Attorneys for Animals

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TESTIMONY ON BEHALF OF
ATTORNEYS FOR ANIMALS, INC.
IN SUPPORT OF SUBSTITUTE FOR HB 5670

STATE OF MICHIGAN, HOUSE OF REPRESENTATIVES
CRIMINAL JUSTICE COMMITTEE

September 20, 2016

Honorable Kurt Heise
Chair, Criminal Justice Committee
Representative, 20th District
Michigan House of Representatives

Chair Heise and Committee Members:

Thank you for the opportunity to speak in support of Substitute HB 5670, which addresses the important issue of crimes against animals that are committed in the presence of a minor child. My remarks will mention the need for such legislation, but will focus on discussing the approach taken by the Substitute Bill as compared to the original draft.

I represent Attorneys for Animals, a Michigan nonprofit and 501(c)(3) organization based in Canton, whose Board of Directors voted in support of this bill.

Empirical data abounds to support the need for this legislation. My colleague Allie Phillips will review the research about the negative effects on children who witness animal abuse. I note the following for the Committee's consideration:

- "Exposure to animal cruelty is a potential adverse experience that can contribute to toxic stress and long-term related health outcomes."[1] This is the conclusion of Barbara Boat, Ph.D., a clinical psychologist, who is an expert in childhood trauma and an associate professor at the University of Cincinnati College of Medicine and Director of the Program on Childhood Trauma and Maltreatment; and Executive Director of the Childhood Trust at Cincinnati Children's Hospital Medical Center.

- Pets are frequently the targets of perpetrators of family violence,[ii] with an estimate that up to 76% of animal abuse occurs in front of children.[iii]

Already this session, the Michigan legislature considered the scourge of animal abuse in the family setting. In May 2015 this Committee heard testimony on HB 4478, to allow victims of domestic violence to add companion animals to Personal Protection Orders. After hearing, the bill passed out of this Committee without amendment and with recommendation that it pass. It has been signed into law as PA 94 of 2016 and went into effect August 1, 2016. You are part of the growing number of legislators around the country who are both recognizing the deleterious effect of animal abuse on people, and taking important steps to counter it.

We believe the Substitute bill, which uses the enhancement approach, is a more straightforward and logical way to address the issue of animal abuse witnessed by children. Indeed, this method has been used before in the state's animal abuse laws. The bill before you makes such activity an enhancement of already criminal behavior, rather than creating a separate misdemeanor (as the original bill did). Sentence enhancement is well-established method in our system to ensure that "the punishment fits the crime" by acknowledging that certain aggravating or compelling circumstances – in this case, commission of the crime in the presence of a child – warrant increased penalties.

Michigan's existing animal abuse laws already make use of sentence enhancement:

- In 2007 (effective 2008), a major revision of MCL 750.50, the duty to provide care statute which we are considering today, changed the law to provide a sentence enhancement from misdemeanor to felony based upon the number of animals involved or the number of prior convictions.
- The cruelty statute MCL 750.50b enhances the sentence (already a felony) by increasing the fine based on the number of animals harmed.
- **The statutory scheme of MCL 750.50c, which provides penalties for harming or killing police dogs and horses, is particularly instructive:**
    - Killing or causing serious harm to an animal is a felony [750.50c (5)]
    - For lesser harm to the animal, or if the person harasses or interferes with the animal, the offense is a misdemeanor [750.50c (6)]; *unless* done in the commission of a felony, in which case it is punishable as a felony [750.50c (7)]

  In this case, there was a legislative determination that a particular factor, i.e., the animal was harmed or harassed during the commission of a felony, was sufficient to enhance the sentence. **We believe that this Committee, and the legislature, can reasonably make a similar determination when the factor involved is commission of animal abuse in the presence of a child, and enhance the sentence.**

Other states have used the aggravating factor of abuse committed in the presence of a child to increase the penalty.

- Oregon (a state that consistently receives high ratings for its animal welfare legislation, named #2 to Michigan's #5 in the most recent rankings by the Animal Legal Defense Fund) raises the penalty from misdemeanor to felony for abuse committed in the immediate presence of, or is perceived by, a minor child, O. R. S. § 167.320 (4)(b).
- Arkansas passed strong legislation in 2009 which provides for an enhanced sentence of up to five years if the aggravated cruelty to a dog, cat or horse is committed in the presence of a child, A.C.A. § 5-4-702(b).

Attorneys for Animals respectfully request that the members support the bill and vote it favorably out of this Committee.

Very truly yours,

Beatrice M. Friedlander, J.D.
President, Attorneys for Animals

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[i] http://nationallinkcoalition.org/wp-content/uploads/2014/12/Barbara-Boat-CTA-as-ACEs-toxic-stress.pdf

[ii] Frank R. Ascione, Emerging Research on Animal Risk as a Risk Factor for Intimate Partner Violence, in Intimate Partner Violence 3-2, 3-8 (Kathleen A. Kendall-Tackett & Sarah M. Giacomoni eds. 2007); Catherine A. Faver & Elizabeth B. Strand, To Leave Or To Stay? Battered Women's Concern For Vulnerable Pets, 18 J. of Interpersonal Violence 1367 (2003).

[iii] Ascione, supra note i, at 8; Catherine A. Faver & Elizabeth B. Strand, To Leave Or To Stay? Battered Women's Concern For Vulnerable Pets, 18 J. of Interpersonal Violence 1367, 1374 (2003).