



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 148 (as enacted)
Senate Bill 149 (as enacted)
Sponsor: Senator Dayna Polehanki (S.B. 148)
Senator Kevin Hertel (S.B. 149)
Senate Committee: Natural Resources and Agriculture
House Committee: Agriculture

PUBLIC ACT 314 of 2023
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Date Completed: 3-8-24

RATIONALE

In July 2022, 3,776 beagles were rescued from Envigo RMS LLC, a breeding facility in Virginia that bred dogs to sell to research facilities, and were re-homed by animal rescue organizations across the country.¹ Reportedly, this situation is not uncommon, and many laboratory animals could be adopted instead of euthanized when removed from a laboratory setting. According to testimony before the House Committee on Agriculture, 600 dogs and 100 cats are euthanized each year by laboratory workers in Michigan despite many of these animals being adoptable. Some people believe that Michigan should join 15 other states in requiring adoption opportunities for healthy or treatable laboratory animals that could be adopted but may otherwise be euthanized by laboratories.

CONTENT

Senate Bill 149 amended Public Act (PA) 224 of 1969, which regulates research facilities that use laboratory animals, to do the following:

- **Require the Michigan Department of Agriculture and Rural Development (MDARD) to maintain and make available on its website a list of all research facilities operating in Michigan.**
- **Require a research facility to offer for adoption a laboratory animal that is no longer needed for research and would be euthanized to an animal protection shelter or an employee of the research facility if that animal is determined suitable for adoption by an attending veterinarian.**
- **Allow for written agreements between animal protection shelters and research facilities to fulfill the bill's requirements.**
- **Require, and specify the provisions, of a written agreement between an animal protection shelter and an individual that adopts a former laboratory animal.**
- **Modify certain definitions.**

Senate Bill 148 amended PA 224 of 1969 to do the following:

- **Require a research facility that used laboratory animals to submit a report to MDARD, by March 31 of each year, that includes information about laboratory animals and the release of those animals to animal protection shelters.**
- **Prescribe administrative fines for a research facility that does not offer the appropriate release of a laboratory animal no longer needed for research.**
- **Create the Laboratory Animal Fund and prescribe how money is spent from or deposited into the Fund.**

¹ The Humane Society of the United States, *Dogs used in experiments FAQ*, 2024.

The bills took effect February 13, 2023.

Senate Bill 149

Records

The Act requires research facilities and dealers to keep records regarding the purchase, sale transportation, and handling of laboratory animals as MDARD's Director prescribes. Under the bill, research facilities and dealers must *maintain* such records and research facilities and must maintain any report submitted under Section 11a as added by Senate Bill 148 for five years. Additionally, MDARD must maintain and make available on its website a list of all research facilities operating in Michigan.

Laboratory Animal Adoption

The bill adds Section 8a and designates it as "Teddy's Law". Under Section 8a, before euthanizing a laboratory animal no longer needed for research that the attending veterinarian determines is suitable for adoption, a research facility must offer the laboratory animal directly to its employees or to an animal protection shelter located in the State for adoption. The Department must maintain and make available on its website a list of all research facilities operating in Michigan.

A research facility that provides a former laboratory animal to an animal protection shelter may enter into a written agreement to carry out the purpose as stated above. The written agreement may include an acknowledgment that the animal protection shelter accepts and takes responsibility for all risks that may be associated with the former laboratory animal and an agreement to waive the right to hold the research facility liable for behavioral or health issues.

An animal protection shelter that places a laboratory animal received from a research facility for adoption must enter into a written agreement with the individual that adopts the former laboratory animal. The written agreement must include an acknowledgment that the adopting individual understands that the animal was a former laboratory animal. The written agreement also may require that the adopting individual accepts all risks that may be associated with the former laboratory animal and an agreement to waive the right to hold the animal protection shelter liable for behavioral or health issues.

("Attending veterinarian" means that term as defined in Federal law: a person who has graduated from a veterinary school accredited by the American Veterinary Medical Association's Council on Education, or has a certificate issued by the American Veterinary Medical Association's Education Commission for Foreign Veterinary Graduates, or has received equivalent formal education as determined by the Administrator; has received training or experience in the care and management of the species being attended; and who has direct or delegated authority for activities involving animals at a facility subject to the jurisdiction of the Secretary.)

Definitions

"Animal protection shelter" means a facility that is registered under Section 6 of Public Act 287 of 1969 and is operated by any of the following:

- A person.
- A humane society.
- A society for the prevention of cruelty of animals.

-- Any other nonprofit organization for the care of homeless animals.

Under the Act, "cat" means any live domestic cat (*Felis catus*) for the use or intended to be used for research, tests, or experiments at research facilities.

Instead, under the bill, "cat" means a domestic cat of any age of the species *Felis catus*.

Under the Act, "dog" means any live dog of the species *Canis familiaris* for use or intended to be used for research tests or experiments at research facilities.

Instead, under the bill, "dog" means a domestic dog of any age of the species *Canis lupis familiaris*.

"Laboratory animal" means a dog or cat that is used or intended to be used for laboratory research at a laboratory facility.

"Laboratory research" means research, tests, or experiments, conducted for education, scientific, medical, or experimental purposes.

"Municipality" means a county, city, village, or township.

"Person" means an individual, estate, business, or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

Under the Act, "research facility" means any school, hospital, laboratory, institution, organization, or person that uses or intends to use dogs or cats in research, tests or experiments, and that purchases or transports such animals or receives any funds from the State or a local government, or any agency or instrumentality thereof to finance its operations by means of grants, loans, or otherwise.

Instead, under the bill, "research facility" means a school, hospital, laboratory, institution, organization, or person that *is licensed or otherwise registered with the United States Department of Agriculture* that uses or intends to use *a laboratory animal* in laboratory research, that does at least one of the following:

- Purchases or transports laboratory animals.
- Receives funds from the State, a local government, or an agency or instrumentality of the State or a local government to finance its operations through grants, loans, or other funds.

Senate Bill 148

Research Facility Animal Report

The bill adds Section 11a to PA 224 of 1969 to require a research facility that uses laboratory animals to submit a report to MDARD, by March 31 of each year, that includes an attestation of compliance with the requirements of the Act. The bill requires MDARD to use the information in the report for the purpose of determining compliance with the provisions of Section 8a as added by Senate Bill 149 and prohibits MDARD from making any information provided in the report available on its website.

Violation of Laboratory Animal Adoption Opportunity

The bill specifies that if a research facility violates Section 8a after notice and opportunity for

a hearing under the Administrative Procedures Act, MDARD may impose an administrative fine as described in the table below.

Type of Violation	Maximum Fine
A violation involving one laboratory animal.	\$1,000
A violation involving two or three laboratory animals.	2,000
A violation involving four or more, but fewer than 10 laboratory animals.	3,000
A violation involving 10 or more, but fewer than 25 laboratory animals.	5,000
A violation involving 25 or more laboratory animals.	10,000
A violation with one prior violation.	3,000
A violation with two prior violations.	5,000
A violation with three prior violations.	10,000

The Department must advise the Attorney General (AG) of the failure of a person to pay an administrative fine listed above. Additionally, the AG must bring an action to enforce compliance with Section 8a and Section 11a and to recover an administrative fine as listed above, civil fines as listed below, actual costs and fees, and attorney fees. The court must triple the administrative fine as listed above as part of any monetary judgement, as applicable.

A research facility that fails to submit a report under Section 11a is subject to a civil fine of \$2,500 or less.

Beginning February 13, 2025, MDARD may issue a warning for a violation of Section 8a instead of imposing an administrative fine.

Laboratory Animal Fund

The bill creates the Laboratory Animal Fund within the Department of Treasury. Under the bill, the fines collected above may be deposited into the Fund by the State Treasurer.

The State Treasurer also may receive money or other assets from any other source for deposit into the Fund. The State Treasurer must credit to the Fund interest and earnings from its investments.

Money in the Fund at the close of the fiscal year does not lapse into the General Fund. The Department is the administrator of the Laboratory Animal Fund for auditing purposes and must spend money from it to administer the potential release of laboratory animals no longer needed by research facilities.

MCL 287.392 et al. (S.B. 148)
287.381 et al. (S.B. 149)

PREVIOUS LEGISLATION

(Please note: This section does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

Senate Bills 148 and 149 are reintroductions of House Bills 4881 and 4882, respectively, of the 2021-2022 Legislative Session.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bills address gaps in Federal law concerning the reporting of laboratory animals and care for laboratory animals once their time in the laboratory is done. Federal law provides minimum standards for the reporting, care, and use of laboratory animals in research while they're in the laboratory; however, Federal requirements do not exist for laboratory animals after their laboratory use. In addition, according to testimony before the Senate Committee on Natural Resources and Agriculture, standards for reporting laboratory animals are often inaccurate. Many major laboratory facilities in Michigan are owned by firms headquartered out-of-state. This can create an unreliable reporting system because these firms may associate laboratory animal numbers with their out-of-state headquarters instead of their in-state facilities. This is further supported by discrepancies in Federal reports and expert estimates. According to United States Department of Agriculture (USDA) reports in 2021, 86 cats and 537 dogs were used for research purposes in Michigan, and an additional 35 cats and 23 dogs were held and not used;² however, as an example, these numbers do not include dogs and cats from Charles River Laboratories Inc. or Zoetis LLC, who have sites in Mattawan and Kalamazoo, respectively, but are headquartered out-of-state. The bills will close these gaps in Federal law in Michigan by requiring facilities with laboratory animals to report more reliable information to MDARD while also offering suitable animals for adoption.

Supporting Argument

The Anishinaabe people are a group of First Nations people who reside in Michigan. The umbrella term "Anishinaabe people" collectively refers to the Ojibwe, the Odawa, and Potawatomi tribes who created a partnership called the Three Fires hundreds of years ago. According to testimony before the Senate Committee on Natural Resources and Agriculture, the Anishinaabe people consider wolves (ma'iingan) to be a symbol of bravery and protection in their culture. According to testimony, traditional Anishinaabe beliefs include a prophecy that ties the health and wellbeing of ma'iingan to that of the Anishinaabe people and so some Anishinaabe believe that they are bound to protect the ma'iingan. The bills would contribute to respect for Anishinaabe beliefs by protecting laboratory animals such as dogs, considered relatives of ma'iingan.

Opposing Argument

The reporting requirements will add additional administrative burden on bioscience research institutions. Under Federal law, each registered facility must submit an annual report to the Animal and Plant Health Inspection Service of the USDA by December 1 of each year.³ In this report, the registered facility must detail the types of animals at the facility, the number of applicable animals that are not being used in testing that year, the pain levels of each animal, and the total number of applicable animals being tested on that year.⁴ The bill requires research facilities that use laboratory animals to submit a report to MDARD each year by March 31 that includes an attestation of compliance with the Act. Additionally, PA 224 requires a research facility to detail whether each laboratory animal deemed suitable for adoption by the attending veterinarian was offered to an animal protection shelter located in Michigan. These additional reporting requirements will further burden an already highly-regulated industry, which could send a message to companies and institutions that Michigan is not supportive of its life science industry.

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² Animal and Plant Inspection Service, United States Department of Agriculture, "*Research Facility Usage Summary Report (FY2019-FY2021)*", 2021.

³ Animal and Plant Health Inspection Service, United States Department of Agriculture, "*RE: ANNUAL REPORT REMINDER*", September 2022.

⁴ Animal and Plant Health Inspection Service, United States Department of Agriculture, "*Annual Report of Research Facility (APHIS FORM 7023)*", July 2020.

FISCAL IMPACT

The bills require MDARD to perform certain administrative duties, including the establishment of a database of all research facilities laboratory animals in research facilities in Michigan (and publish this on its website). They allow MDARD to impose administrative fines on facilities in violation of the bill's provisions and annually gather data related to the operations of research facilities that use laboratory animals. The Department estimates that compliance with the bills' requirements will require an additional 1.0 FTE and \$200,000 in appropriations. The percentage of the estimated appropriation that will have to come from General Fund/general purpose dollars will depend upon the amount of restricted revenue received from potential fines. To this end, the FY 2023-24 budget for MDARD (House Bill 4289) contains General Fund/General Purpose appropriations of \$500,000 one-time and \$200,000 ongoing to support the requirements of these bills.

Senate Bill 149 created the Laboratory Animal Fund in the State Treasury, into which the administrative fines (and other sources) proposed under Senate Bill 148 will be deposited for use by MDARD in the administration of the bills' provisions. It cannot be estimated at this time the amount of funds that will be deposited in the Fund annually. Money in the Fund at the close of the fiscal year will remain in the Fund and will not lapse to the General Fund.

Senate Bill 149 also will add additional costs to the Attorney General by requiring the Attorney General to bring civil action against individuals who failed to pay administrative fines under the bill. The costs will include additional prosecutor and support staff. The costs are likely to be minimal and supported within current appropriations as the number of individuals likely to be prosecuted would be minimal and there is no timeline on whether the Attorney General is required to bring civil action against individuals.

The bills will add costs to the Department of Treasury to create and administer the Laboratory Animal Fund. The costs are likely to be less than \$100 charged to the Department and supported within current appropriations.

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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.