

As Reported by the Senate Judiciary--Criminal Justice Committee

124th General Assembly

Regular Session

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Sub. S. B. No. 221

**SENATORS Goodman, Mumper, Ryan, Coughlin, DiDonato, Furney, Hagan,
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A B I L L

To amend sections 109.73, 959.99, 1717.06, and 1
2151.421 and to enact sections 959.131 and 959.132 2
of the Revised Code to prohibit specified acts with 3
respect to a companion animal, to establish a 4
procedure for the care of an impounded companion 5
animal during the pendency of charges against a 6
person who violates the prohibition, to require 7
training for humane agents, and to provide for the 8
reporting by county humane society agents of abuse 9
or neglect of children. 10

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

Section 1. That sections 109.73, 959.99, 1717.06, and 11
2151.421 be amended and sections 959.131 and 959.132 of the 12
Revised Code be enacted to read as follows: 13

Sec. 109.73. (A) The Ohio peace officer training commission 14
shall recommend rules to the attorney general with respect to all 15
of the following: 16

(1) The approval, or revocation of approval, of peace officer 17
training schools administered by the state, counties, municipal 18
corporations, public school districts, technical college 19

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districts, and the department of natural resources; 20

(2) Minimum courses of study, attendance requirements, and 21
equipment and facilities to be required at approved state, county, 22
municipal, and department of natural resources peace officer 23
training schools; 24

(3) Minimum qualifications for instructors at approved state, 25
county, municipal, and department of natural resources peace 26
officer training schools; 27

(4) The requirements of minimum basic training that peace 28
officers appointed to probationary terms shall complete before 29
being eligible for permanent appointment, which requirements shall 30
include a minimum of fifteen hours of training in the handling of 31
the offense of domestic violence, other types of domestic 32
violence-related offenses and incidents, and protection orders and 33
consent agreements issued or approved under section 2919.26 or 34
3113.31 of the Revised Code, a minimum of six hours of crisis 35
intervention training, and a specified amount of training in the 36
handling of missing children and child abuse and neglect cases, 37
and the time within which such basic training shall be completed 38
following such appointment to a probationary term; 39

(5) The requirements of minimum basic training that peace 40
officers not appointed for probationary terms but appointed on 41
other than a permanent basis shall complete in order to be 42
eligible for continued employment or permanent appointment, which 43
requirements shall include a minimum of fifteen hours of training 44
in the handling of the offense of domestic violence, other types 45
of domestic violence-related offenses and incidents, and 46
protection orders and consent agreements issued or approved under 47
section 2919.26 or 3113.31 of the Revised Code, a minimum of six 48
hours of crisis intervention training, and a specified amount of 49
training in the handling of missing children and child abuse and 50
neglect cases, and the time within which such basic training shall 51

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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 employs that undercover drug agent pays the entire cost of the

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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
as the executive director considers necessary, prescribe their
duties, and provide for reimbursement of their expenses within the
amounts available for reimbursement by appropriation and with the
approval of the commission.

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

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

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

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

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

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

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

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

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(1) "Companion animal" means any animal that is kept inside a
residential dwelling and any dog or cat regardless of where it is

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kept. "Companion animal" does not include livestock or any wild animal. 144
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(2) "Cruelty," "torment," and "torture" have the same meanings as in section 1717.01 of the Revised Code. 146
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(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. 148
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(4) "Practice of veterinary medicine" has the same meaning as in section 4741.01 of the Revised Code. 151
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(5) "Wild animal" has the same meaning as in section 1531.01 of the Revised Code. 153
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(6) "Primary enclosure" does not include a carrier designed for transporting one or more animals, while it actually is being used for transporting one or more animals. 155
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(7) "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. 158
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(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. 165
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(C) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following: 168
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(1) Torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against the companion animal; 171
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<u>(2) Fail to provide the companion animal with sufficient quantities of wholesome food and potable water;</u>	174
<u>(3) Fail to provide the companion animal with adequate ventilation and circulation of wholesome air;</u>	175
<u>(4) Fail to provide the companion animal with access to adequate shelter from heat, cold, wind, rain, snow, excessive direct sunlight, or other adverse environmental conditions if it is reasonable to expect that without that shelter the companion animal would become sick or suffer;</u>	176
<u>(5) Fail to provide the companion animal with adequate exercise;</u>	177
<u>(6) Confine the companion animal in a primary enclosure that does not have adequate space in which the companion animal may stand up to its full height, stretch out, turn around, and lie down comfortably.</u>	178
<u>(D) Divisions (B) and (C) of this section do not apply to any of the following:</u>	179
<u>(1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;</u>	180
<u>(2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Chapter 4741. of the Revised Code;</u>	181
<u>(3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs.</u>	182
<u>(E) Notwithstanding any section of the Revised Code that otherwise provides for the distribution of fine moneys, the clerk</u>	183
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of court shall forward all fines the clerk collects that are so 204
imposed for any violation of this section to the treasurer of the 205
political subdivision or the state, whose county humane society or 206
law enforcement agency is to be paid the fine money as determined 207
under this division. The treasurer to whom the fines are forwarded 208
shall pay the fine moneys to the county humane society or the 209
county, township, municipal corporation, or state law enforcement 210
agency in this state that primarily was responsible for or 211
involved in the investigation and prosecution of the violation. If 212
a county humane society receives any fine moneys under this 213
division, the county humane society shall use the fine moneys to 214
provide the training that is required for humane agents under 215
section 1717.06 of the Revised Code. 216

Sec. 959.132. (A) As used in this section: 217

(1) "Companion animal" has the same meaning as in section 218
959.131 of the Revised Code. 219

(2) "Impounding agency" means the county humane society, 220
animal shelter, or law enforcement agency that, in accordance with 221
division (B) or (C) of this section, either has impounded a 222
companion animal or has made regular visits to the place where a 223
companion animal is kept to determine whether it is provided with 224
necessities. 225

(3) "Officer" means any law enforcement officer, agent of a 226
county humane society, dog warden, assistant dog warden, or other 227
person appointed to act as an animal control officer for a county, 228
municipal corporation, or township in accordance with state law, 229
an ordinance, or a resolution. 230

(B) An officer may impound a companion animal if the officer 231
has probable cause to believe that it or other companion animals 232
that are kept by the same person on the premises are the subject 233
of a violation of section 959.131 of the Revised Code and if the 234

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officer has lawful access to the companion animal at the time of
the impoundment. The officer shall give written notice of the
impoundment by posting the notice on the door of the residence on
the premises at which the companion animal was impounded, by
giving it in person to the owner, custodian, or caretaker of the
companion animal, or by otherwise posting the notice in a
conspicuous place on the premises where the companion animal was
seized.

(C) If charges are filed under section 959.131 of the Revised
Code against the custodian or caretaker of a companion animal, but
the companion animal that is the subject of the charges is not
impounded, the court in which the charges are pending may order
the owner or person having custody of the companion animal to
provide to the companion animal the necessities described in
division (C)(2) to (6) of section 959.131 of the Revised Code
until the final disposition of the charges. If the court issues an
order of that nature, the court also may authorize an officer or
another person to visit the place where the companion animal is
being kept, at the times and under the conditions that the court
may set, to determine whether the companion animal is receiving
those necessities and to remove and impound the companion animal
if the companion animal is not receiving those necessities.

(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

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exists to find that the defendant is guilty of a violation of 267
section 959.131 of the Revised Code. A hearing that is conducted 268
under division (D) of this section shall be combined whenever 269
possible with any hearing involving the same pending charges that 270
is authorized and conducted under division (E) of this section. 271

If the court finds at the conclusion of the hearing that 272
probable cause does not exist for finding that the defendant 273
committed a violation and that the defendant otherwise has a right 274
to possession of the impounded companion animals, the court shall 275
order the animals to be returned to the defendant. 276

If the court finds at the conclusion of the hearing that 277
probable cause exists for finding the defendant guilty of a 278
violation with respect to one or more of the impounded companion 279
animals, the court shall do one of the following with respect to 280
each impounded companion animal: 281

(1) Allow the impounding agency to retain custody of the 282
companion animal pending resolution of the underlying charges; 283

(2) Order the companion animal to be returned to the 284
defendant under any conditions and restrictions that the court 285
determines are appropriate to ensure that the companion animal 286
receives humane and adequate care and treatment. 287

(E)(1) At any time that one or more charges are pending under 288
section 959.131 of the Revised Code, an impounding agency may file 289
a motion in the court in which the charges are pending requesting 290
that the defendant post a deposit to cover the costs of caring, 291
during the pendency of the charges, for any impounded companion 292
animals seized or removed from the defendant's custody if the 293
reasonably necessary projected costs of the care that will be 294
provided prior to the final resolution of the charges are 295
estimated to be in excess of one thousand five hundred dollars. 296
The motion shall be accompanied by an affidavit that sets forth an 297

estimate of the reasonably necessary costs that the impounding agency expects to incur in providing that care, which may include, but are not limited to, the necessary cost of veterinary care, medications, food, water, and board for the companion animals during the pendency of the charges. 298
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(2) Within ten days after the date on which a motion is filed under division (E)(1) of this section, the court shall conduct a hearing. Except as otherwise provided in division (E)(5) of this section, at the hearing, the impounding agency has the burden of proving by a preponderance of the evidence that there is probable cause to find that the defendant is guilty of a violation of section 959.131 of the Revised Code and that the reasonably necessary cumulative costs of caring during the pendency of the charges for the companion animals seized or removed from the defendant's custody or control are reasonably projected to exceed one thousand five hundred dollars. 303
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(3) If the court finds at the conclusion of the hearing that probable cause does not exist for finding that the defendant committed a violation of section 959.131 of the Revised Code and that the defendant otherwise has a right to possession of the companion animals, the court shall order the animals to be returned to the defendant. If the court finds at the conclusion of the hearing that probable cause exists for finding that the defendant committed a violation of that section, but that the reasonably necessary costs for caring during the pendency of the charges for the companion animals seized or removed from the defendant's custody or control are reasonably projected to be one thousand five hundred dollars or less, the court shall deny the petitioner's motion to require the defendant to pay a deposit. 314
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If the court finds at the conclusion of the hearing that probable cause exists for finding the defendant guilty of the violation with respect to one or more of the impounded companion 327
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animals and for determining that the reasonably necessary 330
projected costs of caring for the companion animals exceed one 331
thousand five hundred dollars during the pendency of the charges, 332
the court shall do one of the following: 333

(a) Order the defendant to post a deposit with the clerk of 334
the court in a form and in an amount that the court determines is 335
sufficient to cover the cost of care of the companion animals from 336
the date of impoundment until the date of the disposition of the 337
charges; 338

(b) Order one or more of the companion animals to be returned 339
to the defendant under any conditions and restrictions that the 340
court determines to be appropriate to ensure that the companion 341
animals receive humane and adequate care and treatment; 342

(c) Deny the motion of the impounding agency requesting the 343
defendant to post a deposit, but permit the impounding agency to 344
retain custody of one or more of the companion animals pending 345
resolution of the underlying charges. 346

(4) The court may order the defendant to forfeit the right of 347
possession and ownership in one or more of the companion animals 348
to the impounding agency if the defendant fails to comply with the 349
conditions set forth in an order of the court that is rendered 350
under division (E)(3) of this section. If the order that was not 351
complied with required the defendant to post a deposit, forfeiture 352
of the companion animals relieves the defendant of any further 353
obligation to post the deposit. 354

(5)(a) A hearing that is conducted under division (D) of this 355
section shall be combined whenever possible with any hearing 356
involving the same pending charges that is authorized and 357
conducted under division (E) of this section. However, division 358
(E)(5)(b) of this section applies when both of the hearings are 359
conducted and combining them is not possible. 360

(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. 361
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(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 impounding agency incurred in caring for the companion animal during the pendency of the charges. The court shall order the clerk of the court to pay that amount of the deposit to the impounding agency and to dispose of any amount of the deposit that exceeds that amount in the following order: 370
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(a) Pay any fine imposed on the defendant relative to the violation; 380
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(b) Pay any costs ordered against the defendant relative to the violation; 382
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(c) Return any remaining amount to the defendant. 384

(2) If the defendant is found not guilty of violating section 959.131 of the Revised Code or any other offense relating to the care or treatment of a companion animal, the court shall order the clerk of court to return the entire amount of the deposit to the defendant, and the impounding agency shall return the companion animal to the defendant. If the companion animal cannot be returned, the court shall order the impounding agency to pay to 385
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the defendant an amount determined by the court to be equal to the
reasonable market value of the companion animal at the time that
it was impounded plus statutory interest as defined in section
1343.03 of the Revised Code from the date of the impoundment. In
determining the reasonable market value of the companion animal,
the court may consider the condition of the companion animal at
the time that the companion animal was impounded and any change in
the condition of the companion animal after it was impounded.

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

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

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(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.

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(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.

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(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

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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.

(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.

(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
misdemeanor of the first degree on each subsequent offense.

(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.

(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.

(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

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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.

(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.

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

~~(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 felony of the third degree on each subsequent offense.

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

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

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

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.

(b) Division (A)(1)(a) of this section applies to any person

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who is an attorney; physician, including a hospital intern or 518
resident; dentist; podiatrist; practitioner of a limited branch of 519
medicine as specified in section 4731.15 of the Revised Code; 520
registered nurse; licensed practical nurse; visiting nurse; other 521
health care professional; licensed psychologist; licensed school 522
psychologist; speech pathologist or audiologist; coroner; 523
administrator or employee of a child day-care center; 524
administrator or employee of a residential camp or child day camp; 525
administrator or employee of a certified child care agency or 526
other public or private children services agency; school teacher; 527
school employee; school authority; person engaged in social work 528
or the practice of professional counseling; agent of a county 529
humane society; or a person rendering spiritual treatment through 530
prayer in accordance with the tenets of a well-recognized 531
religion. 532

(2) An attorney or a physician is not required to make a 533
report pursuant to division (A)(1) of this section concerning any 534
communication the attorney or physician receives from a client or 535
patient in an attorney-client or physician-patient relationship, 536
if, in accordance with division (A) or (B) of section 2317.02 of 537
the Revised Code, the attorney or physician could not testify with 538
respect to that communication in a civil or criminal proceeding, 539
except that the client or patient is deemed to have waived any 540
testimonial privilege under division (A) or (B) of section 2317.02 541
of the Revised Code with respect to that communication and the 542
attorney or physician shall make a report pursuant to division 543
(A)(1) of this section with respect to that communication, if all 544
of the following apply: 545

(a) The client or patient, at the time of the communication, 546
is either a child under eighteen years of age or a mentally 547
retarded, developmentally disabled, or physically impaired person 548
under twenty-one years of age. 549

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(b) The attorney or physician knows or suspects, as a result 550
of the communication or any observations made during that 551
communication, that the client or patient has suffered or faces a 552
threat of suffering any physical or mental wound, injury, 553
disability, or condition of a nature that reasonably indicates 554
abuse or neglect of the client or patient. 555

(c) The attorney-client or physician-patient relationship 556
does not arise out of the client's or patient's attempt to have an 557
abortion without the notification of her parents, guardian, or 558
custodian in accordance with section 2151.85 of the Revised Code. 559

(B) Anyone, who knows or suspects that a child under eighteen 560
years of age or a mentally retarded, developmentally disabled, or 561
physically impaired person under twenty-one years of age has 562
suffered or faces a threat of suffering any physical or mental 563
wound, injury, disability, or other condition of a nature that 564
reasonably indicates abuse or neglect of the child, may report or 565
cause reports to be made of that knowledge or suspicion to the 566
public children services agency or to a municipal or county peace 567
officer. 568

(C) Any report made pursuant to division (A) or (B) of this 569
section shall be made forthwith either by telephone or in person 570
and shall be followed by a written report, if requested by the 571
receiving agency or officer. The written report shall contain: 572

(1) The names and addresses of the child and the child's 573
parents or the person or persons having custody of the child, if 574
known; 575

(2) The child's age and the nature and extent of the child's 576
known or suspected injuries, abuse, or neglect or of the known or 577
suspected threat of injury, abuse, or neglect, including any 578
evidence of previous injuries, abuse, or neglect; 579

(3) Any other information that might be helpful in 580

establishing the cause of the known or suspected injury, abuse, or neglect or of the known or suspected threat of injury, abuse, or neglect.

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

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

(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.

(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.

(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

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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
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.

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(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.

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(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

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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.

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(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
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(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.

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(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.

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

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(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.

(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.

(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. 707

(J)(1) Each public children services agency shall prepare a 708
memorandum of understanding that is signed by all of the 709
following: 710

(a) If there is only one juvenile judge in the county, the 711
juvenile judge of the county or the juvenile judge's 712
representative; 713

(b) If there is more than one juvenile judge in the county, a 714
juvenile judge or the juvenile judges' representative selected by 715
the juvenile judges or, if they are unable to do so for any 716
reason, the juvenile judge who is senior in point of service or 717
the senior juvenile judge's representative; 718

(c) The county peace officer; 719

(d) All chief municipal peace officers within the county; 720

(e) Other law enforcement officers handling child abuse and 721
neglect cases in the county; 722

(f) The prosecuting attorney of the county; 723

(g) If the public children services agency is not the county 724
department of job and family services, the county department of 725
job and family services; 726

(h) The county humane society. 727

(2) A memorandum of understanding shall set forth the normal 728
operating procedure to be employed by all concerned officials in 729
the execution of their respective responsibilities under this 730
section and division (C) of section 2919.21, division (B)(1) of 731
section 2919.22, division (B) of section 2919.23, and section 732
2919.24 of the Revised Code and shall have as two of its primary 733
goals the elimination of all unnecessary interviews of children 734
who are the subject of reports made pursuant to division (A) or 735
(B) of this section and, when feasible, providing for only one 736

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interview of a child who is the subject of any report made
pursuant to division (A) or (B) of this section. A failure to
follow the procedure set forth in the memorandum by the concerned
officials is not grounds for, and shall not result in, the
dismissal of any charges or complaint arising from any reported
case of abuse or neglect or the suppression of any evidence
obtained as a result of any reported child abuse or child neglect
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.

(3) A memorandum of understanding shall include all of the
following:

(a) The roles and responsibilities for handling emergency and
nonemergency cases of abuse and neglect;

(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.

(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:

(a) Whether the agency has initiated an investigation of the
report;

(b) Whether the agency is continuing to investigate the

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report;	768
(c) Whether the agency is otherwise involved with the child who is the subject of the report;	769 770
(d) The general status of the health and safety of the child who is the subject of the report;	771 772
(e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.	773 774 775
(2) A person may request the information specified in division (K)(1) of this section only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report.	776 777 778 779
When a municipal or county peace officer or employee of a public children services agency receives a report pursuant to division (A) or (B) of this section the recipient of the report shall inform the person of the right to request the information described in division (K)(1) of this section. The recipient of the report shall include in the initial child abuse or child neglect report that the person making the report was so informed and, if provided at the time of the making of the report, shall include the person's name, address, and telephone number in the report.	780 781 782 783 784 785 786 787 788 789
Each request is subject to verification of the identity of the person making the report. If that person's identity is verified, the agency shall provide the person with the information described in division (K)(1) of this section a reasonable number of times, except that the agency shall not disclose any confidential information regarding the child who is the subject of the report other than the information described in those divisions.	790 791 792 793 794 795 796 797
(3) A request made pursuant to division (K)(1) of this	798

section is not a substitute for any report required to be made 799
pursuant to division (A) of this section. 800

(4) If an agency other than the agency that received or was 801
referred the report is conducting the investigation of the report 802
pursuant to section 2151.422 of the Revised Code, the agency 803
conducting the investigation shall comply with the requirements of 804
division (K) of this section. 805

(L) The director of job and family services shall adopt rules 806
in accordance with Chapter 119. of the Revised Code to implement 807
this section. The department of job and family services may enter 808
into a plan of cooperation with any other governmental entity to 809
aid in ensuring that children are protected from abuse and 810
neglect. The department shall make recommendations to the attorney 811
general that the department determines are necessary to protect 812
children from child abuse and child neglect. 813

(M) No later than the end of the day following the day on 814
which a public children services agency receives a report of 815
alleged child abuse or child neglect, or a report of an alleged 816
threat of child abuse or child neglect, that allegedly occurred in 817
or involved an out-of-home care entity, the agency shall provide 818
written notice of the allegations contained in and the person 819
named as the alleged perpetrator in the report to the 820
administrator, director, or other chief administrative officer of 821
the out-of-home care entity that is the subject of the report 822
unless the administrator, director, or other chief administrative 823
officer is named as an alleged perpetrator in the report. If the 824
administrator, director, or other chief administrative officer of 825
an out-of-home care entity is named as an alleged perpetrator in a 826
report of alleged child abuse or child neglect, or a report of an 827
alleged threat of child abuse or child neglect, that allegedly 828
occurred in or involved the out-of-home care entity, the agency 829
shall provide the written notice to the owner or governing board 830

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of the out-of-home care entity that is the subject of the report. 831
The agency shall not provide witness statements or police or other 832
investigative reports. 833

(N) No later than three days after the day on which a public 834
children services agency that conducted the investigation as 835
determined pursuant to section 2151.422 of the Revised Code makes 836
a disposition of an investigation involving a report of alleged 837
child abuse or child neglect, or a report of an alleged threat of 838
child abuse or child neglect, that allegedly occurred in or 839
involved an out-of-home care entity, the agency shall send written 840
notice of the disposition of the investigation to the 841
administrator, director, or other chief administrative officer and 842
the owner or governing board of the out-of-home care entity. The 843
agency shall not provide witness statements or police or other 844
investigative reports. 845

Section 2. That existing sections 109.73, 959.99, 1717.06, 846
and 2151.421 of the Revised Code are hereby repealed. 847