

Legislative Analysis



SENTENCING GUIDELINES FOR CRIMES INVOLVING COMPANION ANIMALS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5587 as introduced
Sponsor: Rep. Stephanie A. Young

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

House Bill 5588 as introduced
Sponsor: Rep. Veronica A. Paiz

House Bill 5589 as introduced
Sponsor: Rep. Joseph A. Aragona

House Bill 5590 as introduced
Sponsor: Rep. Penelope Tsernoglou

House Bill 5592 as introduced
Sponsor: Rep. Brenda Carter

House Bill 5591 as introduced
Sponsor: Rep. Mike McFall

House Bill 5593 as introduced
Sponsor: Rep. Pat Outman

Committee: Criminal Justice
Complete to 5-20-24

SUMMARY:

House Bills 5587 to 5593 would each amend the sentencing guidelines in Chapter XVII of the Code of Criminal Procedure to add new offense variable scoring guidelines for offenses that involve pets or service animals.

House Bill 5588 would define the term *companion animal*, as used in Chapter XVII of the code (i.e., in the bills described below), to mean any of the following:

- An animal that is commonly considered to be a pet (such as a cat or a dog).
- An animal that is considered by its owner to be a pet.
- A service animal as defined in federal regulations,¹ where it generally means a dog that is individually trained to do work or perform tasks for the benefit of a person with a disability that are directly related to that person's disability.
- A miniature horse that has been individually trained to do work or perform tasks as described in the federal regulations for service animals referenced above.

MCL 777.1

House Bill 5590 would amend the instructions for scoring offense variable 1 (aggravated use of a weapon). The instructions include descriptions of different circumstances that may apply for an offense, assigning points to each one. The offense variable is scored by determining which circumstances apply and assessing the points for the applicable circumstance with the highest number of points. For example, if a weapon was displayed or implied during the

¹ <https://www.ecfr.gov/current/title-28/chapter-I/part-36/subpart-A/section-36.104>

Also see: <https://www.ada.gov/topics/service-animals/>

commission of a crime, 5 points are assigned. If a firearm was fired at a person, 25 points are assigned. If both apply, then the higher number is scored (in this example, 25 points). In addition, in cases where there are multiple offenders, if any one of them is assigned points for the presence or use of a weapon, then all of them are assessed the same number of points. Finally, points for the presence of a weapon are not scored for armed robbery or assault with a deadly weapon (where the presence of a weapon is already an element of the crime).

The bill would add provisions assigning points for circumstances of an offense that involve companion animals and the aggravated use of a weapon, as shown in the table below. Because the descriptions of the added circumstances are based on those that now apply to humans, those current provisions are shown as a point of comparison. However, the bill would not change the substance of those current provisions or scores.

Offense Variable 1: Aggravated Use of a Weapon

Current law (retained by bill)		Proposed HB 5590 additions	
A firearm was discharged at or toward a human being	25 points	A firearm was discharged at or toward a companion animal	15 points
A victim was cut or stabbed with a knife or other cutting or stabbing weapon	25 points	A companion animal was cut or stabbed with a knife or other cutting or stabbing weapon	15 points
The victim was subjected or exposed to a harmful biological device, harmful biological substance, harmful chemical device, harmful chemical substance, harmful radioactive device, harmful radioactive material, incendiary device, or explosive device	20 points	A companion animal was subjected or exposed to a harmful biological device, harmful biological substance, harmful chemical device, harmful chemical substance, harmful radioactive device, harmful radioactive material, incendiary device, or explosive device	10 points
The victim was touched by any other type of weapon	10 points	The companion animal was touched by any other type of weapon	5 points

MCL 777.31

House Bill 5587 would amend the instructions for scoring offense variable 3 (physical injury to a victim). The instructions include descriptions of different circumstances that may apply for an offense, assigning points to each one. The offense variable is scored by determining which circumstances apply and assessing the points for the applicable circumstance with the highest number of points. In cases where there are multiple offenders, if any one of them is assigned points for death or physical injury, then all of them are assessed the same number of

points. Generally speaking, points for a crime are not scored if the circumstances described are an element of the crime being scored. For example, 100 points are scored if death results from the commission of a crime, unless death of a human being is an element of the sentencing offense. The bill would similarly provide that points are scored for the death of a companion animal resulting from the crime, unless killing a companion animal is the sentencing offense.

The bill would add provisions assigning points for circumstances of an offense that involve physical injury to a companion animal, as shown in the table below. Because the descriptions of the added circumstances are based on those that now apply to humans, those current provisions are shown as a point of comparison. However, the bill would not change the substance of those current provisions or scores.

Offense Variable 3: Physical Injury to a Victim [or Companion Animal]

Current law (retained by bill)		Proposed HB 5590 additions	
A victim was killed	100 points	A companion animal was killed	50 points
A victim was killed as the result of a crime involving the operation of a vehicle or other form of transportation and the offender was impaired, under the influence, or had specified amounts of alcohol or a controlled substance	50 points	A companion animal was killed as the result of a crime involving the operation of a vehicle or other form of transportation and the offender was impaired, under the influence, or had specified amounts of alcohol or a controlled substance	25 points
Life-threatening or permanent incapacitating injury occurred to a victim	25 points	Life-threatening or permanent incapacitating injury occurred to a companion animal	15 points
Bodily injury requiring medical treatment occurred to a victim	10 points	Bodily injury requiring medical treatment occurred to a companion animal	5 points

MCL 777.33

House Bill 5589 would amend the instructions for scoring offense variable 7 (aggravated physical abuse). The instructions include descriptions of different circumstances that may apply for an offense, assigning points to each one. The offense variable is scored by determining which circumstances apply and assessing the points for the applicable circumstance with the highest number of points. Points are assessed for each person who was placed in danger of injury or loss of life. (Similarly, the bill would provide for points to be assessed for each companion animal that was placed in such danger.)

The bill would add a provision assigning points for circumstances of an offense that involve aggravated physical abuse, as shown below. Because the added description is based on the

provision that now applies to humans, that current provision is shown as a point of comparison. The bill would not change the substance of that provision or score.

Offense Variable 7: Aggravated Physical Abuse

Current law (retained by bill)		Proposed HB 5590 additions	
A victim was treated with sadism, torture, excessive brutality, or similarly egregious conduct designed to substantially increase the fear and anxiety a victim suffered during the offense	50 points	A companion animal was treated with sadism, ² torture, excessive brutality, or similarly egregious conduct designed to substantially increase the fear and anxiety a companion animal suffered during the offense	25 points

MCL 777.37

House Bill 5591 would amend the instructions for scoring offense variable 9 (number of victims). Points are assessed for each person who was placed in danger of physical injury, loss of life, or loss of property. Similarly, the bill would provide for points to be assessed for each companion animal that was placed in such danger, as shown in the table below. Because the added provisions are based on those that now apply to humans, those current provisions are shown as a point of comparison. However, the bill would not change the substance of those current provisions or scores.

Offense Variable 9: Number of Victims

Current law (retained by bill)		Proposed HB 5590 additions	
Multiple deaths occurred (only scored for homicide)	100 points	Multiple companion animals were killed	50 points
10 or more victims were placed in danger of physical injury or death, or 20 or more in danger of property loss	25 points	10 or more companion animals were placed in danger of physical injury or death	15 points
2 to 9 victims were placed in danger of physical injury or death, or 4 to 19 in danger of property loss	25 points	2 to 9 companion animals were placed in danger of physical injury or death	15 points

MCL 777.39

² *Sadism* means conduct that subjects a victim to extreme or prolonged pain or humiliation and is inflicted to produce suffering or for the offender’s gratification. Because it specifically applies to human victims, it is perhaps unclear how this term would apply to the treatment of a companion animal.

House Bill 5593 would amend the instructions for scoring offense variable 11 (criminal sexual penetration). Points are now scored for all sexual penetrations of the victim by the offender arising out of the sentencing offense, and multiple sexual penetrations of the victim extending beyond that offense can be scored in offense variable 12 or 13, which respectively address felonious acts committed at the same time and a continuing pattern of criminal behavior. These provisions would also apply to sexual penetrations of a companion animal under the bill.

Points are not scored for the one penetration that forms the basis of a first- or third-degree criminal sexual conduct offense, and under the bill would not be scored for the one penetration that forms the basis of an offense against a companion animal under section 158 of the Michigan Penal Code, which prohibits bestiality. [Note that a violation of that section is classified as a crime against public order under the sentencing guidelines, and offense variable 11 is not scored for crimes against public order under the act or the bills.]

Because the added provisions are based on those that now apply to humans, those current provisions are shown in the table below as a point of comparison. However, the bill would not change the substance of those current provisions or scores.

Offense Variable 11: Criminal Sexual Penetration

Current law (retained by bill)	Proposed HB 5590 additions
Two or more criminal sexual penetrations occurred 50 points	Two or more criminal sexual penetrations of a companion animal occurred 25 points
One criminal sexual penetration occurred 25 points	One criminal sexual penetration of a companion animal occurred 15 points

MCL 777.41

House Bill 5592 would provide for offense variables 7 (aggravated physical abuse) and 11 (criminal sexual penetration) to be scored against all felonies classified as crimes against property under the sentencing guidelines.

MCL 777.22

FISCAL IMPACT:

The bills would have an indeterminate fiscal impact on the state and on local units of government. Increasing the number of points when scoring the various offense variables could lead to longer sentences. For longer jail sentences and local probation supervision, county jails would incur additional costs. Costs of incarceration in county jails and local probation supervision, and how those costs are financed, vary by jurisdiction. For longer prison sentences and state probation supervision, state prisons would incur additional costs. In fiscal year 2023, the average cost of prison incarceration in a state facility was roughly \$48,700 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole

and felony probation supervision averaged about \$5,400 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue.

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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.