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Senate Bill 419 (Substitute S-2)  
Sponsor: Senator Peter J. Lucido  
Committee: Agriculture

Date Completed: 6-25-20

### **CONTENT**

**The bill would amend Public Act 287 of 1969, which governs pet shops, animal control shelters, and animal protection shelters, to rename the Act as the "Companion Animal Act", and to do the following:**

- **Specify that the minimum standards for the housing of animals promulgated by the Michigan Department of Agriculture and Rural Development (MDARD) would not apply to an animal rescue or foster home.**
- **Require MDARD, within 12 months after the bill's effective date, to promulgate rules and minimum standards for the housing, care, and handling of animals by animal rescues and foster homes.**
- **Require MDARD to inspect a foster home for compliance with the Act and rules promulgated under the Act but prohibit the Department from entering a foster home without consent.**
- **Prescribe procedures and penalties for a foster home's or animal rescue's failure to comply with the Act.**
- **Prohibit an entity that operates an animal rescue from importing or causing to be imported into Michigan, or selling, adopting, or transferring, or offering for sale, adoption, or transfer a dog or cat unless certain requirements are satisfied with respect to the animal's health and vaccinations.**
- **Prohibit a person from operating an animal rescue unless it was registered with MDARD.**
- **Specify that provisions pertaining to a contract to alter an unaltered dog, cat, or ferret as a condition of adopting the animal also would apply to an animal rescue.**
- **Allow an animal rescue to conduct a search using ICHAT (internet criminal history access tool) to determine whether an individual has a previous history for an animal abuse offense before allowing him or her to adopt an animal.**
- **Prohibit an animal rescue from breeding animals, and require an animal rescue that used foster homes to maintain a list of those homes that included the information specified in the bill.**
- **Require an animal rescue and the foster homes it used to keep and maintain the records prescribed under the bill.**

The bill would take effect 90 days after its enactment.

### **Administrative Rules**

The Act authorizes the Department to promulgate rules to establish minimum standards for the housing, care, and handling of animals. Under the bill, the rules and minimum standards

for housing promulgated by the Department would not apply to an animal rescue or foster home. Within 12 months after the bill's effective date, MDARD would have to promulgate rules and minimum standards for the housing, care, and handling of animals by animal rescues and foster homes.

"Animal rescue" would mean a person that acquires an animal through purchase, adoption, owner surrender, or any other means for the purpose of finding the animal a new home and that maintains the animal in a foster home. "Foster home" would mean a private residential dwelling and its surrounding grounds, or a facility that is not otherwise licensed or registered under the Act, and its surrounding grounds, at which care or rehabilitation is provided to an animal through an affiliation with an animal rescue.

The Department could inspect a foster home for compliance with the Act and the rules and standards promulgated as described above; however, MDARD could not enter a foster home unless the owner of the home consented. If the owner did not consent and MDARD had reason to believe that the foster home was not in compliance with the Act or a rule or standard, MDARD would have to contact the animal rescue with which the foster home was affiliated and direct the animal rescue to ensure compliance.

If the Department determined that the foster home had not come into compliance after it had contacted the animal rescue, the Department could suspend or revoke the animal rescue's registration after a hearing held pursuant to the Administrative Procedures Act (APA). If MDARD determined that the animal rescue had made a good-faith effort to ensure the home's compliance and it removed the foster home from its list of eligible foster homes, MDARD could not suspend or revoke the animal rescue's registration.

A foster home that failed to establish that it had come into compliance, after the animal rescue with which it was affiliated had made a good-faith effort to ensure compliance would have to return all fostered animals to the animal rescue and would be ineligible to serve as a foster home. The foster home would be subject to the remedies prescribed by the Department, including an administrative fine, after a hearing held under the APA.

### Prohibited Conduct

The Act prohibits an entity that operates a pet shop, an animal control shelter, or an animal protection shelter from importing or causing to be imported into Michigan, or selling, adopting, exchanging, or transferring, or offering for sale, adoption, exchange, or transfer a dog or cat unless certain requirements are satisfied with respect to the animal's health and vaccinations. The bill would extend these requirements to an animal rescue.

### Registration

The Act prohibits an entity from operating an animal control shelter, animal protection shelter, or large-scale dog breeding kennel unless it is registered with the Department. Beginning six months after the bill's effective date, or the date on which MDARD began accepting applications for the registration of the animal rescues, whichever was later, a person also could not operate an animal rescue unless it was registered with MDARD.

An application for registration of an animal control shelter, an animal protection shelter, or a large-scale dog breeding kennel must be on a form prescribed by the Director of MDARD. Under the bill, this would apply to an animal rescue. After receiving an application for registration submitted by an animal rescue, MDARD would have to provide a notice of operations to the governmental agency that had authority over the animal control in the municipality where the animal rescue was located.

### Contract Requiring Alteration of Animal

Under Section 8a, an animal control shelter or animal protection shelter generally may not allow a person to adopt a dog, cat, or ferret that has not been altered, unless that person has entered into a contract for the alteration of the animal with the shelter. The contract must state that the adopting person agrees to have an alteration performed on the dog, cat, or ferret and must require the adoptee to comply with other conditions, including a requirement that the prospective adoptee pay a good-faith deposit of at least \$25. Under the bill, these provisions also would apply to an animal rescue.

If a person fails to comply with a contract for the alteration of a dog, cat, or ferret, a court may order transfer of ownership of the adopted animal only to the facility from which the animal was adopted, or to a veterinarian, animal control shelter, or animal protection shelter willing to accept the animal and humanely euthanize it or adopt it to an owner who agrees to have the animal altered. The bill also would allow a court to order transfer of ownership of the animal to an animal rescue for those purposes.

### Logan's Law; Applicability to Animal Rescues

Section 8b of the Act (also referred to as Logan's law) allows an animal control shelter or animal protection shelter to conduct a search using ICHAT to determine whether that individual has a previous criminal history for an animal abuse offense before allowing him or her to adopt an animal. An animal control shelter or animal protection shelter does not violate the Act if the shelter conducts the search and it fails to disclose that the individual has a prior criminal history for an animal abuse offense.

The law does not apply to a pet shop that allows an animal protection shelter to use pet shop resources, including its premises, facilities, employees, equipment, and advertising for pet adoptions, or to a pet shop that works with an animal protection shelter but does not perform adoptions except as an agent of the shelter. A pet shop that allows a shelter to use its resources is not an animal protection shelter and is not liable for any pet adoptions performed by a shelter.

Where the Act refers to animal control shelter or animal protection shelter, the bill also would refer to animal rescue.

### Consideration of Prospective Animal Adoptee's Criminal History

The Act allows an animal control shelter or animal protection shelter to consider an individual's criminal history when deciding whether to allow that individual to adopt an animal. A shelter may choose not to allow an individual who has been convicted of an animal abuse offense to adopt an animal unless at least five years has elapsed since the date of his or her conviction. A shelter may choose not to allow an individual who is charged with committing an animal abuse offense and enters a plea to any other crime in exchange for dismissal of that charge to adopt an animal. The bill would extend these provisions to an animal rescue.

### Animal Rescue Requirements

Under the bill, the following provisions would apply to an animal rescue and the foster homes with which the animal rescue was affiliated:

- An animal rescue could not breed rescued animals.
- An animal rescue that used foster homes would have to maintain a list of those homes that included all of the following: a) the name and phone number of each home owner; b) the street address for each foster home at which animals were housed; and c) the

name, breed or species, physical description, age, and sex of each animal fostered at a foster home.

The animal rescue also would have to maintain verifiable records for at least two years after the date of disposition of an animal. The records would have to include all of the following:

- The verified name and address of any person from whom an animal was acquired, where it was acquired, and the date it was acquired.
- A description of the animal, including its identification information, color, breed or species, sex, alteration status, and approximate weight and age.
- The date and method of the disposition of the animal, including the verified name and address of the person to whom it was adopted, sold, or transferred, as applicable.

#### Maintenance of Records

The Act requires an animal control shelter or animal protection shelter to maintain written records on the total number of dogs, cats, and ferrets under six months of age, the total number of those animals six months of age and older, and all other animals received, returned to owners, adopted to new owners, sold, or transferred with or without remuneration to any person, as well as other specified information. The shelter must provide a copy of these statistics to the Department annually, by March 31 of the year following the year for which the statistics were compiled. The bill would extend this requirement to an animal rescue and would require a person who operates any of those facilities to comply with this requirement for all shelters and rescues that person operated. The person would have to provide a copy of the statistics annually in a manner MDARD prescribed.

Under the bill, for each dog, cat, and ferret purchased or otherwise acquired, held, transported, sold, or disposed of by an animal control shelter, animal protection shelter, or animal rescue, the owner or operator of the shelter or animal rescue would have to keep and maintain the following information in a manner prescribed by MDARD:

- The name and address of the person from whom the animal was acquired and of the person to whom the animal was sold or otherwise disposed of.
- The date the animal was first acquired.
- A description of the animal, including the breed or species, sex, color, and approximate weight.
- Any available identification information for the animal.
- The date, nature, and method of disposition of the animal, including sale, death, euthanasia, or donation.

The shelter or animal rescue would have to maintain the records for at least two years, and would have to make them available to the Director or his or her authorized representative upon request.

MCL 287.331 et al.

Legislative Analyst: Jeff Mann

#### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on MDARD. The bill would require the Department to engage in regulatory responsibilities for animal rescue operations similar to those already provided for animal shelters. The Department reports that it would need additional staff, in the field and in administrative offices, to accomplish this, but to an extent that cannot be determined until further research reveals the actual number of animal rescue

operations involved and the scope of the Department's responsibilities. No source of funding is identified in the bill to support the additional responsibilities that would be required under the bill.

Fiscal Analyst: Bruce Baker

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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.