

As Reported by the House Criminal Justice Committee

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Representatives Gerberry, Hagan, R.

Cosponsors: Representatives Weddington, Winburn, Garland

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A B I L L

To amend sections 959.131, 959.132, and 959.99 of the Revised Code to specifically prohibit an owner, manager, or employee of a kennel of dogs from committing cruel treatment of a companion animal, to give a prosecutor who prosecutes an owner, manager, or employee of a kennel of dogs who commits cruel treatment of a companion animal discretion in prosecuting the owner, manager, or employee for the offense, and to remove certain language regarding the negligent treatment of companion animals.

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

Section 1. That sections 959.131, 959.132, and 959.99 of the Revised Code be amended to read as follows:

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

(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.

(2) "Cruelty," "torment," and "torture" have the same

meanings as in section 1717.01 of the Revised Code. 20

(3) "Residential dwelling" means a structure or shelter or 21
the portion of a structure or shelter that is used by one or more 22
humans for the purpose of a habitation. 23

(4) "Practice of veterinary medicine" has the same meaning as 24
in section 4741.01 of the Revised Code. 25

(5) "Wild animal" has the same meaning as in section 1531.01 26
of the Revised Code. 27

(6) "Federal animal welfare act" means the "Laboratory Animal 28
Act of 1966," Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 29
2131 et seq., as amended by the "Animal Welfare Act of 1970," Pub. 30
L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act 31
Amendments of 1976," Pub. L. No. 94-279, 90 Stat. 417 (1976), and 32
the "Food Security Act of 1985," Pub. L. No. 99-198, 99 Stat. 1354 33
(1985), and as it may be subsequently amended. 34

(7) "Prosecutor" has the same meaning as in section 2935.01 35
of the Revised Code. 36

(B) No person shall knowingly torture, torment, needlessly 37
mutilate or maim, cruelly beat, poison, needlessly kill, or commit 38
an act of cruelty against a companion animal. 39

(C) No person who confines or who is the custodian or 40
caretaker of a companion animal shall negligently ~~do any of the~~ 41
~~following:~~ 42

~~(1) Torture, torment, needlessly mutilate or maim, cruelly 43
beat, poison, needlessly kill, or commit an act of cruelty against 44
the companion animal;~~ 45

~~(2) Deprive deprive the companion animal of necessary 46
sustenance, confine the companion animal without supplying it 47
during the confinement with sufficient quantities of good, 48
wholesome food and water, or impound or confine the companion 49~~

animal without affording it, during the impoundment or 50
confinement, with access to shelter from heat, cold, wind, rain, 51
snow, or excessive direct sunlight, if it can reasonably be 52
expected that the companion animal would become sick or suffer in 53
any other way as a result of or due to the deprivation, 54
confinement, or impoundment or confinement in any of those 55
specified manners. 56

(D) No owner, manager, or employee of a kennel of dogs that 57
is registered under section 955.04 of the Revised Code who 58
confines or is the custodian or caretaker of a companion animal 59
shall knowingly do any of the following: 60

(1) Torture, torment, needlessly mutilate or maim, cruelly 61
beat, poison, needlessly kill, or commit an act of cruelty against 62
the companion animal; 63

(2) Deprive the companion animal of necessary sustenance, 64
confine the companion animal without supplying it during the 65
confinement with sufficient quantities of good, wholesome food and 66
water, or impound or confine the companion animal without 67
affording it, during the impoundment or confinement, with access 68
to shelter from heat, cold, wind, rain, snow, or excessive direct 69
sunlight, if it can reasonably be expected that the companion 70
animal would become sick or suffer in any other way as a result of 71
or due to the deprivation, confinement, or impoundment or 72
confinement in any of those specified manners. 73

(E) No owner, manager, or employee of a kennel of dogs that 74
is registered under section 955.04 of the Revised Code who 75
confines or is the custodian or caretaker of a companion animal 76
shall negligently do any of the following: 77

(1) Harm, injure, harass, or cause the death of the companion 78
animal; 79

(2) Deprive the companion animal of necessary sustenance, 80

confine the companion animal without supplying it during the 81
confinement with sufficient quantities of good, wholesome food and 82
water, or impound or confine the companion animal without 83
affording it, during the impoundment or confinement, with access 84
to shelter from heat, cold, wind, rain, snow, or excessive direct 85
sunlight, if it can reasonably be expected that the companion 86
animal would become sick or suffer in any other way as a result of 87
or due to the deprivation, confinement, or impoundment or 88
confinement in any of those specified manners. 89

(F) If the owner, manager, or employee of a kennel of dogs 90
that is registered under section 955.04 of the Revised Code 91
violates divisions (B) and (D)(1) of this section, the prosecutor 92
in the case, in the prosecutor's discretion, may prosecute the 93
owner, manager, or employee of the kennel of dogs for a violation 94
of either division (B) or (D)(1) of this section. 95

(G) If the owner, manager, or employee of a kennel of dogs 96
that is registered under section 955.04 of the Revised Code 97
violates divisions (C) and (E) of this section, the prosecutor in 98
the case, in the prosecutor's discretion, may prosecute the owner, 99
manager, or employee of the kennel of dogs for a violation of 100
either division (C) or (E) of this section. 101

(H) Divisions (B) and, (C), (D), and (E) of this section do 102
not apply to any of the following: 103

(1) A companion animal used in scientific research conducted 104
by an institution in accordance with the federal animal welfare 105
act and related regulations; 106

(2) The lawful practice of veterinary medicine by a person 107
who has been issued a license, temporary permit, or registration 108
certificate to do so under Chapter 4741. of the Revised Code; 109

(3) Dogs being used or intended for use for hunting or field 110
trial purposes, provided that the dogs are being treated in 111

accordance with usual and commonly accepted practices for the care 112
of hunting dogs; 113

(4) The use of common training devices, if the companion 114
animal is being treated in accordance with usual and commonly 115
accepted practices for the training of animals; 116

(5) The administering of medicine to a companion animal that 117
was properly prescribed by a person who has been issued a license, 118
temporary permit, or registration certificate under Chapter 4741. 119
of the Revised Code. 120

~~(E)~~(I) Notwithstanding any section of the Revised Code that 121
otherwise provides for the distribution of fine moneys, the clerk 122
of court shall forward all fines the clerk collects that are so 123
imposed for any violation of this section to the treasurer of the 124
political subdivision or the state, whose county humane society or 125
law enforcement agency is to be paid the fine money as determined 126
under this division. The treasurer to whom the fines are forwarded 127
shall pay the fine moneys to the county humane society or the 128
county, township, municipal corporation, or state law enforcement 129
agency in this state that primarily was responsible for or 130
involved in the investigation and prosecution of the violation. If 131
a county humane society receives any fine moneys under this 132
division, the county humane society shall use the fine moneys to 133
provide the training that is required for humane agents under 134
section 1717.06 of the Revised Code. 135

Sec. 959.132. (A) As used in this section: 136

(1) "Companion animal" has the same meaning as in section 137
959.131 of the Revised Code. 138

(2) "Impounding agency" means a county humane society 139
organized under section 1717.05 of the Revised Code, an animal 140
shelter, or a law enforcement agency that has impounded a 141

companion animal in accordance with this section. 142

(3) "Offense" means a violation of section 959.131 of the 143
Revised Code or an attempt, in violation of section 2923.02 of the 144
Revised Code, to violate section 959.131 of the Revised Code. 145

(4) "Officer" means any law enforcement officer, agent of a 146
county humane society, or other person appointed to act as an 147
animal control officer for a municipal corporation or township in 148
accordance with state law, an ordinance, or a resolution. 149

(B) An officer may seize and cause to be impounded at an 150
impounding agency a companion animal that the officer has probable 151
cause to believe is the subject of an offense. No officer or 152
impounding agency shall impound a companion animal that is the 153
subject of an offense in a shelter owned, operated, or controlled 154
by a board of county commissioners pursuant to Chapter 955. of the 155
Revised Code unless the board, by resolution, authorizes the 156
impoundment of such a companion animal in a shelter owned, 157
operated, or controlled by that board and has executed, in the 158
case when the officer is other than a dog warden or assistant dog 159
warden, a contract specifying the terms and conditions of the 160
impoundment. 161

(C) The officer shall give written notice of the seizure and 162
impoundment to the owner, keeper, or harbinger of the companion 163
animal that was seized and impounded. If the officer is unable to 164
give the notice to the owner, keeper, or harbinger of the companion 165
animal, the officer shall post the notice on the door of the 166
residence or in another conspicuous place on the premises at which 167
the companion animal was seized. The notice shall include a 168
statement that a hearing will be held not later than ten days 169
after the notice is provided or at the next available court date 170
to determine whether the officer had probable cause to seize the 171
companion animal and, if applicable, to determine the amount of a 172
bond or cash deposit that is needed to provide for the companion 173

animal's care and keeping for not less than thirty days beginning 174
on the date on which the companion animal was impounded. 175

(D) A companion animal that is seized under this section may 176
be humanely destroyed immediately or at any time during 177
impoundment if a licensed veterinarian determines it to be 178
necessary because the companion animal is suffering. 179

(E)(1) Not later than ten days after notice is provided or at 180
the next available court date, the court shall hold a hearing to 181
determine whether the officer impounding a companion animal had 182
probable cause to seize the companion animal. If the court 183
determines that probable cause exists, the court shall determine 184
the amount of a bond or cash deposit that is needed to provide for 185
the companion animal's care and keeping for not less than thirty 186
days beginning on the date on which the companion animal was 187
impounded. 188

(2) If the court determines that probable cause does not 189
exist, the court immediately shall order the impounding agency to 190
return the companion animal to its owner if possible. If the 191
companion animal cannot be returned because it has died as a 192
result of neglect or other misconduct by the impounding agency or 193
if the companion animal is injured as a result of neglect or other 194
misconduct by the impounding agency, the court shall order the 195
impounding agency to pay the owner an amount determined by the 196
court to be equal to the reasonable market value of the companion 197
animal at the time that it was impounded plus statutory interest 198
as defined in section 1343.03 of the Revised Code from the date of 199
the impoundment or an amount determined by the court to be equal 200
to the reasonable cost of treatment of the injury to the companion 201
animal, as applicable. The requirement established in division 202
(E)(2) of this section regarding the payment of the reasonable 203
market value of the companion animal shall not apply in the case 204
of a dog that, in violation of section 955.01 of the Revised Code, 205

was not registered at the time it was seized and impounded. 206

(3) If the court determines that probable cause exists and 207
determines the amount of a bond or cash deposit, the case shall 208
continue and the owner shall post a bond or cash deposit to 209
provide for the companion animal's care and keeping for not less 210
than thirty days beginning on the date on which the companion 211
animal was impounded. The owner may renew a bond or cash deposit 212
by posting, not later than ten days following the expiration of 213
the period for which a previous bond or cash deposit was posted, a 214
new bond or cash deposit in an amount that the court, in 215
consultation with the impounding agency, determines is sufficient 216
to provide for the companion animal's care and keeping for not 217
less than thirty days beginning on the date on which the previous 218
period expired. If no bond or cash deposit is posted or if a bond 219
or cash deposit expires and is not renewed, the impounding agency 220
may determine the disposition of the companion animal unless the 221
court issues an order that specifies otherwise. 222

(F) If a person is convicted of committing an offense, the 223
court may impose the following additional penalties against the 224
person: 225

(1) A requirement that the person pay for the costs incurred 226
by the impounding agency in caring for a companion animal involved 227
in the applicable offense, provided that the costs were incurred 228
during the companion animal's impoundment. A bond or cash deposit 229
posted under this section may be applied to the costs. 230

(2) An order permanently terminating the person's right to 231
possession, title, custody, or care of the companion animal that 232
was involved in the offense. If the court issues such an order, 233
the court shall order the disposition of the companion animal. 234

(G) If a person is found not guilty of committing an offense, 235
the court immediately shall order the impounding agency to return 236

the companion animal to its owner if possible and to return the 237
entire amount of any bond or cash deposit posted under division 238
(E) of this section. If the companion animal cannot be returned 239
because it has died as a result of neglect or other misconduct by 240
the impounding agency or if the companion animal is injured as a 241
result of neglect or other misconduct by the impounding agency, 242
the court shall order the impounding agency to pay the owner an 243
amount determined by the court to be equal to the reasonable 244
market value of the companion animal at the time that it was 245
impounded plus statutory interest as defined in section 1343.03 of 246
the Revised Code from the date of the impoundment or an amount 247
determined by the court to be equal to the reasonable cost of 248
treatment of the injury to the companion animal, as applicable. 249
The requirements established in this division regarding the return 250
of a bond or cash deposit and the payment of the reasonable market 251
value of the companion animal shall not apply in the case of a dog 252
that, in violation of section 955.01 of the Revised Code, was not 253
registered at the time it was seized and impounded. 254

(H) If charges are filed under section 959.131 of the Revised 255
Code against the custodian or caretaker of a companion animal, but 256
the companion animal that is the subject of the charges is not 257
impounded, the court in which the charges are pending may order 258
the owner or person having custody of the companion animal to 259
provide to the companion animal the necessities described in 260
division (C)~~(2)~~ of section 959.131 of the Revised Code until the 261
final disposition of the charges. If the court issues an order of 262
that nature, the court also may authorize an officer or another 263
person to visit the place where the companion animal is being 264
kept, at the times and under the conditions that the court may 265
set, to determine whether the companion animal is receiving those 266
necessities and to remove and impound the companion animal if the 267
companion animal is not receiving those necessities. 268

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

(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. 299
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(4) Whoever violates division (E) of section 959.131 of the Revised Code is guilty of a misdemeanor of the first degree. 301
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(5)(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. 303
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(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. 310
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~~(4)~~(6) 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. 317
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(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. 325
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(G) Whoever violates section 959.05 or 959.20 of the Revised Code is guilty of a misdemeanor of the first degree. 328
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(H) Whoever violates section 959.16 of the Revised Code is 330
guilty of a felony of the fourth degree for a first offense and a 331
felony of the third degree on each subsequent offense. 332

Section 2. That existing sections 959.131, 959.132, and 333
959.99 of the Revised Code are hereby repealed. 334