

**As Reported by the House Agriculture and Natural Resources
Committee**

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Sub. 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, Burkley, Damschroder, Hagan, C., Lynch,
Patterson, Retherford, Winburn**

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A B I L L

To amend sections 959.131, 959.132, 959.99, and	1
1717.01 of the Revised Code to specifically	2
prohibit an owner, manager, or employee of a dog	3
kennel from committing cruel treatment of a	4
companion animal, to give a prosecutor who	5
prosecutes an owner, manager, or employee of a dog	6
kennel who commits cruel treatment of a companion	7
animal discretion in prosecuting that person for	8
the offense, to revise provisions regarding the	9
negligent treatment of companion animals, and to	10
revise the definition of "cruelty," "torment," and	11
"torture" in the Humane Societies Law.	12

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

Section 1. That sections 959.131, 959.132, 959.99, and	13
1717.01 of the Revised Code be amended to read as follows:	14

Sec. 959.131. (A) As used in this section:	15
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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 animal.

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

(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.

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

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

(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.

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

(8) "Dog kennel" means an animal rescue for dogs that is registered under section 956.06 of the Revised Code, a boarding kennel, and a training kennel.

(9) "Boarding kennel" has the same meaning as in section 956.01 of the Revised Code.

(10) "Training kennel" means an establishment operating for profit that keeps, houses, and maintains dogs for the purpose of training the dogs in return for a fee or other consideration.

(11) "Livestock" means horses, mules, and other equidae; 46
cattle, sheep, goats, and other bovidae; swine and other suidae; 47
poultry; alpacas; llamas; captive white-tailed deer; and any other 48
animal that is raised or maintained domestically for food or 49
fiber. 50

(12) "Captive white-tailed deer" has the same meaning as in 51
section 1531.01 of the Revised Code. 52

(B) No person shall knowingly torture, torment, needlessly 53
mutilate or maim, cruelly beat, poison, needlessly kill, or commit 54
an act of cruelty against a companion animal. 55

(C) No person who confines or who is the custodian or 56
caretaker of a companion animal shall negligently do any of the 57
following: 58

(1) ~~Torture, torment, needlessly mutilate or maim, cruelly~~ 59
~~beat, poison, needlessly kill, or commit an act of cruelty against~~ 60
~~the companion animal;~~ Commit any act by which unnecessary or 61
unjustifiable pain or suffering is caused, permitted, or allowed 62
to continue against the companion animal; 63

(2) Omit any act of care by which unnecessary or 64
unjustifiable pain or suffering is caused, permitted, or allowed 65
to continue against the companion animal; 66

(3) Commit any act of neglect by which unnecessary or 67
unjustifiable pain or suffering is caused, permitted, or allowed 68
to continue against the companion animal; 69

(4) Kill the companion animal; 70

(5) Deprive the companion animal of necessary sustenance, 71
confine the companion animal without supplying it during the 72
confinement with sufficient quantities of good, wholesome food and 73
water, or impound or confine the companion animal without 74
affording it, during the impoundment or confinement, with access 75

to shelter from heat, cold, wind, rain, snow, or excessive direct 76
sunlight, if it can reasonably be expected that the companion 77
animal would become sick or suffer in any other way as a result of 78
or due to the deprivation, confinement, or impoundment or 79
confinement in any of those specified manners. 80

(D) No owner, manager, or employee of a dog kennel who 81
confines or is the custodian or caretaker of a companion animal 82
shall knowingly do any of the following: 83

(1) Torture, torment, needlessly mutilate or maim, cruelly 84
beat, poison, needlessly kill, or commit an act of cruelty against 85
the companion animal; 86

(2) Deprive the companion animal of necessary sustenance, 87
confine the companion animal without supplying it during the 88
confinement with sufficient quantities of good, wholesome food and 89
water, or impound or confine the companion animal without 90
affording it, during the impoundment or confinement, with access 91
to shelter from heat, cold, wind, rain, snow, or excessive direct 92
sunlight if it can reasonably be expected that the companion 93
animal would become sick or suffer in any other way as a result of 94
or due to the deprivation, confinement, or impoundment or 95
confinement in any of those specified manners. 96

(E) No owner, manager, or employee of a dog kennel who 97
confines or is the custodian or caretaker of a companion animal 98
shall negligently do any of the following: 99

(1) Commit any act by which unnecessary or unjustifiable pain 100
or suffering is caused, permitted, or allowed to continue against 101
the companion animal; 102

(2) Omit any act of care by which unnecessary or 103
unjustifiable pain or suffering is caused, permitted, or allowed 104
to continue against the companion animal; 105

(3) Commit any act of neglect by which unnecessary or 106

unjustifiable pain or suffering is caused, permitted, or allowed 107
to continue against the companion animal; 108

(4) Kill the companion animal; 109

(5) Deprive the companion animal of necessary sustenance, 110
confine the companion animal without supplying it during the 111
confinement with sufficient quantities of good, wholesome food and 112
water, or impound or confine the companion animal without 113
affording it, during the impoundment or confinement, with access 114
to shelter from heat, cold, wind, rain, snow, or excessive direct 115
sunlight if it can reasonably be expected that the companion 116
animal would become sick or suffer in any other way as a result of 117
or due to the deprivation, confinement, or impoundment or 118
confinement in any of those specified manners. 119

(F) If the owner, manager, or employee of a dog kennel 120
violates divisions (B) and (D)(1) of this section, the prosecutor 121
in the case, in the prosecutor's discretion, may prosecute the 122
owner, manager, or employee of the dog kennel for a violation of 123
either division (B) or (D)(1) of this section. 124

(G) If the owner, manager, or employee of a dog kennel 125
violates divisions (C) and (E) of this section, the prosecutor in 126
the case, in the prosecutor's discretion, may prosecute the owner, 127
manager, or employee of the dog kennel for a violation of either 128
division (C) or (E) of this section. 129

(H) Divisions (B) and, (C), (D), and (E) of this section do 130
not apply to any of the following: 131

(1) A companion animal used in scientific research conducted 132
by an institution in accordance with the federal animal welfare 133
act and related regulations; 134

(2) The lawful practice of veterinary medicine by a person 135
who has been issued a license, temporary permit, or registration 136
certificate to do so under Chapter 4741. of the Revised Code; 137

(3) Dogs being used or intended for use for hunting or field 138
trial purposes, provided that the dogs are being treated in 139
accordance with usual and commonly accepted practices for the care 140
of hunting dogs; 141

(4) The use of common training devices, if the companion 142
animal is being treated in accordance with usual and commonly 143
accepted practices for the training of animals; 144

(5) The administering of medicine to a companion animal that 145
was properly prescribed by a person who has been issued a license, 146
temporary permit, or registration certificate under Chapter 4741. 147
of the Revised Code. 148

~~(E)~~(I) Notwithstanding any section of the Revised Code that 149
otherwise provides for the distribution of fine moneys, the clerk 150
of court shall forward all fines the clerk collects that are so 151
imposed for any violation of this section to the treasurer of the 152
political subdivision or the state, whose county humane society or 153
law enforcement agency is to be paid the fine money as determined 154
under this division. The treasurer to whom the fines are forwarded 155
shall pay the fine moneys to the county humane society or the 156
county, township, municipal corporation, or state law enforcement 157
agency in this state that primarily was responsible for or 158
involved in the investigation and prosecution of the violation. If 159
a county humane society receives any fine moneys under this 160
division, the county humane society shall use the fine moneys to 161
provide the training that is required for humane agents under 162
section 1717.06 of the Revised Code. 163

Sec. 959.132. (A) As used in this section: 164

(1) "Companion animal" has the same meaning as in section 165
959.131 of the Revised Code. 166

(2) "Impounding agency" means a county humane society 167

organized under section 1717.05 of the Revised Code, an animal 168
shelter, or a law enforcement agency that has impounded a 169
companion animal in accordance with this section. 170

(3) "Offense" means a violation of section 959.131 of the 171
Revised Code or an attempt, in violation of section 2923.02 of the 172
Revised Code, to violate section 959.131 of the Revised Code. 173

(4) "Officer" means any law enforcement officer, agent of a 174
county humane society, or other person appointed to act as an 175
animal control officer for a municipal corporation or township in 176
accordance with state law, an ordinance, or a resolution. 177

(B) An officer may seize and cause to be impounded at an 178
impounding agency a companion animal that the officer has probable 179
cause to believe is the subject of an offense. No officer or 180
impounding agency shall impound a companion animal that is the 181
subject of an offense in a shelter owned, operated, or controlled 182
by a board of county commissioners pursuant to Chapter 955. of the 183
Revised Code unless the board, by resolution, authorizes the 184
impoundment of such a companion animal in a shelter owned, 185
operated, or controlled by that board and has executed, in the 186
case when the officer is other than a dog warden or assistant dog 187
warden, a contract specifying the terms and conditions of the 188
impoundment. 189

(C) The officer shall give written notice of the seizure and 190
impoundment to the owner, keeper, or harbinger of the companion 191
animal that was seized and impounded. If the officer is unable to 192
give the notice to the owner, keeper, or harbinger of the companion 193
animal, the officer shall post the notice on the door of the 194
residence or in another conspicuous place on the premises at which 195
the companion animal was seized. The notice shall include a 196
statement that a hearing will be held not later than ten days 197
after the notice is provided or at the next available court date 198
to determine whether the officer had probable cause to seize the 199

companion animal and, if applicable, to determine the amount of a 200
bond or cash deposit that is needed to provide for the companion 201
animal's care and keeping for not less than thirty days beginning 202
on the date on which the companion animal was impounded. 203

(D) A companion animal that is seized under this section may 204
be humanely destroyed immediately or at any time during 205
impoundment if a licensed veterinarian determines it to be 206
necessary because the companion animal is suffering. 207

(E)(1) Not later than ten days after notice is provided or at 208
the next available court date, the court shall hold a hearing to 209
determine whether the officer impounding a companion animal had 210
probable cause to seize the companion animal. If the court 211
determines that probable cause exists, the court shall determine 212
the amount of a bond or cash deposit that is needed to provide for 213
the companion animal's care and keeping for not less than thirty 214
days beginning on the date on which the companion animal was 215
impounded. 216

(2) If the court determines that probable cause does not 217
exist, the court immediately shall order the impounding agency to 218
return the companion animal to its owner if possible. If the 219
companion animal cannot be returned because it has died as a 220
result of neglect or other misconduct by the impounding agency or 221
if the companion animal is injured as a result of neglect or other 222
misconduct by the impounding agency, the court shall order the 223
impounding agency to pay the owner an amount determined by the 224
court to be equal to the reasonable market value of the companion 225
animal at the time that it was impounded plus statutory interest 226
as defined in section 1343.03 of the Revised Code from the date of 227
the impoundment or an amount determined by the court to be equal 228
to the reasonable cost of treatment of the injury to the companion 229
animal, as applicable. The requirement established in division 230
(E)(2) of this section regarding the payment of the reasonable 231

market value of the companion animal shall not apply in the case 232
of a dog that, in violation of section 955.01 of the Revised Code, 233
was not registered at the time it was seized and impounded. 234

(3) If the court determines that probable cause exists and 235
determines the amount of a bond or cash deposit, the case shall 236
continue and the owner shall post a bond or cash deposit to 237
provide for the companion animal's care and keeping for not less 238
than thirty days beginning on the date on which the companion 239
animal was impounded. The owner may renew a bond or cash deposit 240
by posting, not later than ten days following the expiration of 241
the period for which a previous bond or cash deposit was posted, a 242
new bond or cash deposit in an amount that the court, in 243
consultation with the impounding agency, determines is sufficient 244
to provide for the companion animal's care and keeping for not 245
less than thirty days beginning on the date on which the previous 246
period expired. If no bond or cash deposit is posted or if a bond 247
or cash deposit expires and is not renewed, the impounding agency 248
may determine the disposition of the companion animal unless the 249
court issues an order that specifies otherwise. 250

(F) If a person is convicted of committing an offense, the 251
court may impose the following additional penalties against the 252
person: 253

(1) A requirement that the person pay for the costs incurred 254
by the impounding agency in caring for a companion animal involved 255
in the applicable offense, provided that the costs were incurred 256
during the companion animal's impoundment. A bond or cash deposit 257
posted under this section may be applied to the costs. 258

(2) An order permanently terminating the person's right to 259
possession, title, custody, or care of the companion animal that 260
was involved in the offense. If the court issues such an order, 261
the court shall order the disposition of the companion animal. 262

(G) If a person is found not guilty of committing an offense, 263
the court immediately shall order the impounding agency to return 264
the companion animal to its owner if possible and to return the 265
entire amount of any bond or cash deposit posted under division 266
(E) of this section. If the companion animal cannot be returned 267
because it has died as a result of neglect or other misconduct by 268
the impounding agency or if the companion animal is injured as a 269
result of neglect or other misconduct by the impounding agency, 270
the court shall order the impounding agency to pay the owner an 271
amount determined by the court to be equal to the reasonable 272
market value of the companion animal at the time that it was 273
impounded plus statutory interest as defined in section 1343.03 of 274
the Revised Code from the date of the impoundment or an amount 275
determined by the court to be equal to the reasonable cost of 276
treatment of the injury to the companion animal, as applicable. 277
The requirements established in this division regarding the return 278
of a bond or cash deposit and the payment of the reasonable market 279
value of the companion animal shall not apply in the case of a dog 280
that, in violation of section 955.01 of the Revised Code, was not 281
registered at the time it was seized and impounded. 282

(H) If charges are filed under section 959.131 of the Revised 283
Code against the custodian or caretaker of a companion animal, but 284
the companion animal that is the subject of the charges is not 285
impounded, the court in which the charges are pending may order 286
the owner or person having custody of the companion animal to 287
provide to the companion animal the necessities described in 288
division (C)~~(2)~~ of section 959.131 of the Revised Code until the 289
final disposition of the charges. If the court issues an order of 290
that nature, the court also may authorize an officer or another 291
person to visit the place where the companion animal is being 292
kept, at the times and under the conditions that the court may 293
set, to determine whether the companion animal is receiving those 294
necessities and to remove and impound the companion animal if the 295

companion animal is not receiving those necessities. 296

Sec. 959.99. (A) Whoever violates section 959.18 or 959.19 of 297
the Revised Code is guilty of a minor misdemeanor. 298

(B) Except as otherwise provided in this division, whoever 299
violates section 959.02 of the Revised Code is guilty of a 300
misdemeanor of the second degree. If the value of the animal 301
killed or the injury done amounts to three hundred dollars or 302
more, whoever violates section 959.02 of the Revised Code is 303
guilty of a misdemeanor of the first degree. 304

(C) Whoever violates section 959.03, 959.06, 959.12, 959.15, 305
or 959.17 of the Revised Code is guilty of a misdemeanor of the 306
fourth degree. 307

(D) Whoever violates division (A) of section 959.13 of the 308
Revised Code is guilty of a misdemeanor of the second degree. In 309
addition, the court may order the offender to forfeit the animal 310
or livestock and may provide for its disposition, including, but 311
not limited to, the sale of the animal or livestock. If an animal 312
or livestock is forfeited and sold pursuant to this division, the 313
proceeds from the sale first shall be applied to pay the expenses 314
incurred with regard to the care of the animal from the time it 315
was taken from the custody of the former owner. The balance of the 316
proceeds from the sale, if any, shall be paid to the former owner 317
of the animal. 318

(E)(1) Whoever violates division (B) of section 959.131 of 319
the Revised Code is guilty of a misdemeanor of the first degree on 320
a first offense and a felony of the fifth degree on each 321
subsequent offense. 322

(2) Whoever violates section 959.01 of the Revised Code or 323
division (C) of section 959.131 of the Revised Code is guilty of a 324
misdemeanor of the second degree on a first offense and a 325

misdemeanor of the first degree on each subsequent offense. 326

(3) Whoever violates division (D) of section 959.131 of the Revised Code is guilty of a felony of the fifth degree. 327
328

(4) Whoever violates division (E) of section 959.131 of the Revised Code is guilty of a misdemeanor of the first degree. 329
330

(5)(a) A court may order a person who is convicted of or 331
pleads guilty to a violation of section 959.131 of the Revised 332
Code to forfeit to an impounding agency, as defined in section 333
959.132 of the Revised Code, any or all of the companion animals 334
in that person's ownership or care. The court also may prohibit or 335
place limitations on the person's ability to own or care for any 336
companion animals for a specified or indefinite period of time. 337

(b) A court may order a person who is convicted of or pleads 338
guilty to a violation of section 959.131 of the Revised Code to 339
reimburse an impounding agency for the reasonably necessary costs 340
incurred by the agency for the care of a companion animal that the 341
agency impounded as a result of the investigation or prosecution 342
of the violation, provided that the costs were not otherwise paid 343
under section 959.132 of the Revised Code. 344

~~(4)~~(6) If a court has reason to believe that a person who is 345
convicted of or pleads guilty to a violation of section 959.131 of 346
the Revised Code suffers from a mental or emotional disorder that 347
contributed to the violation, the court may impose as a community 348
control sanction or as a condition of probation a requirement that 349
the offender undergo psychological evaluation or counseling. The 350
court shall order the offender to pay the costs of the evaluation 351
or counseling. 352

(F) Whoever violates section 959.14 of the Revised Code is 353
guilty of a misdemeanor of the second degree on a first offense 354
and a misdemeanor of the first degree on each subsequent offense. 355

(G) Whoever violates section 959.05 or 959.20 of the Revised 356

Code is guilty of a misdemeanor of the first degree. 357

(H) Whoever violates section 959.16 of the Revised Code is 358
guilty of a felony of the fourth degree for a first offense and a 359
felony of the third degree on each subsequent offense. 360

Sec. 1717.01. As used in sections 1717.01 to 1717.14, 361
inclusive, of the Revised Code, and in every law relating to 362
animals: 363

(A) "Animal" includes every living dumb creature; 364

(B) "Cruelty," "torment," and "torture" include every act, 365
omission, or neglect by which unnecessary or unjustifiable pain or 366
suffering is caused, permitted, or allowed to continue, ~~when there~~ 367
~~is a reasonable remedy or relief~~ against an animal; 368

(C) "Owner" and "person" include corporations. For the 369
purpose of this section the knowledge and acts of the agents and 370
employees of a corporation, in regard to animals transported, 371
owned, or employed by, or in the custody of, such agents and 372
employees, are the knowledge and acts of the corporation. 373

Section 2. That existing sections 959.131, 959.132, 959.99, 374
and 1717.01 of the Revised Code are hereby repealed. 375