26 (29) Upon receiving an animal seized under this section, or at  
27 any time thereafter, an animal control agency may humanely  
28 euthanize the animal or have the animal euthanized if, in the  
29 opinion of a licensed veterinarian, the animal is injured or



1 diseased past recovery or the animal's continued existence is  
2 inhumane so that euthanasia is necessary to relieve pain and  
3 suffering. This subsection applies to an animal whether or not a  
4 security deposit or bond has been posted under subsection (24) or  
5 (26).

6 (30) An animal control agency that receives an animal under  
7 this section may apply to the district court or municipal court for  
8 a hearing to determine whether the animal must be humanely  
9 euthanized because of its lack of any useful purpose or the public  
10 safety threat it poses. The court shall hold a hearing not more  
11 than 30 days after the filing of the application and shall give  
12 notice of the hearing to the owner of the animal. Upon a finding by  
13 the court that the animal lacks any useful purpose or poses a  
14 threat to public safety, the animal control agency shall humanely  
15 euthanize the animal or have the animal euthanized. Expenses  
16 incurred in connection with the housing, care, upkeep, or  
17 euthanasia of the animal by an animal control agency, or by a  
18 person, firm, partnership, corporation, or other entity, may, in  
19 the court's discretion, be assessed against the owner of the  
20 animal.

