



Ohio Legislative Service Commission

Bill Analysis

Andrea Holmes

Am. H.B. 55

128th General Assembly
(As Reported by H. Criminal Justice)

Reps. B. Williams and Combs, Bolon, Book, Boyd, Chandler, Domenick, Evans, Fende, Foley, Gerberry, Hagan, Harris, Letson, Skindell, Slesnick, S. Williams, Winburn, Yuko

BILL SUMMARY

- Increases the penalty for a violation of the prohibition against committing cruelty to animals for a second or subsequent violation from a misdemeanor of the second degree (the same penalty for a first violation) to a misdemeanor of the first degree.
- Requires a court, in addition to any other sanctions it imposes on the offender if the offender is not already undergoing counseling as a condition of probation or as a community control sanction, to impose a term of basic probation supervision or a term of intensive probation supervision on an offender who violates one of the prohibitions against committing cruelty to a companion animal (knowingly torturing, tormenting, needlessly mutilating or maiming, cruelly beating, poisoning, needlessly killing, or committing an act of cruelty against a companion animal) more than once.
- Requires a court, in addition to any other disposition that it makes for a delinquent child, to require a child under 18 years of age who is adjudicated a delinquent child for violating the prohibition against committing cruelty to a companion animal described in the prior dot point to undergo psychological evaluation to determine if the child needs individual or family counseling and, if such counseling is recommended by the evaluation, to undergo individual or family counseling.
- Specifies that the court may require the parent, guardian, or other person having care of the child to pay the costs of the evaluation, any counseling, or both.

- Requires the State Board of Psychology and the State Medical Board to approve one or more continuing education courses related to the counseling of individuals who abuse animals.
- Requires that the professional standards committees of the Counselor, Social Worker, and Marriage and Family Therapist Board approve one or more continuing education courses of study with regard to the counseling of individuals who abuse animals.
- Permits the court, when issuing a criminal protection order or a domestic violence criminal temporary protection order, to include within the scope of the protection order any companion animal that is in the complainant's or alleged victim's residence.
- Permits the court, when issuing a civil stalking or sexually oriented offense protection order, to include within the scope of a protection order any companion animal that is in the residence of the person to be protected.
- Permits a court, when issuing a civil domestic violence protection order or approving a civil domestic violence consent agreement, to include any companion animal that is in the petitioner's residence.

CONTENT AND OPERATION

Cruelty to animals

Current law, unchanged by the bill, prohibits a person from doing any of the following (R.C. 959.13, not in the bill):

(1) Torturing an animal, depriving one of necessary sustenance, unnecessarily or cruelly beating, needlessly mutilating or killing, or impounding or confining an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;

(2) Impounding or confining an animal, other than an animal impounded or confined prior to slaughter, without affording it, during such confinement, access to shelter from wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer;

(3) Carrying or conveying an animal in a cruel or inhumane manner;

(4) Keeping animals other than cattle, poultry or fowl, swine, sheep, or goats in an enclosure without wholesome exercise and change of air, nor feeding cows on food that produces impure or unwholesome milk;

(5) Detaining livestock in railroad cars or compartments longer than 28 hours, or if permission has been granted, longer than 36 hours, after they are so placed without supplying them with necessary food, water, and attention, nor permitting such stock to be so crowded as to overlie, crush, wound, or kill each other.

Under current law, a violation of this prohibition is a misdemeanor of the second degree, and the court may order the offender to forfeit the animal or livestock and may provide for its disposition. The bill makes no change to the penalty for a first violation of the prohibition, but it increases the penalty to a misdemeanor of the first degree for each subsequent violation of the prohibition. (R.C. 959.99(D).)

Cruelty to a companion animal

Current law, unchanged by the bill, prohibits any person from knowingly torturing, tormenting, needlessly mutilating or maiming, cruelly beating, poisoning, needlessly killing, or committing an act of cruelty against a companion animal (see **COMMENT** for definition of "companion animal") (R.C. 959.131(B), not in the bill). A violation of this prohibition is currently a misdemeanor of the first degree for a first offense and a felony of the fifth degree for each subsequent violation. The bill leaves this penalty structure in place but requires a court, in addition to any other sanction imposed, to impose a term of basic probation supervision or a term of intensive probation supervision for any felony violation of the prohibition against committing cruelty to a companion animal, so long as the offender is not already undergoing counseling imposed as a community control sanction or as a condition of probation for a previous violation of committing cruelty to a companion animal (see **COMMENT** for definitions of "basic probation supervision" and "intensive probation supervision") (R.C. 959.99(E)(1)(a)). R.C. 959.131(C) prohibits a person from committing other acts against a companion animal, but the bill does not modify the penalty for committing any of those acts.

Psychological treatment and counseling for a delinquent child who commits cruelty against a companion animal

Under current law, if a court has reason to believe that a person who is convicted of or pleads guilty to a violation of any of the prohibitions against committing cruelty to a companion animal 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 (R.C. 959.99(E)(4)).

The bill requires a court, in addition to any other disposition that it makes, to order a child under 18 years of age who is adjudicated a delinquent child for committing cruelty against a companion animal of the type discussed above in "**Cruelty to a companion animal**," to undergo psychological evaluation to determine if the child needs individual or family counseling and must make a recommendation as to the frequency and length of time that the counseling should occur. If individual or family counseling is recommended by the evaluation, the court must require the counseling to take place and must establish the frequency and length of time of the counseling. The court may order the parent, guardian, or other person having care of the child to pay the costs of the evaluation, any counseling, or both. (R.C. 959.99(E)(4)(b) and 2152.19(F).)

State Medical Board and State Board of Psychology must approve continuing education courses regarding the counseling of individuals who abuse animals

The bill requires the State Medical Board to approve one or more continuing medical education courses of study included within the programs certified by the Ohio State Medical Association and the Ohio Osteopathic Association and the State Board of Psychology to approve one or more continuing education courses of study regarding the counseling of individuals who abuse animals (R.C. 4731.284 and 4732.141(H)). The bill also requires that the professional standards committees of the Counselor, Social Worker, and Marriage and Family Therapist Board approve one or more continuing education courses of study with regard to the counseling of individuals who abuse animals. The bill does not, however, specifically require any doctor of medicine and surgery, doctor of osteopathic medicine and surgery, psychologist, or person who holds a license or certificate of registration issued under R.C. Chapter 4757. to take the animal abuse continuing education course(s). (R.C. 4731.284, 4732.141(H), and 4757.33(C).)

Protection of companion animals in protection orders

The bill amends the various sections of the Revised Code dealing with protection orders to include the protection of a companion animal. (See **COMMENT** for definition of "companion animal.")

Criminal protection orders

Under current law, upon the filing with the court that has jurisdiction of the case of a complaint that does not involve a family or household member and that alleges a violation of R.C. 2903.11 (felonious assault), 2903.12 (aggravated assault), 2903.13

(assault), 2903.21 (aggravated menacing), 2903.22 (menacing), or 2911.211 (aggravated trespass) or a municipal ordinance substantially similar to those sections, or the commission of a sexually oriented offense, the court may issue a protection order as a pretrial condition of release after a hearing on the matter. The court must conduct the hearing not later than the next court day after the motion is filed. If the court finds that the safety and protection of the complainant or alleged victim may be impaired by the continued presence of the alleged offender, the court may issue a protection order as a pretrial condition of release that contains terms designed to ensure the safety and protection of the complainant or the alleged victim, including a requirement that the alleged offender refrain from entering the residence, school, business, or place of employment of the complainant or alleged victim.

If the court issues a criminal protection order as an ex parte order, it must conduct, not later than the next court day after its issuance, a hearing to determine whether the order should remain in effect, be modified, or be revoked. The court may issue the protection order pursuant to its own motion (upon the filing of a complaint alleging a violation described above) or the motion of a complainant or alleged victim.

The bill does not change the procedures for requesting or granting such a protection order. However, it provides that the court may include within the scope of a protection order any companion animal that is in the complainant's or alleged victim's residence. (R.C. 2903.213(B), (C)(1), (D)(1), and (J)(2).)

Civil stalking or sexually oriented offense protection orders

Under current law, a person may file a petition in the court of common pleas alleging that another person engaged in a violation of section 2903.211 (menacing by stalking) against the person or against the person's family or household member or committed a sexually oriented offense against the person or against the person's family or household member and requesting the issuance of a civil stalking or sexually oriented offense protection order under R.C. 2903.214. If a person who files a petition requests an ex parte order, the court must hold an ex parte hearing not later than the next court day after the petition is filed. The court, for good cause shown at the ex parte hearing, may enter any temporary orders, with or without bond, that the court finds necessary for the safety and protection of the person to be protected by the order. If the court issues a protection order after an ex parte hearing, the court must schedule a full hearing for a date that is within ten court days after the ex parte hearing. The court must give the respondent notice of, and an opportunity to be heard at, the full hearing.

If a person who files a petition does not request an ex parte order, or if a person requests an ex parte order but the court does not issue an ex parte order after an ex parte hearing, the court must proceed as in a normal civil action and grant a full hearing

on the matter. After an ex parte or full hearing, the court may issue a protection order that contains terms designed to ensure the safety and protection of the person to be protected by the protection order.

The bill does not change the procedure for requesting the protection order of for the court to issue the protection order. However, the bill specifies that the court may include within the scope of a protection order any companion animal that is in the residence of the person to be protected. (R.C. 2903.214(A)(7) and (E)(1)(a).)

Domestic violence criminal temporary protection orders

Under current law, upon the filing of a complaint that alleges a violation of R.C. 2909.06 (criminal damaging or endangering), 2909.07 (criminal mischief), 2911.12 (burglary), or 2911.211 (aggravated trespass) or of a similar municipal ordinance, any offense of violence, or any sexually oriented offense, if the alleged victim of any of those violations or offenses was a family or household member at the time of the violation, the complainant, the alleged victim, or a family or household member of an alleged victim may file a motion that requests the issuance of a temporary protection order as a pretrial condition of release of the alleged offender. The court must conduct a hearing to determine whether to issue the order not later than 24 hours after the filing of the motion. If the court issues a temporary protection order as an ex parte order, it must conduct, as soon as possible after the issuance of the order, a hearing in the presence of the alleged offender not later than the next court day after the day on which the alleged offender was arrested or at the time of the appearance of the alleged offender pursuant to summons to determine whether the order should remain in effect, be modified, or be revoked.

If, after the hearing, the court finds that the safety and protection of the complainant, alleged victim, or any other family or household member of the alleged victim may be impaired by the continued presence of the alleged offender, the court may issue a temporary protection order as a pretrial condition of release that contains terms designed to ensure the safety and protection of the complainant, alleged victim, or the family or household member. The court may issue the order on its own motion (upon the filing of a complaint alleging any of the above violations or offenses) or on motion of the complainant. (R.C. 2919.26.)

The bill does not change the procedure for requesting such a protection order or for the court to issue the order. However, it provides that the court may include within the scope of a protection order any companion animal that is in the complainant's or alleged victim's residence. (R.C. 2919.26(B), (C)(1), (D)(1), and (K)(1).)

Domestic violence civil protection orders

Under current law, the court may issue a domestic violence civil protection order under R.C. 3113.31 upon the petition of any person seeking relief on the person's own behalf or upon the petition of any parent or adult household member of another family or household member seeking relief on behalf of that other family or household member and alleging that a respondent engaged in domestic violence (defined to include the commission of a sexually oriented offense against a family or household member) against the respondent's family or household member. If a person who files such a petition requests an ex parte order, the court must hold an ex parte hearing on the same day that the petition is filed. The court, for good cause shown at the ex parte hearing, may enter any temporary orders that the court finds necessary to protect the family or household member from domestic violence. If the court issues a protection order after an ex parte hearing, it must schedule a full hearing within ten days (or within seven days in some circumstances) and give the respondent notice of, and an opportunity to be heard at, the full hearing.

If a person who files a petition pursuant to R.C. 3113.31 does not request an ex parte order, or if a person requests an ex parte order but the court does not issue an ex parte order after an ex parte hearing, the court must proceed as in a normal civil action and grant a full hearing on the matter.

After an ex parte or full hearing, the court may grant any protection order or approve any consent agreement to bring about the cessation of domestic violence against the family or household members. The order or agreement may, generally, direct the respondent to refrain from abusing or from committing sexually oriented offenses against the family or household members, grant possession of the residence or household to the petitioner or other family or household member, require the respondent to refrain from entering the residence, school, business, or place of employment of the petitioner or family or household member, or provide other remedies as specified in R.C. 3113.31(E)(1)). (R.C. 3113.31.)

The bill does not change the procedure for requesting such a protection order or for the court to issue the order. However, it provides that the court may include within the scope of a protection order issued or consent agreement approved under section 3113.31 of the Revised Code any companion animal that is in the petitioner's residence. (R.C. 3113.31(A)(7) and (E)(9).)

COMMENT

"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. (R.C. 959.131(A)(1).)

"Basic probation supervision" means a requirement that the offender maintain contact with a person appointed to supervise the offender in accordance with sanctions imposed by the court or imposed by the parole board pursuant to section 2967.28 of the Revised Code. "Basic probation supervision" includes basic parole supervision and basic post-release control supervision. (R.C. 2929.01(C).)

"Intensive probation supervision" means a requirement that an offender maintain frequent contact with a person appointed by the court, or by the parole board pursuant to section 2967.28 of the Revised Code, to supervise the offender while the offender is seeking or maintaining necessary employment and participating in training, education, and treatment programs as required in the court's or parole board's order. "Intensive probation supervision" includes intensive parole supervision and intensive post-release control supervision. (R.C. 2929.01(R).)

HISTORY

ACTION	DATE
Introduced	03-03-09
Reported, H. Criminal Justice	05-12-10

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