



Ohio Legislative Service Commission

Bill Analysis

Jeff Grim

Sub. H.B. 175

128th General Assembly
(As Reported by S. Agriculture)

Reps. Gerberry, Hagan, Newcomb, Luckie, Murray, Fende, Brown, Bolon, Chandler, Combs, DeBose, Domenick, Dyer, Harris, Heard, Letson, Mallory, Patten, Pryor, Ujvagi, Weddington, B. Williams, Yates, Yuko

Sen. Schuring

BILL SUMMARY

- Requires a person to file proof of successful completion of training with the county recorder before being appointed as a humane society agent, and requires a county recorder to collect a specified fee for recording the proof of completion.
- Requires the revocation of the appointment of a humane society agent under certain circumstances.
- Provides that the sovereign immunity provided for humane society agents under current law does not apply under certain circumstances.
- Increases the maximum amount of recording fees that, with the approval of a board of county commissioners, may be earmarked for a county recorder's equipment and operations fund from \$4 to \$7 per recording.
- Authorizes a board of county commissioners that provides financial assistance to a county agricultural society to provide such assistance from the county's permanent improvement fund.

* Corrects an erroneous reference to a requirement established in current law.

CONTENT AND OPERATION

Humane society agents

(R.C. 109.73, 959.131, 1717.01, 1717.04, 1717.06, 1717.061, and 1717.09; R.C. 317.32, not in the bill)

Under continuing law, the Ohio Peace Officer Training Commission must recommend rules to the Attorney General with respect to establishing requirements for the training of county humane society agents, including, without limitation, a requirement that the agents receive instruction on traditional animal husbandry methods and training techniques, including customary owner-performed practices. In establishing the requirements, the Commission may consider any portions of the curriculum for instruction on the topic of animal husbandry practices, if any, of The Ohio State University College of Veterinary Medicine. Continuing law prohibits a person or entity that fails to provide instruction on traditional animal husbandry methods and training techniques, including customary owner-performed practices, from qualifying to train a humane society agent.

Under current law, a county humane society organized under Ohio law may appoint agents, who are residents of the county or municipal corporation for which the appointment is made, for the purpose of prosecuting any person guilty of an act of cruelty to persons or animals. The agents may arrest any person found violating animal protection laws and bring a complaint against the person in a court having jurisdiction. Currently, the mayor of the municipal corporation for which they are made must approve all appointments of agents. If the society exists outside a municipal corporation, the probate judge of the county for which they are made must approve the appointments. The mayor or probate judge must keep a record of the appointments.

In order to qualify for appointment as a humane society agent under current law, a person first must successfully complete a minimum of 20 hours of training on issues relating to the investigation and prosecution of cruelty to and neglect of animals. The training must comply with rules recommended by the Peace Officer Training Commission.

Current law prohibits cruelty against companion animals¹ and provides that fines collected for violations must be paid to the county humane society or the county, township, municipal corporation, or state law enforcement agency that primarily was

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.

responsible for or involved in the investigation and prosecution of the violation. The moneys must be used to provide the training that is required for humane society agents.

The bill removes language that states that a humane society agent's² purpose is to prosecute any person guilty of an act of cruelty to persons or animals. The bill also removes obsolete law that gives county humane society agents authority to arrest persons found violating law for the protection of persons.

Additionally, the bill provides that approval of agents' appointments by the mayor of the municipal corporation or the probate judge of the county can occur if an individual has successfully completed the required training and if signed proof of successful completion is on file with the applicable county recorder. Proof of successful completion of the required training must be signed by the chief executive officer of the organization or entity that provided the training and the mayor or probate judge who will approve the appointment. Before being appointed as a humane society agent, a person must file the signed proof of successful completion of training with the county recorder. The county recorder must charge and collect an initial \$28 fee for the first two pages and \$8 for each additional page for the recordation of proof of successful completion of training by a humane society agent.

The bill specifies that a person who has been appointed as a humane society agent before the bill's effective date must file proof of successful completion of training, including the required signatures, with the county recorder not later than six months after the bill's effective date. The bill requires the county recorder to charge and collect the fees discussed above for the recordation of proof of successful completion of training by such a humane society agent. If a person who is serving as a humane society agent on the bill's effective date has not filed the required proof of completion of training with the county recorder as required, the person is suspended as a humane society agent until the proof is on file with the county recorder.

The bill provides that an individual who suspects that a humane society agent has not successfully completed the required training or that an agent's proof of successful training completion contains false or misleading information may file a complaint with the mayor or probate judge who approved the appointment. The mayor or probate judge must investigate the complaint. If the mayor or probate judge finds that the agent has not successfully completed the required training or that the proof of successful completion contains false or misleading information, the mayor or

² The bill defines "humane society agent" or "agent" to mean an individual who is appointed by a county humane society, and approved by the applicable mayor or probate judge, for the purpose of investigating any person who is accused of an act of cruelty to animals regardless of the title that is given to the individual.

probate judge must rescind the approval of the appointment and order the applicable humane society to revoke the appointment.

The bill states that except as discussed below, the immunity that is provided for employees of political subdivisions under the Political Subdivision Tort Liability Law does not apply to a humane society agent who investigates an act of cruelty to an animal if either of the following applies:

(1) The agent has not successfully completed the training required by current law and has not filed with the applicable county recorder signed proof of successful completion of the training as required by the bill (see **COMMENT**). The bill specifies that this provision does not apply to a person who has been appointed as a humane society agent prior to the bill's effective date until six months after the bill's effective date.

(2) The agent has not been trained in and is not knowledgeable about the proper care of the species of animal that is the subject of the investigation.

Recordation with the county recorder

(R.C. 317.08)

Under ongoing law, the county recorder must keep certain separate sets of records, including a record of do-not-resuscitate orders and durable powers of attorney for health care pursuant to applicable laws governing them. The bill requires the county recorder to keep in that set of records proof of successful completion of training by humane society agents.

Equipment and operation funds administered by county recorders

(R.C. 317.321)

Under existing law, a county recorder may propose to the board of county commissioners the creation of a special fund to pay for the recorder's equipment needs or contract services. The equipment and operations fund is funded by part of the recording fees imposed under law governing filing records for recording with the recorder's office.³ Subject to the approval of the board of county commissioners, the amount earmarked for the fund cannot exceed \$4 per recording. The bill increases the maximum amount of recording fees that may be earmarked for the equipment and operations fund from \$4 to \$7 per recording.

³ Current law requires a county recorder to charge for recording and indexing an instrument a base fee of \$14 for the first two pages and a base fee of \$4 for each subsequent page (R.C. 317.32(A), not in the bill).

Financial assistance to county agricultural societies

(R.C. 1711.15)

Current law specifies that in any county in which there is a duly organized county agricultural society, the board of county commissioners or the county agricultural society may purchase or lease, for a term of not less than 20 years, real estate on which to hold fairs under the management and control of the county agricultural society and may erect suitable buildings on the real estate and otherwise improve it. In counties in which there is a county agricultural society that has purchased, or leased, for a term of not less than 20 years, real estate as a site on which to hold fairs or in which title to the site is vested in fee in the county, the board of county commissioners may erect or repair buildings or otherwise improve the site and pay the rental of it, or contribute to or pay any other form of indebtedness of the society, if the Director of Agriculture has certified to the board that the county agricultural society is complying with all laws and rules governing the operation of county agricultural societies. The board may appropriate from the general fund of the county any amount that it considers necessary for any of those purposes. The bill also authorizes a board to provide such financial assistance from the county's permanent improvement fund.

COMMENT

The bill states that the approval of the appointment of a humane society agent is dependent on the individual's successfully completing required training relating to the investigation and prosecution of cruelty to and neglect of animals and filing with the applicable county recorder signed proof that the individual has successfully completed the training (R.C. 1717.06). The bill also states in part that the immunity provided for employees of political subdivisions under current law does not apply to a humane society agent who investigates an act of cruelty to an animal if the agent has not successfully completed the training relating to the investigation and prosecution of cruelty to and neglect of animals and has not filed with the applicable county recorder signed proof that the agent has successfully completed the training. (R.C. 1717.061.) Because the bill, as discussed above, does not allow the appointment of an agent to be approved until the agent has successfully completed the required training and filed proof of that completion, it is unclear how the above provision regarding the removal of immunity for humane society agents will operate.

HISTORY

ACTION	DATE
Introduced	05-12-09
Reported, H. Local Gov't & Public Administration	10-14-09
Passed House (91-7)	11-18-09
Reported, S. Agriculture	05-19-10

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