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Sub. H. B. No. 138

Representative Gerberry

**Cosponsors: Representatives Hagan, R., Fedor, Yuko, Letson, Phillips,
Antonio, Beck, Blair, Brenner, Carney, Celeste, Clyde, Combs, Fende, Foley,
Garland, Goyal, Luckie, Lundy, Mallory, Milkovich, Murray, O'Brien, Ramos,
Slesnick, Szollosi, Williams, Winburn Speaker Batchelder**

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A B I L L

To amend sections 109.73, 317.08, 959.131, 1717.01, 1
1717.04, 1717.06, and 1717.09 of the Revised Code 2
to require an individual to file proof of 3
successful completion of training with the county 4
recorder prior to being appointed as a humane 5
society agent and to require the revocation or 6
suspension of an appointment under certain 7
circumstances. 8

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

Section 1. That sections 109.73, 317.08, 959.131, 1717.01, 9
1717.04, 1717.06, and 1717.09 of the Revised Code be amended to 10
read as follows: 11

Sec. 109.73. (A) The Ohio peace officer training commission 12
shall recommend rules to the attorney general with respect to all 13
of the following: 14

(1) The approval, or revocation of approval, of peace officer 15
training schools administered by the state, counties, municipal 16

corporations, public school districts, technical college 17
districts, and the department of natural resources; 18

(2) Minimum courses of study, attendance requirements, and 19
equipment and facilities to be required at approved state, county, 20
municipal, and department of natural resources peace officer 21
training schools; 22

(3) Minimum qualifications for instructors at approved state, 23
county, municipal, and department of natural resources peace 24
officer training schools; 25

(4) The requirements of minimum basic training that peace 26
officers appointed to probationary terms shall complete before 27
being eligible for permanent appointment, which requirements shall 28
include training in the handling of the offense of domestic 29
violence, other types of domestic violence-related offenses and 30
incidents, and protection orders and consent agreements issued or 31
approved under section 2919.26 or 3113.31 of the Revised Code; 32
crisis intervention training; and training in the handling of 33
missing children and child abuse and neglect cases; and the time 34
within which such basic training shall be completed following 35
appointment to a probationary term; 36

(5) The requirements of minimum basic training that peace 37
officers not appointed for probationary terms but appointed on 38
other than a permanent basis shall complete in order to be 39
eligible for continued employment or permanent appointment, which 40
requirements shall include training in the handling of the offense 41
of domestic violence, other types of domestic violence-related 42
offenses and incidents, and protection orders and consent 43
agreements issued or approved under section 2919.26 or 3113.31 of 44
the Revised Code, crisis intervention training, and training in 45
the handling of missing children and child abuse and neglect 46
cases, and the time within which such basic training shall be 47
completed following appointment on other than a permanent basis; 48

(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; who are appointed and commissioned as bank, savings and loan association, savings bank, credit union, or association of banks, savings and loan associations, savings banks, or credit unions police officers, as railroad police officers, or as hospital police officers pursuant to sections 4973.17 to 4973.22 of the Revised Code; or who are appointed and commissioned as amusement park police officers pursuant to section 4973.17 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; bank, savings and loan association, savings bank, credit union, or association of banks, savings and loan associations, savings banks, or credit unions; railroad company; hospital; or amusement park 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 81
training academy, and to receive certificates of satisfactory 82
completion of basic training programs, if, for each undercover 83
drug agent, the county, township, or municipal corporation that 84
employs that undercover drug agent pays the entire cost of the 85
training and certification; 86

(9)(a) The requirements for basic training programs for 87
bailiffs and deputy bailiffs of courts of record of this state and 88
for criminal investigators employed by the state public defender 89
that those persons shall complete before they may carry a firearm 90
while on duty; 91

(b) The requirements for any training received by a bailiff 92
or deputy bailiff of a court of record of this state or by a 93
criminal investigator employed by the state public defender prior 94
to June 6, 1986, that is to be considered equivalent to the 95
training described in division (A)(9)(a) of this section. 96

(10) Establishing minimum qualifications and requirements for 97
certification for dogs utilized by law enforcement agencies; 98

(11) Establishing minimum requirements for certification of 99
persons who are employed as correction officers in a full-service 100
jail, five-day facility, or eight-hour holding facility or who 101
provide correction services in such a jail or facility; 102

(12) Establishing requirements for the training of agents of 103
a county humane society under section 1717.06 of the Revised Code, 104
including, without limitation, a requirement that the agents 105
receive instruction on traditional animal husbandry methods and 106
training techniques, including customary owner-performed 107
practices. 108

(B) The commission shall appoint an executive director, with 109
the approval of the attorney general, who shall hold office during 110
the pleasure of the commission. The executive director shall 111

perform such duties assigned by the commission. The executive 112
director shall receive a salary fixed pursuant to Chapter 124. of 113
the Revised Code and reimbursement for expenses within the amounts 114
available by appropriation. The executive director may appoint 115
officers, employees, agents, and consultants as the executive 116
director considers necessary, prescribe their duties, and provide 117
for reimbursement of their expenses within the amounts available 118
for reimbursement by appropriation and with the approval of the 119
commission. 120

(C) The commission may do all of the following: 121

(1) Recommend studies, surveys, and reports to be made by the 122
executive director regarding the carrying out of the objectives 123
and purposes of sections 109.71 to 109.77 of the Revised Code; 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 testing; 137

(6) Perform such other acts as are necessary or appropriate 138
to carry out the powers and duties of the commission as set forth 139
in sections 109.71 to 109.77 of the Revised Code. 140

(D) In establishing the requirements, under division (A)(12) 141

of this section, the commission may consider any portions of the 142
curriculum for instruction on the topic of animal husbandry 143
practices, if any, of the Ohio state university college of 144
veterinary medicine and the standards of care of livestock adopted 145
by the Ohio livestock care standards board. No person or entity 146
that fails to provide instruction on traditional animal husbandry 147
methods and training techniques, including customary 148
owner-performed practices, shall qualify to train a humane society 149
agent for appointment under section 1717.06 of the Revised Code. 150

Sec. 317.08. (A) Except as provided in divisions (C) and (D) 151
of this section, the county recorder shall keep ~~six~~ seven separate 152
sets of records as follows: 153

(1) A record of deeds, in which shall be recorded all deeds 154
and other instruments of writing for the absolute and 155
unconditional sale or conveyance of lands, tenements, and 156
hereditaments; all notices as provided in sections 5301.47 to 157
5301.56 of the Revised Code; all judgments or decrees in actions 158
brought under section 5303.01 of the Revised Code; all 159
declarations and bylaws, and all amendments to declarations and 160
bylaws, as provided in Chapter 5311. of the Revised Code; 161
affidavits as provided in sections 5301.252 and 5301.56 of the 162
Revised Code; all certificates as provided in section 5311.17 of 163
the Revised Code; all articles dedicating archaeological preserves 164
accepted by the director of the Ohio historical society under 165
section 149.52 of the Revised Code; all articles dedicating nature 166
preserves accepted by the director of natural resources under 167
section 1517.05 of the Revised Code; all agreements for the 168
registration of lands as archaeological or historic landmarks 169
under section 149.51 or 149.55 of the Revised Code; all 170
conveyances of conservation easements and agricultural easements 171
under section 5301.68 of the Revised Code; all instruments 172
extinguishing agricultural easements under section 901.21 or 173

5301.691 of the Revised Code or pursuant to terms of such an 174
easement granted to a charitable organization under section 175
5301.68 of the Revised Code; all instruments or orders described 176
in division (B)(2)(b) of section 5301.56 of the Revised Code; all 177
no further action letters issued under section 122.654 or 3746.11 178
of the Revised Code; all covenants not to sue issued under section 179
3746.12 of the Revised Code, including all covenants not to sue 180
issued pursuant to section 122.654 of the Revised Code; any 181
restrictions on the use of property contained in a no further 182
action letter issued under section 122.654 of the Revised Code, 183
any restrictions on the use of property identified pursuant to 184
division (C)(3)(a) of section 3746.10 of the Revised Code, and any 185
restrictions on the use of property contained in a deed or other 186
instrument as provided in division (E) or (F) of section 3737.882 187
of the Revised Code; any easement executed or granted under 188
section 3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code; 189
any environmental covenant entered into in accordance with 190
sections 5301.80 to 5301.92 of the Revised Code; all memoranda of 191
trust, as described in division (A) of section 5301.255 of the 192
Revised Code, that describe specific real property; and all 193
agreements entered into under division (A) of section 1506.44 of 194
the Revised Code; 195

(2) A record of mortgages, in which shall be recorded all of 196
the following: 197

(a) All mortgages, including amendments, supplements, 198
modifications, and extensions of mortgages, or other instruments 199
of writing by which lands, tenements, or hereditaments are or may 200
be mortgaged or otherwise conditionally sold, conveyed, affected, 201
or encumbered; 202

(b) All executory installment contracts for the sale of land 203
executed after September 29, 1961, that by their terms are not 204
required to be fully performed by one or more of the parties to 205

them within one year of the date of the contracts;	206
(c) All options to purchase real estate, including	207
supplements, modifications, and amendments of the options, but no	208
option of that nature shall be recorded if it does not state a	209
specific day and year of expiration of its validity;	210
(d) Any tax certificate sold under section 5721.33 of the	211
Revised Code, or memorandum of it, that is presented for filing of	212
record.	213
(3) A record of powers of attorney, including all memoranda	214
of trust, as described in division (A) of section 5301.255 of the	215
Revised Code, that do not describe specific real property;	216
(4) A record of plats, in which shall be recorded all plats	217
and maps of town lots, of the subdivision of town lots, and of	218
other divisions or surveys of lands, any center line survey of a	219
highway located within the county, the plat of which shall be	220
furnished by the director of transportation or county engineer,	221
and all drawings and amendments to drawings, as provided in	222
Chapter 5311. of the Revised Code;	223
(5) A record of leases, in which shall be recorded all	224
leases, memoranda of leases, and supplements, modifications, and	225
amendments of leases and memoranda of leases;	226
(6) A record of declarations executed pursuant to section	227
2133.02 of the Revised Code and durable powers of attorney for	228
health care executed pursuant to section 1337.12 of the Revised	229
Code;	230
<u>(7) Proof of successful completion of training by humane</u>	231
<u>society agents as required in section 1717.06 of the Revised Code.</u>	232
(B) All instruments or memoranda of instruments entitled to	233
record shall be recorded in the proper record in the order in	234
which they are presented for record. The recorder may index, keep,	235

and record in one volume unemployment compensation liens, internal 236
revenue tax liens and other liens in favor of the United States as 237
described in division (A) of section 317.09 of the Revised Code, 238
personal tax liens, mechanic's liens, agricultural product liens, 239
notices of liens, certificates of satisfaction or partial release 240
of estate tax liens, discharges of recognizances, excise and 241
franchise tax liens on corporations, broker's liens, and liens 242
provided for in sections 1513.33, 1513.37, 3752.13, 5111.022, and 243
5311.18 of the Revised Code. 244

The recording of an option to purchase real estate, including 245
any supplement, modification, and amendment of the option, under 246
this section shall serve as notice to any purchaser of an interest 247
in the real estate covered by the option only during the period of 248
the validity of the option as stated in the option. 249

(C) In lieu of keeping the ~~six~~ seven separate sets of records 250
required in divisions (A)(1) to ~~(6)~~(7) of this section and the 251
records required in division (D) of this section, a county 252
recorder may record all the instruments required to be recorded by 253
this section in two separate sets of record books. One set shall 254
be called the "official records" and shall contain the instruments 255
listed in divisions (A)(1), (2), (3), (5), (6), and ~~(6)~~(7) and (D) 256
of this section. The second set of records shall contain the 257
instruments listed in division (A)(4) of this section. 258

(D) Except as provided in division (C) of this section, the 259
county recorder shall keep a separate set of records containing 260
all corrupt activity lien notices filed with the recorder pursuant 261
to section 2923.36 of the Revised Code and a separate set of 262
records containing all medicaid fraud lien notices filed with the 263
recorder pursuant to section 2933.75 of the Revised Code. 264

Sec. 959.131. (A) As used in this section: 265

(1) "Companion animal" means any animal that is kept inside a 266

residential dwelling and any dog or cat regardless of where it is 267
kept. "Companion animal" does not include livestock or any wild 268
animal. 269

(2) "Cruelty," "torment," and "torture" have the same 270
meanings as in section 1717.01 of the Revised Code. 271

(3) "Residential dwelling" means a structure or shelter or 272
the portion of a structure or shelter that is used by one or more 273
humans for the purpose of a habitation. 274

(4) "Practice of veterinary medicine" has the same meaning as 275
in section 4741.01 of the Revised Code. 276

(5) "Wild animal" has the same meaning as in section 1531.01 277
of the Revised Code. 278

(6) "Federal animal welfare act" means the "Laboratory Animal 279
Act of 1966," Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 280
2131 et seq., as amended by the "Animal Welfare Act of 1970," Pub. 281
L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act 282
Amendments of 1976," Pub. L. No. 94-279, 90 Stat. 417 (1976), and 283
the "Food Security Act of 1985," Pub. L. No. 99-198, 99 Stat. 1354 284
(1985), and as it may be subsequently amended. 285

(B) No person shall knowingly torture, torment, needlessly 286
mutilate or maim, cruelly beat, poison, needlessly kill, or commit 287
an act of cruelty against a companion animal. 288

(C) No person who confines or who is the custodian or 289
caretaker of a companion animal shall negligently do any of the 290
following: 291

(1) Torture, torment, needlessly mutilate or maim, cruelly 292
beat, poison, needlessly kill, or commit an act of cruelty against 293
the companion animal; 294

(2) Deprive the companion animal of necessary sustenance, 295
confine the companion animal without supplying it during the 296

confinement with sufficient quantities of good, wholesome food and 297
water, or impound or confine the companion animal without 298
affording it, during the impoundment or confinement, with access 299
to shelter from heat, cold, wind, rain, snow, or excessive direct 300
sunlight, if it can reasonably be expected that the companion 301
animal would become sick or suffer in any other way as a result of 302
or due to the deprivation, confinement, or impoundment or 303
confinement in any of those specified manners. 304

(D) Divisions (B) and (C) of this section do not apply to any 305
of the following: 306

(1) A companion animal used in scientific research conducted 307
by an institution in accordance with the federal animal welfare 308
act and related regulations; 309

(2) The lawful practice of veterinary medicine by a person 310
who has been issued a license, temporary permit, or registration 311
certificate to do so under Chapter 4741. of the Revised Code; 312

(3) Dogs being used or intended for use for hunting or field 313
trial purposes, provided that the dogs are being treated in 314
accordance with usual and commonly accepted practices for the care 315
of hunting dogs; 316

(4) The use of common training devices, if the companion 317
animal is being treated in accordance with usual and commonly 318
accepted practices for the training of animals; 319

(5) The administering of medicine to a companion animal that 320
was properly prescribed by a person who has been issued a license, 321
temporary permit, or registration certificate under Chapter 4741. 322
of the Revised Code. 323

(E) Notwithstanding any section of the Revised Code that 324
otherwise provides for the distribution of fine moneys, the clerk 325
of court shall forward all fines the clerk collects that are so 326
imposed for any violation of this section to the treasurer of the 327

political subdivision or the state, whose county humane society or 328
law enforcement agency is to be paid the fine money as determined 329
under this division. The treasurer to whom the fines are forwarded 330
shall pay the fine moneys to the county humane society or the 331
county, township, municipal corporation, or state law enforcement 332
agency in this state that primarily was responsible for or 333
involved in the investigation and prosecution of the violation. If 334
a county humane society receives any fine moneys under this 335
division, the county humane society shall use the fine moneys to 336
provide the training that is required for humane society agents 337
under section 1717.06 of the Revised Code. 338

Sec. 1717.01. As used in ~~sections 1717.01 to 1717.14,~~ 339
~~inclusive, of the Revised Code,~~ this chapter and in every law 340
relating to animals: 341

(A) "Animal" includes every living dumb creature~~+~~. 342

(B) "Cruelty," "torment," and "torture" include every act, 343
omission, or neglect by which unnecessary or unjustifiable pain or 344
suffering is caused, permitted, or allowed to continue, when there 345
is a reasonable remedy or relief~~+~~. 346

(C) "Humane society agent" or "agent" means an individual who 347
complies with, and is appointed by a county humane society under, 348
section 1717.06 of the Revised Code for the purpose of 349
investigating any person who is accused of an act of cruelty to 350
animals, regardless of the title that is given to the individual. 351

(D) "Owner" and "person" include corporations. For the 352
purpose of this section the knowledge and acts of the agents and 353
employees of a corporation, in regard to animals transported, 354
owned, or employed by, or in the custody of, such agents and 355
employees, are the knowledge and acts of the corporation. 356

Sec. 1717.04. The Ohio humane society may appoint agents, in 357

any county where no active county humane society exists under 358
section 1717.05 of the Revised Code, to represent it and to 359
receive and account for all funds coming to it from fines or 360
otherwise, and may also appoint agents at large to prosecute its 361
work throughout the state. Such agents may arrest any person found 362
violating any law for the protection of ~~persons or~~ animals, or the 363
prevention of cruelty thereto. Upon making ~~such an~~ an arrest, the 364
agent forthwith shall convey the person arrested before some court 365
or magistrate having jurisdiction of the offense, and there make 366
complaint against ~~him~~ the person. 367

Such agents shall not make such arrests within a municipal 368
corporation unless their appointment has been approved by the 369
mayor of the municipal corporation, or within a county beyond the 370
limits of a municipal corporation unless their appointment has 371
been approved by the probate judge of the county. ~~Such~~ The mayor 372
or probate judge shall keep a record of such appointments. 373

Sec. 1717.06. (A)(1) A county humane society organized under 374
section 1717.05 of the Revised Code may appoint agents, who are 375
residents of the county or municipal corporation for which the 376
appointment is made, ~~for the purpose of prosecuting any person~~ 377
~~guilty of an act of cruelty to persons or animals~~. Such agents may 378
arrest any person found violating this chapter or any other law 379
for protecting ~~persons or~~ animals or preventing acts of cruelty 380
thereto. Upon making an arrest, the agent forthwith shall convey 381
the person arrested before some court or magistrate having 382
jurisdiction of the offense, and there make complaint against the 383
person on oath or affirmation of the offense. 384

(2) All appointments of agents under this section shall be 385
approved by the mayor of the municipal corporation for which they 386
are made. If the society exists outside a municipal corporation, 387
such appointments shall be approved by the probate judge of the 388

county for which they are made. The mayor or probate judge shall 389
keep a record of such ~~appointments~~ approvals. 390

(B) In order to qualify for appointment as a humane society 391
agent under this section, ~~a person~~: 392

(1) An individual first shall successfully complete a minimum 393
of twenty hours of training on issues relating to the 394
investigation and prosecution of cruelty to and neglect of 395
animals. The training shall comply with rules recommended by the 396
peace officer training commission under section 109.73 of the 397
Revised Code and shall include, without limitation, instruction 398
regarding animal husbandry practices as described in division 399
(A)(12) of that section. ~~A person~~ Proof of successful completion 400
of training shall be signed by the chief executive officer of the 401
organization or entity that provided the training and by the head 402
of the county humane society appointing the agent. An individual 403
who has been appointed as a humane society agent under this 404
section prior to ~~the effective date of this amendment~~ April 9, 405
2003, may continue to act as a humane society agent for a period 406
of time on and after ~~the effective date of this amendment~~ April 9, 407
2003, without completing the training. However, on or before 408
December 31, 2004, ~~a person~~ an individual who has been appointed 409
as a humane society agent under this section prior to ~~the~~ 410
~~effective date of this amendment~~ April 9, 2003, shall successfully 411
complete the training described in this paragraph and submit proof 412
of its successful completion to the appropriate ~~appointing~~ mayor 413
or probate judge who approved the appointment in order to continue 414
to act as a humane society agent after December 31, 2004. 415

(2) Second, the individual shall present proof of successful 416
completion of training that is signed as required under division 417
(B)(1) of this section, to the appropriate mayor or probate judge 418
for approval. Proof of successful completion of training shall be 419
signed by the appropriate mayor or probate judge before the proof 420

is filed under division (B)(3) of this section. 421

(3) Lastly, the individual shall file proof of successful 422
completion of training that is signed as required under divisions 423
(B)(1) and (2) of this section, with the county recorder in 424
accordance with section 317.08 of the Revised Code. 425

An appointment is not final until the day proof of successful 426
completion of training is filed with the county recorder under 427
this division. The fee charged by the county recorder for filing 428
proof of successful completion of training shall be paid by the 429
county humane society appointing the agent. 430

(C) An individual who is serving as a humane society agent on 431
the effective date of this amendment shall file proof of 432
successful completion of training, including the required 433
signatures, with the county recorder not later than six months 434
after the effective date of this amendment. If that individual has 435
not filed the required proof of successful completion of training 436
with the county recorder as required in this section, the 437
individual is suspended as a humane society agent by operation of 438
law until such proof is on file with the county recorder. 439

(D) An individual who suspects that a humane society agent 440
has not successfully completed the training that is required in 441
this section or that an agent's proof of successful completion of 442
training contains false or misleading information may file a 443
complaint with the mayor or probate judge who approved the 444
appointment. The mayor or probate judge shall investigate the 445
complaint. If the mayor or probate judge finds that the agent has 446
not successfully completed the required training or that the proof 447
of successful completion contains false or misleading information, 448
the mayor or probate judge shall rescind the approval of the 449
appointment and order the applicable humane society to revoke the 450
appointment. The applicable county humane society shall file 451
written notice with the county recorder of the revocation under 452

this division of a humane society agent's appointment. Revocation 453
of the appointment shall be duly noted and recorded in the records 454
kept under section 317.08 of the Revised Code, and the county 455
humane society shall pay the fee for such filing. 456

(E) An agent of a county humane society only has the specific 457
authority granted to the agent under this section and section 458
1717.08 of the Revised Code. 459

Sec. 1717.09. A member of the Ohio humane society or of a 460
county humane society may require the sheriff of any county, the 461
constable of any township, the marshal or a ~~policeman~~ police 462
officer of any municipal corporation, or any agent of such a 463
society, to arrest any person found violating the laws in relation 464
to cruelty to ~~persons~~ or animals, and to take possession of any 465
animal cruelly treated in their respective counties or municipal 466
corporations, and deliver ~~such~~ the animal to the proper officers 467
of the society. 468

Section 2. That existing sections 109.73, 317.08, 959.131, 469
1717.01, 1717.04, 1717.06, and 1717.09 of the Revised Code are 470
hereby repealed. 471