

As Introduced

**129th General Assembly
Regular Session
2011-2012**

H. B. No. 108

Representatives Gerberry, Hagan

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A B I L L

To amend sections 959.131 and 959.99 of the Revised Code to specifically prohibit an owner of a kennel of dogs from committing cruel treatment of a companion animal and to give a prosecutor who prosecutes an owner of a kennel of dogs who commits cruel treatment of a companion animal discretion in prosecuting the owner for the offense. 1
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 959.131 and 959.99 of the Revised Code be amended to read as follows: 9
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Sec. 959.131. (A) As used in this section: 11

(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. 12
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(2) "Cruelty," "torment," and "torture" have the same meanings as in section 1717.01 of the Revised Code. 16
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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 18
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humans for the purpose of a habitation. 20

(4) "Practice of veterinary medicine" has the same meaning as 21
in section 4741.01 of the Revised Code. 22

(5) "Wild animal" has the same meaning as in section 1531.01 23
of the Revised Code. 24

(6) "Federal animal welfare act" means the "Laboratory Animal 25
Act of 1966," Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 26
2131 et seq., as amended by the "Animal Welfare Act of 1970," Pub. 27
L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act 28
Amendments of 1976," Pub. L. No. 94-279, 90 Stat. 417 (1976), and 29
the "Food Security Act of 1985," Pub. L. No. 99-198, 99 Stat. 1354 30
(1985), and as it may be subsequently amended. 31

(7) "Prosecutor" has the same meaning as in section 2935.01 32
of the Revised Code. 33

(B) No person shall knowingly torture, torment, needlessly 34
mutilate or maim, cruelly beat, poison, needlessly kill, or commit 35
an act of cruelty against a companion animal. 36

(C) No person who confines or who is the custodian or 37
caretaker of a companion animal shall negligently do any of the 38
following: 39

(1) Torture, torment, needlessly mutilate or maim, cruelly 40
beat, poison, needlessly kill, or commit an act of cruelty against 41
the companion animal; 42

(2) Deprive the companion animal of necessary sustenance, 43
confine the companion animal without supplying it during the 44
confinement with sufficient quantities of good, wholesome food and 45
water, or impound or confine the companion animal without 46
affording it, during the impoundment or confinement, with access 47
to shelter from heat, cold, wind, rain, snow, or excessive direct 48
sunlight, if it can reasonably be expected that the companion 49

animal would become sick or suffer in any other way as a result of 50
or due to the deprivation, confinement, or impoundment or 51
confinement in any of those specified manners. 52

(D) No owner of a kennel of dogs that is registered under 53
section 955.04 of the Revised Code who confines or is the 54
custodian or caretaker of a companion animal shall negligently do 55
any of the following: 56

(1) Torture, torment, needlessly mutilate or maim, cruelly 57
beat, poison, needlessly kill, or commit an act of cruelty against 58
the companion animal; 59

(2) Deprive the companion animal of necessary sustenance, 60
confine the companion animal without supplying it during the 61
confinement with sufficient quantities of good, wholesome food and 62
water, or impound or confine the companion animal without 63
affording it, during the impoundment or confinement, with access 64
to shelter from heat, cold, wind, rain, snow, or excessive direct 65
sunlight, if it can reasonably be expected that the companion 66
animal would become sick or suffer in any other way as a result of 67
or due to the deprivation, confinement, or impoundment or 68
confinement in any of those specified manners. 69

(E) If the owner of a kennel of dogs that is registered under 70
section 955.04 of the Revised Code violates divisions (C) and (D) 71
of this section, the prosecutor in the case, in the prosecutor's 72
discretion, may prosecute the owner of a kennel of dogs for a 73
violation of either division (C) or (D) of this section. 74

(F) Divisions (B) ~~and~~, (C), and (D) of this section do not 75
apply to any of the following: 76

(1) A companion animal used in scientific research conducted 77
by an institution in accordance with the federal animal welfare 78
act and related regulations; 79

(2) The lawful practice of veterinary medicine by a person 80

who has been issued a license, temporary permit, or registration certificate to do so under Chapter 4741. of the Revised Code; 81 82

(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; 83 84 85 86

(4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals; 87 88 89

(5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Chapter 4741. of the Revised Code. 90 91 92 93

~~(E)~~(G) Notwithstanding any section of the Revised Code that otherwise provides for the distribution of fine moneys, the clerk of court shall forward all fines the clerk collects that are so 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. 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108

Sec. 959.99. (A) Whoever violates section 959.18 or 959.19 of the Revised Code is guilty of a minor misdemeanor. 109 110

(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.

(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.

(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.

(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) Whoever violates division (D) of section 959.131 of the
Revised Code is guilty of a felony of the fifth degree.

(4)(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)~~(5) 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.

(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.

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

(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.

Section 2. That existing sections 959.131 and 959.99 of the Revised Code are hereby repealed.