

Memorandum

To: Rep. Kara Hope, Chair, and Members of the House Criminal Justice Committee

From: David Favre, MSU College of Law Animal Legal & Historical Center
Jim Freemon, C.H.A.I.N.E.D.
Bee Friedlander, Attorneys for Animals
Ann Griffin, Michigan Humane

Re: House Bills 5587 – 5593

Date: May 21, 2024

We respectfully request that you vote in favor of House Bills 5587 – 5593. These bills present a legislative solution to the problem of deficient sentences given in cases involving felony animal cruelty crimes against companion animals.

These bills would amend the sentencing guidelines so that more appropriate punishments for felony cruelty crimes against companion animals can be imposed. These amendments apply only to companion animals, would generate sentences more consistent with the current statutory penalties, create no new crimes or penalties, and give law enforcement more options in protecting the public.

Michigan's statute prohibiting cruelty to animals, MCL § 750.50b, prohibits the most heinous acts that could be committed against an animal, including knowingly killing, torturing, mutilating, maiming, disfiguring, or poisoning an animal. It was amended effective March 21, 2019 to create three degrees of animal cruelty felonies, carrying a maximum sentence of ten years for first degree, seven years for second degree, and four years for third degree. Previously, the statutory maximum sentence for violating MCL § 750.50b was four years.

First- and second-degree animal cruelty criminalize cruelty against companion animals, including situations where an abuser threatens or harms a companion animal "with the intent to cause mental suffering or distress to a person or to exert control over a person." There is a proven connection between violence to animals and violence to humans, and companion animals are often used by the abuser in a domestic or interpersonal violence situation to inflict harm on or control a human victim. Human victims frequently report that they are unwilling to leave an abuser because of their fear of harm to their animals. While the 2019 amendments to the anti-cruelty statute made significant changes to the potential maximum sentences in recognition of the human-animal bond, the connection between animal abuse and human violence, and the seriousness of these offenses, actual sentences rarely involve jail or prison time because of the sentencing guidelines.

The current sentencing guidelines applicable in cases of felony animal cruelty are ineffective because they classify felony animal cruelty as crimes against property. These bills would amend the sentencing guidelines so that offense variables 1, 3, and 9 provide for points to be assigned in cases involving cruelty to companion animals at roughly half the rate of points given in cases

involving human victims. In addition, these bills would add offense variables 7 and 11, which currently apply to Crimes against Persons, to the Crimes against Property offense variables and amend them to assign points in cases involving cruelty to companion animals at roughly half the rate of points given in cases involving human victims.

We have attached a hypothetical example of a felony cruelty case against companion animals (**Appendix A**) that shows the potential impact of these proposed changes in the offense variables.

Consider that as it stands today, with the most severe punishment for abusing a companion animal to cause mental suffering or distress to a person or to exert control over a person being a maximum 10 years in prison, when a defendant has no prior record or is not a habitual offender, it is impossible to get prison time under the sentencing guidelines.

The sentencing guidelines must be changed to generate more appropriate sentences in cases of felony animal cruelty against companion animals. We have analyzed more than 5 years of data on sentences since the 2019 law went into effect (**Appendix B**). The bills before you today update Michigan's Sentencing Guidelines to align with the intent of the law. Because criminal laws best serve their purpose if they reflect society's values, these bills will also serve to align our state's public policy with Michiganders' attitudes toward animals.

These changes to the sentencing guidelines will undoubtedly keep Michigan residents and animals safer. Thank you for your time and consideration. For the foregoing animal and human welfare reasons, we respectfully request that you support House Bills 5587 – 5593.

APPENDIX A

HYPOTHETICAL CASE: To keep her from leaving the relationship, an abusive boyfriend kills his girlfriend's two small dogs after tormenting her for hours with his threats to do so while beating the dogs. He kills the dogs by shooting them with a pistol. He does not have a previous criminal record. He is convicted under MCL 750.50b(3) of Killing and Torturing Animals in the First Degree.

Under the current sentencing guidelines, the offense variables for this offense would be scored as follows:

Offense Variable	Title	Factor	Points
1	Aggravated Use of Weapon	A weapon was displayed or implied.	5
2	Lethal Potential of Weapon Possessed or Used	The offender possessed or used a pistol, rifle, shotgun, or knife or other cutting or stabbing weapon.	5
3	Physical Injury to Victim	N/A	0
4	Psychological Injury to Victim	For a conviction under MCL 750.50b, serious psychological injury requiring professional treatment occurred to the owner of a companion animal.	5
9	Number of Victims	N/A	0
10	Exploitation of Vulnerable Victim	The offender exploited a victim's physical disability, mental disability, youth or agedness, a domestic relationship, or the offender abused his or her authority status.*	10
12	Contemporaneous Felonious Criminal Acts	N/A	0
13	Continuing Pattern of Criminal Behavior	N/A	0
14	Offender's Role (multiple offender situation)	N/A	0
16	Property Obtained, Damaged, Lost, or Destroyed	The property had a value of more than \$20,000.00 or had significant historical, social, or sentimental value.	10

19	Threat to Security of Penal Institution or Court or Interference with Administration of Justice or Rendering of Emergency Services	N/A	0
20	Terrorism	N/A	0
TOTAL			35**

* “Exploit also means to violate [MCL 750.50b] for the purpose of manipulating a victim for selfish or unethical purposes.” MCL § 777.40(3)(b).

**For a Class D felony, a PRV score of 0 and an OV score of 35, where the Defendant is not a habitual offender, the sentencing grid reflects an intermediate sanction of 0-17 months. An intermediate sanction is any sanction, other than imprisonment in a county jail, state prison, or state reformatory, which may lawfully be imposed. MCL § 777.1(d); MCL § 769.31(b). Examples of intermediate sanctions include probation, community service, and payment of a fine. MCL § 769.31(b)(ii), (viii), and (ix). When an offender’s OV and PRV levels place him or her in an intermediate sanction cell, an intermediate sanction is required “unless the court states on the record reasonable grounds to sentence the individual to incarceration in a county jail for not more than 12 months or to the jurisdiction of the department of corrections for any sentence over 12 months.” MCL § 769.34(4)(a).

Under the proposed changes to the sentencing guidelines, the offense variables would be scored as follows:

Offense Variable	Title	Factor	Points
1 (HB 5590)	Aggravated Use of Weapon	A firearm was discharged at or toward a companion animal* or a companion animal was cut or stabbed with a knife or other cutting or stabbing weapon.	15
2	Lethal Potential of Weapon Possessed or Used	The offender possessed or used a pistol, rifle, shotgun, or knife or other cutting or stabbing weapon.	5
3 (HB 5587)	Physical Injury to Victim	N/A	0
4	Psychological Injury to Victim	For a conviction under MCL 750.50b, serious psychological injury requiring professional treatment occurred to the owner of a companion animal.	5

7 (HB 5589)**	Aggravated Physical Abuse	A companion animal was treated with sadism, torture, excessive brutality, or similarly egregious conduct designed to substantially increase the fear and anxiety a companion animal suffered during the offense.	25
9 (HB 5591)	Number of Victims	Multiple companion animals were killed.	50
10	Exploitation of Vulnerable Victim	The offender exploited a victim's physical disability, mental disability, youth or agedness, a domestic relationship, or the offender abused his or her authority status.	10
11- (HB 5593)**	Criminal Sexual Penetration	N/A	0
12	Contemporaneous Felonious Criminal Acts	N/A	0
13	Continuing Pattern of Criminal Behavior	N/A	0
14	Offender's Role (multiple offender situation)	N/A	0
16	Property Obtained, Damaged, Lost, or Destroyed	The property had a value of more than \$20,000.00 or had significant historical, social, or sentimental value.	10
19	Threat to Security of Penal Institution or Court or Interference with Administration of Justice or Rendering of Emergency Services	N/A	0
20	Terrorism	N/A	0
TOTAL			120***

** (b) "Companion animal" means that term as defined in section 50b of the Michigan penal code, 1931 PA 328, MCL 750.50b." HB 5588. "(b) "Companion animal" means an animal that is commonly considered to be, or is considered by its owner to be, a pet, or that is a service animal as that term is defined in section 50a. Companion animal includes, but is not limited to, dogs and cats." MCL § 750.50b(b).

*** (2) For all crimes against property, score offense variables 7 1, 2, 3, 4, 7, 9, 10, 11, 12, 13, 14, 16, 19, and 20." HB 5592.

*** For a Class D felony, a PRV score of 0 and an OV score of 120, where the Defendant is not a habitual offender, the sentencing grid reflects a sentence of 10-23 months and falls in "straddle

cells.” For a defendant whose OV and PRV scores generate a straddle cell sentence, absent a departure, a minimum sentence in the range or an intermediate sanction (with or without a jail term of not more than 12 months) is appropriate. MCL § 769.34(4)(c). While this sentence is a fraction of the potential 10-year maximum under the statute, it is a far more commensurate sentence given the nature of the offense.

APPENDIX B

Research provided by Jim Freemon, Co-Founder of C.H.A.I.N.E.D., Inc.

When animal lovers, and the general public alike, read an article or watch a report on a person getting charged for committing an animal-related felony crime, they often take satisfaction in knowing that the person has been caught, has also been charged, and is facing jail time of up to 4, 7 or 10 years, based on the degree of the charge. Most people would be very disappointed to learn that even the 4-year jail term is not going to happen; they would be even more disappointed to learn that ANY jail time is not likely in these cases, regardless of the cruelty or violence inflicted in the crime.

If the prosecutors and judges follow the Michigan Sentencing Guidelines, which they rarely deviate from, the possible jail term will likely be less than one year; most are disposed with probation and a fine. Without a departure from the guidelines, it is impossible to get anywhere near even the 4-year jail sentence; the lack of Offense Variable points for Crimes against Property won't allow it, not even close to it.

Here is a breakdown of the outcomes for the last 6 years of felony stand-alone animal-related Crimes against Property, last updated on February 22nd, 2024. This is for Wayne County, the most populous county in Michigan; the data was pulled from the 3rd Judicial Court's website.

There were 50 stand-alone cases in the last 6 years, an average of 8 cases annually.

22 of those cases were disposed with 2 to 3 years of probation only, and 3 of those cases were reduced to misdemeanors

12 of those cases still have open warrants, with some dating back to 2018

5 of those cases were dismissed

2 are still pending

1 was reassigned

Only 8 cases of the 50 received ANY jail time.

1 received 30 days

1 received 50 days

1 received 5 months

2 received 6 months, 1 with a suspended sentence

1 received 9 months

1 received 12 months; he had a previous weapons conviction