

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**H. B. No. 90**

**Representatives Gerberry, Grossman**

**Cosponsors: Representatives Hagan, R., Cera, Duffey, Ramos, Antonio,  
Boyd, Milkovich, Fedor, Curtin, Beck, Stinziano, Sprague, O'Brien, Brown,  
Ruhl, Phillips, Barborak, Johnson**

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**A BILL**

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.

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**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:

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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  
kept. "Companion animal" does not include livestock or any wild

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animal.	18
(2) "Cruelty," "torment," and "torture" have the same meanings as in section 1717.01 of the Revised Code.	19 20
(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.	21 22 23
(4) "Practice of veterinary medicine" has the same meaning as in section 4741.01 of the Revised Code.	24 25
(5) "Wild animal" has the same meaning as in section 1531.01 of the Revised Code.	26 27
(6) "Federal animal welfare act" means the "Laboratory Animal Act of 1966," Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970," Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976," Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985," Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.	28 29 30 31 32 33 34
<u>(7) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.</u>	35 36
(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.	37 38 39
(C) No person who confines or who is the custodian or caretaker of a companion animal shall negligently <del>do any of the following:</del>	40 41 42
<del>(1) Torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against the companion animal;</del>	43 44 45
<del>(2) Deprive <u>deprive</u> the companion animal of necessary sustenance, confine the companion animal without supplying it</del>	46 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 trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;

(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;

(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.

~~(E)~~(I) 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.

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

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

(2) "Impounding agency" means a county humane society

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 harborer 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 harborer 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 269  
the Revised Code is guilty of a minor misdemeanor. 270

(B) Except as otherwise provided in this division, whoever 271  
violates section 959.02 of the Revised Code is guilty of a 272  
misdemeanor of the second degree. If the value of the animal 273  
killed or the injury done amounts to three hundred dollars or 274  
more, whoever violates section 959.02 of the Revised Code is 275  
guilty of a misdemeanor of the first degree. 276

(C) Whoever violates section 959.03, 959.06, 959.12, 959.15, 277  
or 959.17 of the Revised Code is guilty of a misdemeanor of the 278  
fourth degree. 279

(D) Whoever violates division (A) of section 959.13 of the 280  
Revised Code is guilty of a misdemeanor of the second degree. In 281  
addition, the court may order the offender to forfeit the animal 282  
or livestock and may provide for its disposition, including, but 283  
not limited to, the sale of the animal or livestock. If an animal 284  
or livestock is forfeited and sold pursuant to this division, the 285  
proceeds from the sale first shall be applied to pay the expenses 286  
incurred with regard to the care of the animal from the time it 287  
was taken from the custody of the former owner. The balance of the 288  
proceeds from the sale, if any, shall be paid to the former owner 289  
of the animal. 290

(E)(1) Whoever violates division (B) of section 959.131 of 291  
the Revised Code is guilty of a misdemeanor of the first degree on 292  
a first offense and a felony of the fifth degree on each 293  
subsequent offense. 294

(2) Whoever violates section 959.01 of the Revised Code or 295  
division (C) of section 959.131 of the Revised Code is guilty of a 296  
misdemeanor of the second degree on a first offense and a 297

misdemeanor of the first degree on each subsequent offense. 298

(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 303  
pleads guilty to a violation of section 959.131 of the Revised 304  
Code to forfeit to an impounding agency, as defined in section 305  
959.132 of the Revised Code, any or all of the companion animals 306  
in that person's ownership or care. The court also may prohibit or 307  
place limitations on the person's ability to own or care for any 308  
companion animals for a specified or indefinite period of time. 309

(b) A court may order a person who is convicted of or pleads 310  
guilty to a violation of section 959.131 of the Revised Code to 311  
reimburse an impounding agency for the reasonably necessary costs 312  
incurred by the agency for the care of a companion animal that the 313  
agency impounded as a result of the investigation or prosecution 314  
of the violation, provided that the costs were not otherwise paid 315  
under section 959.132 of the Revised Code. 316

~~(4)~~(6) If a court has reason to believe that a person who is 317  
convicted of or pleads guilty to a violation of section 959.131 of 318  
the Revised Code suffers from a mental or emotional disorder that 319  
contributed to the violation, the court may impose as a community 320  
control sanction or as a condition of probation a requirement that 321  
the offender undergo psychological evaluation or counseling. The 322  
court shall order the offender to pay the costs of the evaluation 323  
or counseling. 324

(F) Whoever violates section 959.14 of the Revised Code is 325  
guilty of a misdemeanor of the second degree on a first offense 326  
and a misdemeanor of the first degree on each subsequent offense. 327

(G) Whoever violates section 959.05 or 959.20 of the Revised 328

Code is guilty of a misdemeanor of the first degree. 329

(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