

# As Reported by the House Criminal Justice Committee

124th General Assembly

Regular Session

2001-2002

Sub. S. B. No. 221

SENATORS Goodman, Mumper, Ryan, Coughlin, DiDonato, Furney, Hagan,  
Brady, Spada, Randy Gardner, Fingerhut, Harris, Jacobson, Mallory, Prentiss

REPRESENTATIVES Mason, Sykes, Brown

---

## A BILL

To amend sections 109.73, 959.99, 1717.06, and 2151.421 and to enact sections 959.131 and 959.132 of the Revised Code to prohibit specified acts with respect to a companion animal, to establish a procedure for the care of an impounded companion animal during the pendency of charges against a person who violates the prohibition, to require training for humane agents, and to provide for the reporting by county humane society agents of abuse or neglect of children. 1

2

3

4

5

6

7

8

9

10

### BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

**Section 1.** That sections 109.73, 959.99, 1717.06, and 2151.421 be amended and sections 959.131 and 959.132 of the Revised Code be enacted to read as follows: 11

12

13

**Sec. 109.73.** (A) The Ohio peace officer training commission shall recommend rules to the attorney general with respect to all of the following: 14

15

16

(1) The approval, or revocation of approval, of peace officer training schools administered by the state, counties, municipal 17

18

corporations, public school districts, technical college  
districts, and the department of natural resources;

(2) Minimum courses of study, attendance requirements, and  
equipment and facilities to be required at approved state, county,  
municipal, and department of natural resources peace officer  
training schools;

(3) Minimum qualifications for instructors at approved state,  
county, municipal, and department of natural resources peace  
officer training schools;

(4) The requirements of minimum basic training that peace  
officers appointed to probationary terms shall complete before  
being eligible for permanent appointment, which requirements shall  
include a minimum of fifteen hours of training in the handling of  
the offense of domestic violence, other types of domestic  
violence-related offenses and incidents, and protection orders and  
consent agreements issued or approved under section 2919.26 or  
3113.31 of the Revised Code, a minimum of six hours of crisis  
intervention training, and a specified amount of training in the  
handling of missing children and child abuse and neglect cases,  
and the time within which such basic training shall be completed  
following such appointment to a probationary term;

(5) The requirements of minimum basic training that peace  
officers not appointed for probationary terms but appointed on  
other than a permanent basis shall complete in order to be  
eligible for continued employment or permanent appointment, which  
requirements shall include a minimum of fifteen hours of training  
in the handling of the offense of domestic violence, other types  
of domestic violence-related offenses and incidents, and  
protection orders and consent agreements issued or approved under  
section 2919.26 or 3113.31 of the Revised Code, a minimum of six  
hours of crisis intervention training, and a specified amount of  
training in the handling of missing children and child abuse and

neglect cases, and the time within which such basic training shall  
be completed following such appointment on other than a permanent  
basis;

(6) Categories or classifications of advanced in-service  
training programs for peace officers, including programs in the  
handling of the offense of domestic violence, other types of  
domestic violence-related offenses and incidents, and protection  
orders and consent agreements issued or approved under section  
2919.26 or 3113.31 of the Revised Code, in crisis intervention,  
and in the handling of missing children and child abuse and  
neglect cases, and minimum courses of study and attendance  
requirements with respect to such categories or classifications;

(7) Permitting persons who are employed as members of a  
campus police department appointed under section 1713.50 of the  
Revised Code, who are employed as police officers by a qualified  
nonprofit corporation police department pursuant to section  
1702.80 of the Revised Code, or who are appointed and commissioned  
as railroad police officers or hospital police officers pursuant  
to sections 4973.17 to 4973.22 of the Revised Code to attend  
approved peace officer training schools, including the Ohio peace  
officer training academy, and to receive certificates of  
satisfactory completion of basic training programs, if the private  
college or university that established the campus police  
department, qualified nonprofit corporation police department,  
railroad company, or hospital sponsoring the police officers pays  
the entire cost of the training and certification and if trainee  
vacancies are available;

(8) Permitting undercover drug agents to attend approved  
peace officer training schools, other than the Ohio peace officer  
training academy, and to receive certificates of satisfactory  
completion of basic training programs, if, for each undercover  
drug agent, the county, township, or municipal corporation that

51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82

employs that undercover drug agent pays the entire cost of the 83  
training and certification; 84

(9)(a) The requirements for basic training programs for 85  
bailiffs and deputy bailiffs of courts of record of this state and 86  
for criminal investigators employed by the state public defender 87  
that those persons shall complete before they may carry a firearm 88  
while on duty; 89

(b) The requirements for any training received by a bailiff 90  
or deputy bailiff of a court of record of this state or by a 91  
criminal investigator employed by the state public defender prior 92  
to June 6, 1986, that is to be considered equivalent to the 93  
training described in division (A)(9)(a) of this section. 94

(10) Establishing minimum qualifications and requirements for 95  
certification for dogs utilized by law enforcement agencies; 96

(11) Establishing minimum requirements for certification of 97  
persons who are employed as correction officers in a full-service 98  
jail, five-day facility, or eight-hour holding facility or who 99  
provide correction services in such a jail or facility; 100

(12) Establishing requirements for the training of agents of 101  
a county humane society under section 1717.06 of the Revised Code, 102  
including, without limitation, a requirement that the agents 103  
receive instruction that is within the scope of an overall 104  
curriculum for instruction on the topic of animal husbandry 105  
practices that is consistent with recommendations, if any, of the 106  
Ohio state university college of veterinary medicine. 107

(B) The commission shall appoint an executive director, with 108  
the approval of the attorney general, who shall hold office during 109  
the pleasure of the commission. The executive director shall 110  
perform such duties as may be assigned by the commission. The 111  
executive director shall receive a salary fixed pursuant to 112  
Chapter 124. of the Revised Code and reimbursement for expenses 113

within the amounts available by appropriation. The executive 114  
director may appoint officers, employees, agents, and consultants 115  
as the executive director considers necessary, prescribe their 116  
duties, and provide for reimbursement of their expenses within the 117  
amounts available for reimbursement by appropriation and with the 118  
approval of the commission. 119

(C) The commission may do all of the following: 120

(1) Recommend studies, surveys, and reports to be made by the 121  
executive director regarding the carrying out of the objectives 122  
and purposes of sections 109.71 to 109.77 of the Revised Code; 123

124

(2) Visit and inspect any peace officer training school that 125  
has been approved by the executive director or for which 126  
application for approval has been made; 127

(3) Make recommendations, from time to time, to the executive 128  
director, the attorney general, and the general assembly regarding 129  
the carrying out of the purposes of sections 109.71 to 109.77 of 130  
the Revised Code; 131

(4) Report to the attorney general from time to time, and to 132  
the governor and the general assembly at least annually, 133  
concerning the activities of the commission; 134

(5) Establish fees for the services the commission offers 135  
under sections 109.71 to 109.79 of the Revised Code, including, 136  
but not limited to, fees for training, certification, and 137  
testing; 138

(6) Perform such other acts as are necessary or appropriate 139  
to carry out the powers and duties of the commission as set forth 140  
in sections 109.71 to 109.77 of the Revised Code. 141

**Sec. 959.131.** (A) As used in this section: 142

(1) "Companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept. "Companion animal" does not include livestock or any wild animal. 143  
144  
145  
146

(2) "Cruelty," "torment," and "torture" have the same meanings as in section 1717.01 of the Revised Code. 147  
148

(3) "Residential dwelling" means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation. 149  
150  
151

(4) "Practice of veterinary medicine" has the same meaning as in section 4741.01 of the Revised Code. 152  
153

(5) "Wild animal" has the same meaning as in section 1531.01 of the Revised Code. 154  
155

(6) "Federal animal welfare act" means the "Laboratory Animal Act of 1966," Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970," Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976," Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985," Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended. 156  
157  
158  
159  
160  
161  
162

(B) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal. 163  
164  
165

(C) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following: 166  
167  
168

(1) Torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against the companion animal; 169  
170  
171

(2) Deprive the companion animal of necessary sustenance, 172

confine the companion animal without supplying it during the 173  
confinement with sufficient quantities of good, wholesome food and 174  
water, or impound or confine the companion animal without 175  
affording it, during the impoundment or confinement, with access 176  
to shelter from heat, cold, wind, rain, snow, or excessive direct 177  
sunlight, if it can reasonably be expected that the companion 178  
animal would become sick or suffer in any other way as a result of 179  
or due to the deprivation, confinement, or impoundment or 180  
confinement in any of those specified manners. 181

(D) Divisions (B) and (C) of this section do not apply to any 182  
of the following: 183

(1) A companion animal used in scientific research conducted 184  
by an institution in accordance with the federal animal welfare 185  
act and related regulations; 186

(2) The lawful practice of veterinary medicine by a person 187  
who has been issued a license, temporary permit, or registration 188  
certificate to do so under Chapter 4741. of the Revised Code; 189

(3) Dogs being used or intended for use for hunting or field 190  
trial purposes, provided that the dogs are being treated in 191  
accordance with usual and commonly accepted practices for the care 192  
of hunting dogs; 193

(4) The use of common training devices, if the companion 194  
animal is being treated in accordance with usual and commonly 195  
accepted practices for the training of animals; 196

(5) The administering of medicine to a companion animal that 197  
was properly prescribed by a person who has been issued a license, 198  
temporary permit, or registration certificate under Chapter 4741. 199  
of the Revised Code. 200

(E) Notwithstanding any section of the Revised Code that 201  
otherwise provides for the distribution of fine moneys, the clerk 202  
of court shall forward all fines the clerk collects that are so 203

imposed for any violation of this section to the treasurer of the  
political subdivision or the state, whose county humane society or  
law enforcement agency is to be paid the fine money as determined  
under this division. The treasurer to whom the fines are forwarded  
shall pay the fine moneys to the county humane society or the  
county, township, municipal corporation, or state law enforcement  
agency in this state that primarily was responsible for or  
involved in the investigation and prosecution of the violation. If  
a county humane society receives any fine moneys under this  
division, the county humane society shall use the fine moneys to  
provide the training that is required for humane agents under  
section 1717.06 of the Revised Code.

204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215

**Sec. 959.132.** (A) As used in this section:

216

(1) "Agent of a county humane society" means a person  
appointed by a county humane society pursuant to section 1717.06  
of the Revised Code.

217  
218  
219

(2) "Companion animal" has the same meaning as in section  
959.131 of the Revised Code.

220  
221

(3) "Impounding agency" means the county humane society,  
animal shelter, or law enforcement agency that, in accordance with  
division (B) or (C) of this section, either has impounded a  
companion animal or has made regular visits to the place where a  
companion animal is kept to determine whether it is provided with  
necessities.

222  
223  
224  
225  
226  
227

(4) "Officer" means any law enforcement officer, agent of a  
county humane society, dog warden, assistant dog warden, or other  
person appointed to act as an animal control officer for a county,  
municipal corporation, or township in accordance with state law,  
an ordinance, or a resolution.

228  
229  
230  
231  
232

(B) Except as otherwise provided in this division, an officer

233



may impound a companion animal if the officer has probable cause 234  
to believe that it or other companion animals that are kept by the 235  
same person on the premises are the subject of a violation of 236  
section 959.131 of the Revised Code and if the officer has lawful 237  
access to the companion animal at the time of the impoundment. The 238  
officer shall give written notice of the impoundment by posting 239  
the notice on the door of the residence on the premises at which 240  
the companion animal was impounded, by giving it in person to the 241  
owner, custodian, or caretaker of the companion animal, or by 242  
otherwise posting the notice in a conspicuous place on the 243  
premises where the companion animal was seized. No officer or 244  
impounding agency shall impound a companion animal that is the 245  
subject of a violation of section 959.131 of the Revised Code in a 246  
shelter owned, operated, or controlled by a board of county 247  
commissioners pursuant to Chapter 955. of the Revised Code unless 248  
the board, by resolution, authorizes the impoundment of companion 249  
animals in a shelter owned, operated, or controlled by that board 250  
and has executed, in the case when the officer is other than a dog 251  
warden or assistant dog warden, a contract specifying the terms 252  
and conditions of the impoundment. 253

(C) If charges are filed under section 959.131 of the Revised 254  
Code against the custodian or caretaker of a companion animal, but 255  
the companion animal that is the subject of the charges is not 256  
impounded, the court in which the charges are pending may order 257  
the owner or person having custody of the companion animal to 258  
provide to the companion animal the necessities described in 259  
divisions (C)(2) to (6) of section 959.131 of the Revised Code 260  
until the final disposition of the charges. If the court issues an 261  
order of that nature, the court also may authorize an officer or 262  
another person to visit the place where the companion animal is 263  
being kept, at the times and under the conditions that the court 264  
may set, to determine whether the companion animal is receiving 265

those necessities and to remove and impound the companion animal  
if the companion animal is not receiving those necessities.

266  
267  
268

(D) An owner, custodian, or caretaker of one or more  
companion animals that have been impounded under this section may  
file a written request for a hearing with the clerk of the court  
in which charges are pending that were filed under section 959.131  
of the Revised Code and that involve the impounded companion  
animals. If a hearing is requested, the court shall conduct a  
hearing not later than twenty-one days following receipt of the  
request. At the hearing, the impounding agency has the burden of  
proving by a preponderance of the evidence that probable cause  
exists to find that the defendant is guilty of a violation of  
section 959.131 of the Revised Code, unless probable cause has  
previously been established in a judicial proceeding, in which  
case the court shall take notice that probable cause exists and  
shall not require further proof of probable cause. A hearing that  
is conducted under division (D) of this section shall be combined  
whenever possible with any hearing involving the same pending  
charges that is authorized and conducted under division (E) of  
this section.

269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286

If the court finds at the conclusion of the hearing that  
probable cause does not exist for finding that the defendant  
committed a violation and that the defendant otherwise has a right  
to possession of the impounded companion animals, the court shall  
order the animals to be returned to the defendant.

287  
288  
289  
290  
291

If the court finds at the conclusion of the hearing that  
probable cause exists for finding the defendant guilty of a  
violation with respect to one or more of the impounded companion  
animals, the court shall do one of the following with respect to  
each impounded companion animal:

292  
293  
294  
295  
296

(1) Allow the impounding agency to retain custody of the

297

companion animal pending resolution of the underlying charges; 298

(2) Order the companion animal to be returned to the 299  
defendant under any conditions and restrictions that the court 300  
determines are appropriate to ensure that the companion animal 301  
receives humane and adequate care and treatment. 302

(E)(1) At any time that one or more charges are pending under 303  
section 959.131 of the Revised Code, an impounding agency may file 304  
a motion in the court in which the charges are pending requesting 305  
that the defendant post a deposit to cover the costs of caring, 306  
during the pendency of the charges, for any impounded companion 307  
animals seized or removed from the defendant's custody if the 308  
reasonably necessary projected costs of the care that will be 309  
provided prior to the final resolution of the charges are 310  
estimated to be in excess of one thousand five hundred dollars. 311  
The motion shall be accompanied by an affidavit that sets forth an 312  
estimate of the reasonably necessary costs that the impounding 313  
agency expects to incur in providing that care, which may include, 314  
but are not limited to, the necessary cost of veterinary care, 315  
medications, food, water, and board for the companion animals 316  
during the pendency of the charges. 317

(2) Within ten days after the date on which a motion is filed 318  
under division (E)(1) of this section, the court shall conduct a 319  
hearing. Except as otherwise provided in division (E)(5) of this 320  
section, at the hearing, the impounding agency has the burden of 321  
proving by a preponderance of the evidence that there is probable 322  
cause to find that the defendant is guilty of a violation of 323  
section 959.131 of the Revised Code, unless probable cause has 324  
previously been established in a judicial proceeding, in which 325  
case the court shall take notice that probable cause exists and 326  
shall not require further proof of probable cause, and that the 327  
reasonably necessary cumulative costs of caring during the 328  
pendency of the charges for the companion animals seized or 329

removed from the defendant's custody or control are reasonably 330  
projected to exceed one thousand five hundred dollars. 331

(3) If the court finds at the conclusion of the hearing that 332  
probable cause does not exist for finding that the defendant 333  
committed a violation of section 959.131 of the Revised Code and 334  
that the defendant otherwise has a right to possession of the 335  
companion animals, the court shall order the animals to be 336  
returned to the defendant. If the court finds at the conclusion of 337  
the hearing that probable cause exists for finding that the 338  
defendant committed a violation of that section, but that the 339  
reasonably necessary costs for caring during the pendency of the 340  
charges for the companion animals seized or removed from the 341  
defendant's custody or control are reasonably projected to be one 342  
thousand five hundred dollars or less, the court shall deny the 343  
petitioner's motion to require the defendant to pay a deposit. 344

If the court finds at the conclusion of the hearing that 345  
probable cause exists for finding the defendant guilty of the 346  
violation with respect to one or more of the impounded companion 347  
animals and for determining that the reasonably necessary 348  
projected costs of caring for the companion animals exceed one 349  
thousand five hundred dollars during the pendency of the charges, 350  
the court shall do one of the following: 351

(a) Order the defendant to post a deposit with the clerk of 352  
the court in a form and in an amount that the court determines is 353  
sufficient to cover the cost of care of the companion animals from 354  
the date of impoundment until the date of the disposition of the 355  
charges; 356

(b) Order one or more of the companion animals to be returned 357  
to the defendant under any conditions and restrictions that the 358  
court determines to be appropriate to ensure that the companion 359  
animals receive humane and adequate care and treatment; 360

(c) Deny the motion of the impounding agency requesting the defendant to post a deposit, but permit the impounding agency to retain custody of one or more of the companion animals pending resolution of the underlying charges. 361  
362  
363  
364

(4) The court may order the defendant to forfeit the right of possession and ownership in one or more of the companion animals to the impounding agency if the defendant fails to comply with the conditions set forth in an order of the court that is rendered under division (E)(3) of this section. If the order that was not complied with required the defendant to post a deposit, forfeiture of the companion animals relieves the defendant of any further obligation to post the deposit. 365  
366  
367  
368  
369  
370  
371  
372

(5)(a) A hearing that is conducted under division (D) of this section shall be combined whenever possible with any hearing involving the same pending charges that is authorized and conducted under division (E) of this section. However, division (E)(5)(b) of this section applies when both of the hearings are conducted and combining them is not possible. 373  
374  
375  
376  
377  
378

(b) At a hearing conducted under division (E) of this section, an impounding agency shall not be required to prove that there is probable cause to find that the defendant is guilty of a violation of section 959.131 of the Revised Code if the court already has made a finding concerning probable cause at a separate hearing conducted under division (D) of this section. In such an event, the probable cause finding made at the hearing conducted under division (D) of this section shall be used for purposes of the hearing conducted under division (E) of this section. 379  
380  
381  
382  
383  
384  
385  
386  
387

(F)(1) If the defendant is found guilty of violating section 959.131 of the Revised Code or any other offense relating to the care or treatment of a companion animal and the defendant posted a deposit pursuant to division (E) of this section, the court shall determine the amount of the reasonably necessary costs that the 388  
389  
390  
391  
392

impounding agency incurred in caring for the companion animal 393  
during the pendency of the charges. The court shall order the 394  
clerk of the court to pay that amount of the deposit to the 395  
impounding agency and to dispose of any amount of the deposit that 396  
exceeds that amount in the following order: 397

(a) Pay any fine imposed on the defendant relative to the 398  
violation; 399

(b) Pay any costs ordered against the defendant relative to 400  
the violation; 401

(c) Return any remaining amount to the defendant. 402

(2) If the defendant is found not guilty of violating section 403  
959.131 of the Revised Code or any other offense relating to the 404  
care or treatment of a companion animal, the court shall order the 405  
clerk of court to return the entire amount of the deposit to the 406  
defendant, and the impounding agency shall return the companion 407  
animal to the defendant. If the companion animal cannot be 408  
returned, the court shall order the impounding agency to pay to 409  
the defendant an amount determined by the court to be equal to the 410  
reasonable market value of the companion animal at the time that 411  
it was impounded plus statutory interest as defined in section 412  
1343.03 of the Revised Code from the date of the impoundment. In 413  
determining the reasonable market value of the companion animal, 414  
the court may consider the condition of the companion animal at 415  
the time that the companion animal was impounded and any change in 416  
the condition of the companion animal after it was impounded. 417

(G) An impounding agency that impounds a companion animal 419  
under this section shall pay a person who provides veterinary care 420  
to the companion animal during the impoundment for the cost of the 421  
veterinary care regardless of whether the impounding agency is 422  
reimbursed for the payment under this section or section 959.99 of 423

the Revised Code.

424

**Sec. 959.99.** (A) Whoever violates section ~~959.01~~, 959.18, or 959.19 of the Revised Code is guilty of a minor misdemeanor.

425

426

(B) Except as otherwise provided in this division, whoever violates section 959.02 of the Revised Code is guilty of a misdemeanor of the second degree. If the value of the animal killed or the injury done amounts to three hundred dollars or more, whoever violates section 959.02 of the Revised Code is guilty of a misdemeanor of the first degree.

427

428

429

430

431

432

(C) Whoever violates section 959.03, 959.06, 959.12, 959.15, or 959.17 of the Revised Code is guilty of a misdemeanor of the fourth degree.

433

434

435

(D) Whoever violates division (A) of section 959.13 of the Revised Code is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition, including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this division, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.

436

437

438

439

440

441

442

443

444

445

446

(E)(1) Whoever violates division (B) of section 959.131 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense.

447

448

449

450

(2) Whoever violates section 959.01 of the Revised Code or division (C) of section 959.131 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a

451

452

453

misdemeanor of the first degree on each subsequent offense.

454

(3)(a) A court may order a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code to forfeit to an impounding agency, as defined in section 959.132 of the Revised Code, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.

455

456

457

458

459

460

461

462

(b) A court may order a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under section 959.132 of the Revised Code.

463

464

465

466

467

468

469

(4) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

470

471

472

473

474

475

476

477

(F) Whoever violates section 959.14 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

478

479

480

(F)(G) Whoever violates section 959.05 or 959.20 of the Revised Code is guilty of a misdemeanor of the first degree.

481

482

(G)(H) Whoever violates section 959.16 of the Revised Code is guilty of a felony of the fourth degree for a first offense and a

483

484



felony of the third degree on each subsequent offense. 485

**Sec. 1717.06.** A county humane society organized under section 486  
1717.05 of the Revised Code may appoint agents, who are residents 487  
of the county or municipal corporation for which the appointment 488  
is made, for the purpose of prosecuting any person guilty of an 489  
act of cruelty to persons or animals. Such agents may arrest any 490  
person found violating ~~sections 1717.01 to 1717.14, inclusive, of~~ 491  
~~the Revised Code, this chapter~~ or any other law for protecting 492  
persons or animals or preventing acts of cruelty thereto. Upon 493  
making ~~such an~~ arrest the agent forthwith shall convey the person 494  
arrested before some court or magistrate having jurisdiction of 495  
the offense, and there make complaint against ~~him~~ the person on 496  
oath or affirmation of the offense. 497

All appointments of agents under this section shall be 498  
approved by the mayor of the municipal corporation for which they 499  
are made. If the society exists outside a municipal corporation, 500  
such appointments shall be approved by the probate judge of the 501  
county for which they are made. ~~Such~~ The mayor or probate judge 502  
shall keep a record of such appointments. 503

In order to qualify for appointment as a humane agent under 504  
this section, a person first shall successfully complete a minimum 505  
of twenty hours of training on issues relating to the 506  
investigation and prosecution of cruelty to and neglect of 507  
animals. The training shall comply with rules recommended by the 508  
peace officer training commission under section 109.73 of the 509  
Revised Code and shall include, without limitation, instruction 510  
regarding animal husbandry practices as described in division 511  
(A)(12) of that section. A person who has been appointed as a 512  
humane agent under this section prior to the effective date of 513  
this amendment may continue to act as a humane agent for a period 514  
of time on and after the effective date of this amendment without 515  
completing the training. However, on or before December 31, 2004, 516

a person who has been appointed as a humane agent under this section prior to the effective date of this amendment shall successfully complete the training described in this paragraph and submit proof of its successful completion to the appropriate appointing mayor or probate judge in order to continue to act as a humane agent after December 31, 2004.

517  
518  
519  
520  
521  
522

An agent of a county humane society only has the specific authority granted to the agent under this section and section 1717.08 of the Revised Code.

523  
524  
525

**Sec. 2151.421.** (A)(1)(a) No person described in division (A)(1)(b) of this section who is acting in an official or professional capacity and knows or suspects that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, shall fail to immediately report that knowledge or suspicion to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred.

526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537

(b) Division (A)(1)(a) of this section applies to any person who is an attorney; physician, including a hospital intern or resident; dentist; podiatrist; practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code; registered nurse; licensed practical nurse; visiting nurse; other health care professional; licensed psychologist; licensed school psychologist; speech pathologist or audiologist; coroner; administrator or employee of a child day-care center; administrator or employee of a residential camp or child day camp; administrator or employee of a certified child care agency or

538  
539  
540  
541  
542  
543  
544  
545  
546  
547

other public or private children services agency; school teacher; 548  
school employee; school authority; person engaged in social work 549  
or the practice of professional counseling; agent of a county 550  
humane society; or a person rendering spiritual treatment through 551  
prayer in accordance with the tenets of a well-recognized 552  
religion. 553

(2) An attorney or a physician is not required to make a 554  
report pursuant to division (A)(1) of this section concerning any 555  
communication the attorney or physician receives from a client or 556  
patient in an attorney-client or physician-patient relationship, 557  
if, in accordance with division (A) or (B) of section 2317.02 of 558  
the Revised Code, the attorney or physician could not testify with 559  
respect to that communication in a civil or criminal proceeding, 560  
except that the client or patient is deemed to have waived any 561  
testimonial privilege under division (A) or (B) of section 2317.02 562  
of the Revised Code with respect to that communication and the 563  
attorney or physician shall make a report pursuant to division 564  
(A)(1) of this section with respect to that communication, if all 565  
of the following apply: 566

(a) The client or patient, at the time of the communication, 567  
is either a child under eighteen years of age or a mentally 568  
retarded, developmentally disabled, or physically impaired person 569  
under twenty-one years of age. 570

(b) The attorney or physician knows or suspects, as a result 571  
of the communication or any observations made during that 572  
communication, that the client or patient has suffered or faces a 573  
threat of suffering any physical or mental wound, injury, 574  
disability, or condition of a nature that reasonably indicates 575  
abuse or neglect of the client or patient. 576

(c) The attorney-client or physician-patient relationship 577  
does not arise out of the client's or patient's attempt to have an 578  
abortion without the notification of her parents, guardian, or 579

custodian in accordance with section 2151.85 of the Revised Code. 580

(B) Anyone, who knows or suspects that a child under eighteen 581  
years of age or a mentally retarded, developmentally disabled, or 582  
physically impaired person under twenty-one years of age has 583  
suffered or faces a threat of suffering any physical or mental 584  
wound, injury, disability, or other condition of a nature that 585  
reasonably indicates abuse or neglect of the child, may report or 586  
cause reports to be made of that knowledge or suspicion to the 587  
public children services agency or to a municipal or county peace 588  
officer. 589

(C) Any report made pursuant to division (A) or (B) of this 590  
section shall be made forthwith either by telephone or in person 591  
and shall be followed by a written report, if requested by the 592  
receiving agency or officer. The written report shall contain: 593

(1) The names and addresses of the child and the child's 594  
parents or the person or persons having custody of the child, if 595  
known; 596

(2) The child's age and the nature and extent of the child's 597  
known or suspected injuries, abuse, or neglect or of the known or 598  
suspected threat of injury, abuse, or neglect, including any 599  
evidence of previous injuries, abuse, or neglect; 600

(3) Any other information that might be helpful in 601  
establishing the cause of the known or suspected injury, abuse, or 602  
neglect or of the known or suspected threat of injury, abuse, or 603  
neglect. 604

Any person, who is required by division (A) of this section 605  
to report known or suspected child abuse or child neglect, may 606  
take or cause to be taken color photographs of areas of trauma 607  
visible on a child and, if medically indicated, cause to be 608  
performed radiological examinations of the child. 609

(D)(1) Upon the receipt of a report concerning the possible 610

abuse or neglect of a child or the possible threat of abuse or neglect of a child, the municipal or county peace officer who receives the report shall refer the report to the appropriate public children services agency. 611  
612  
613  
614

(2) On receipt of a report pursuant to this division or division (A) or (B) of this section, the public children services agency shall comply with section 2151.422 of the Revised Code. 615  
616  
617

(E) No township, municipal, or county peace officer shall remove a child about whom a report is made pursuant to this section from the child's parents, stepparents, or guardian or any other persons having custody of the child without consultation with the public children services agency, unless, in the judgment of the officer, and, if the report was made by physician, the physician, immediate removal is considered essential to protect the child from further abuse or neglect. The agency that must be consulted shall be the agency conducting the investigation of the report as determined pursuant to section 2151.422 of the Revised Code. 618  
619  
620  
621  
622  
623  
624  
625  
626  
627  
628

(F)(1) Except as provided in section 2151.422 of the Revised Code, the public children services agency shall investigate, within twenty-four hours, each report of known or suspected child abuse or child neglect and of a known or suspected threat of child abuse or child neglect that is referred to it under this section to determine the circumstances surrounding the injuries, abuse, or neglect or the threat of injury, abuse, or neglect, the cause of the injuries, abuse, neglect, or threat, and the person or persons responsible. The investigation shall be made in cooperation with the law enforcement agency and in accordance with the memorandum of understanding prepared under division (J) of this section. A failure to make the investigation in accordance with the memorandum is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from the report or 629  
630  
631  
632  
633  
634  
635  
636  
637  
638  
639  
640  
641  
642

the suppression of any evidence obtained as a result of the report  
and does not give, and shall not be construed as giving, any  
rights or any grounds for appeal or post-conviction relief to any  
person. The public children services agency shall report each case  
to a central registry which the department of job and family  
services shall maintain in order to determine whether prior  
reports have been made in other counties concerning the child or  
other principals in the case. The public children services agency  
shall submit a report of its investigation, in writing, to the law  
enforcement agency.

643  
644  
645  
646  
647  
648  
649  
650  
651  
652

(2) The public children services agency shall make any  
recommendations to the county prosecuting attorney or city  
director of law that it considers necessary to protect any  
children that are brought to its attention.

653  
654  
655  
656

(G)(1)(a) Except as provided in division (H)(3) of this  
section, anyone or any hospital, institution, school, health  
department, or agency participating in the making of reports under  
division (A) of this section, anyone or any hospital, institution,  
school, health department, or agency participating in good faith  
in the making of reports under division (B) of this section, and  
anyone participating in good faith in a judicial proceeding  
resulting from the reports, shall be immune from any civil or  
criminal liability for injury, death, or loss to person or  
property that otherwise might be incurred or imposed as a result  
of the making of the reports or the participation in the judicial  
proceeding.

657  
658  
659  
660  
661  
662  
663  
664  
665  
666  
667  
668

(b) Notwithstanding section 4731.22 of the Revised Code, the  
physician-patient privilege shall not be a ground for excluding  
evidence regarding a child's injuries, abuse, or neglect, or the  
cause of the injuries, abuse, or neglect in any judicial  
proceeding resulting from a report submitted pursuant to this  
section.

669  
670  
671  
672  
673  
674

(2) In any civil or criminal action or proceeding in which it is alleged and proved that participation in the making of a report under this section was not in good faith or participation in a judicial proceeding resulting from a report made under this section was not in good faith, the court shall award the prevailing party reasonable attorney's fees and costs and, if a civil action or proceeding is voluntarily dismissed, may award reasonable attorney's fees and costs to the party against whom the civil action or proceeding is brought.

(H)(1) Except as provided in divisions (H)(4), (M), and (N) of this section, a report made under this section is confidential. The information provided in a report made pursuant to this section and the name of the person who made the report shall not be released for use, and shall not be used, as evidence in any civil action or proceeding brought against the person who made the report. In a criminal proceeding, the report is admissible in evidence in accordance with the Rules of Evidence and is subject to discovery in accordance with the Rules of Criminal Procedure.

(2) No person shall permit or encourage the unauthorized dissemination of the contents of any report made under this section.

(3) A person who knowingly makes or causes another person to make a false report under division (B) of this section that alleges that any person has committed an act or omission that resulted in a child being an abused child or a neglected child is guilty of a violation of section 2921.14 of the Revised Code.

(4) If a report is made pursuant to division (A) or (B) of this section and the child who is the subject of the report dies for any reason at any time after the report is made, but before the child attains eighteen years of age, the public children services agency or municipal or county peace officer to which the report was made or referred, on the request of the child fatality

review board, shall submit a summary sheet of information  
providing a summary of the report to the review board of the  
county in which the deceased child resided at the time of death.  
On the request of the review board, the agency or peace officer  
may, at its discretion, make the report available to the review  
board.

707  
708  
709  
710  
711  
712

(5) A public children services agency shall advise a person  
alleged to have inflicted abuse or neglect on a child who is the  
subject of a report made pursuant to this section in writing of  
the disposition of the investigation. The agency shall not provide  
to the person any information that identifies the person who made  
the report, statements of witnesses, or police or other  
investigative reports.

713  
714  
715  
716  
717  
718  
719

(I) Any report that is required by this section shall result  
in protective services and emergency supportive services being  
made available by the public children services agency on behalf of  
the children about whom the report is made, in an effort to  
prevent further neglect or abuse, to enhance their welfare, and,  
whenever possible, to preserve the family unit intact. The agency  
required to provide the services shall be the agency conducting  
the investigation of the report pursuant to section 2151.422 of  
the Revised Code.

720  
721  
722  
723  
724  
725  
726  
727  
728

(J)(1) Each public children services agency shall prepare a  
memorandum of understanding that is signed by all of the  
following:

729  
730  
731

(a) If there is only one juvenile judge in the county, the  
juvenile judge of the county or the juvenile judge's  
representative;

732  
733  
734

(b) If there is more than one juvenile judge in the county, a  
juvenile judge or the juvenile judges' representative selected by  
the juvenile judges or, if they are unable to do so for any

735  
736  
737



reason, the juvenile judge who is senior in point of service or 738  
the senior juvenile judge's representative; 739

(c) The county peace officer; 740

(d) All chief municipal peace officers within the county; 741

(e) Other law enforcement officers handling child abuse and 742  
neglect cases in the county; 743

(f) The prosecuting attorney of the county; 744

(g) If the public children services agency is not the county 745  
department of job and family services, the county department of 746  
job and family services; 747

(h) The county humane society. 748

(2) A memorandum of understanding shall set forth the normal 749  
operating procedure to be employed by all concerned officials in 750  
the execution of their respective responsibilities under this 751  
section and division (C) of section 2919.21, division (B)(1) of 752  
section 2919.22, division (B) of section 2919.23, and section 753  
2919.24 of the Revised Code and shall have as two of its primary 754  
goals the elimination of all unnecessary interviews of children 755  
who are the subject of reports made pursuant to division (A) or 756  
(B) of this section and, when feasible, providing for only one 757  
interview of a child who is the subject of any report made 758  
pursuant to division (A) or (B) of this section. A failure to 759  
follow the procedure set forth in the memorandum by the concerned 760  
officials is not grounds for, and shall not result in, the 761  
dismissal of any charges or complaint arising from any reported 762  
case of abuse or neglect or the suppression of any evidence 763  
obtained as a result of any reported child abuse or child neglect 764  
and does not give, and shall not be construed as giving, any 765  
rights or any grounds for appeal or post-conviction relief to any 766  
person. 767

(3) A memorandum of understanding shall include all of the following:	768
	769
(a) The roles and responsibilities for handling emergency and nonemergency cases of abuse and neglect;	770
	771
(b) Standards and procedures to be used in handling and coordinating investigations of reported cases of child abuse and reported cases of child neglect, methods to be used in interviewing the child who is the subject of the report and who allegedly was abused or neglected, and standards and procedures addressing the categories of persons who may interview the child who is the subject of the report and who allegedly was abused or neglected.	772
	773
	774
	775
	776
	777
	778
	779
(K)(1) Except as provided in division (K)(4) of this section, a person who is required to make a report pursuant to division (A) of this section may make a reasonable number of requests of the public children services agency that receives or is referred the report to be provided with the following information:	780
	781
	782
	783
	784
	785
(a) Whether the agency has initiated an investigation of the report;	786
	787
(b) Whether the agency is continuing to investigate the report;	788
	789
(c) Whether the agency is otherwise involved with the child who is the subject of the report;	790
	791
(d) The general status of the health and safety of the child who is the subject of the report;	792
	793
(e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.	794
	795
	796
(2) A person may request the information specified in	797

division (K)(1) of this section only if, at the time the report is 798  
made, the person's name, address, and telephone number are 799  
provided to the person who receives the report. 800

When a municipal or county peace officer or employee of a 801  
public children services agency receives a report pursuant to 802  
division (A) or (B) of this section the recipient of the report 803  
shall inform the person of the right to request the information 804  
described in division (K)(1) of this section. The recipient of the 805  
report shall include in the initial child abuse or child neglect 806  
report that the person making the report was so informed and, if 807  
provided at the time of the making of the report, shall include 808  
the person's name, address, and telephone number in the report. 809  
810

Each request is subject to verification of the identity of 811  
the person making the report. If that person's identity is 812  
verified, the agency shall provide the person with the information 813  
described in division (K)(1) of this section a reasonable number 814  
of times, except that the agency shall not disclose any 815  
confidential information regarding the child who is the subject of 816  
the report other than the information described in those 817  
divisions. 818

(3) A request made pursuant to division (K)(1) of this 819  
section is not a substitute for any report required to be made 820  
pursuant to division (A) of this section. 821

(4) If an agency other than the agency that received or was 822  
referred the report is conducting the investigation of the report 823  
pursuant to section 2151.422 of the Revised Code, the agency 824  
conducting the investigation shall comply with the requirements of 825  
division (K) of this section. 826

(L) The director of job and family services shall adopt rules 827  
in accordance with Chapter 119. of the Revised Code to implement 828

this section. The department of job and family services may enter  
into a plan of cooperation with any other governmental entity to  
aid in ensuring that children are protected from abuse and  
neglect. The department shall make recommendations to the attorney  
general that the department determines are necessary to protect  
children from child abuse and child neglect.

(M) No later than the end of the day following the day on  
which a public children services agency receives a report of  
alleged child abuse or child neglect, or a report of an alleged  
threat of child abuse or child neglect, that allegedly occurred in  
or involved an out-of-home care entity, the agency shall provide  
written notice of the allegations contained in and the person  
named as the alleged perpetrator in the report to the  
administrator, director, or other chief administrative officer of  
the out-of-home care entity that is the subject of the report  
unless the administrator, director, or other chief administrative  
officer is named as an alleged perpetrator in the report. If the  
administrator, director, or other chief administrative officer of  
an out-of-home care entity is named as an alleged perpetrator in a  
report of alleged child abuse or child neglect, or a report of an  
alleged threat of child abuse or child neglect, that allegedly  
occurred in or involved the out-of-home care entity, the agency  
shall provide the written notice to the owner or governing board  
of the out-of-home care entity that is the subject of the report.  
The agency shall not provide witness statements or police or other  
investigative reports.

(N) No later than three days after the day on which a public  
children services agency that conducted the investigation as  
determined pursuant to section 2151.422 of the Revised Code makes  
a disposition of an investigation involving a report of alleged  
child abuse or child neglect, or a report of an alleged threat of  
child abuse or child neglect, that allegedly occurred in or

involved an out-of-home care entity, the agency shall send written  
notice of the disposition of the investigation to the  
administrator, director, or other chief administrative officer and  
the owner or governing board of the out-of-home care entity. The  
agency shall not provide witness statements or police or other  
investigative reports.

861  
862  
863  
864  
865  
866

**Section 2.** That existing sections 109.73, 959.99, 1717.06,  
and 2151.421 of the Revised Code are hereby repealed.

867  
868