



Dennis M. Papp

Final Analysis
Legislative Service Commission

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(As Passed by the General Assembly)

Reps. Collier, Calvert, Peterson, Cates, Clancy, T. Patton, Setzer, Hughes, Carano, Skindell, Aslanides, Ujvagi, D. Evans, Harwood, Allen, DeWine, Distel, Perry, Schaffer, Beatty, Barrett, Kearns, Latta, Brown, Chandler, Cirelli, C. Evans, Fessler, Flowers, Hartnett, Hollister, Hoops, Otterman, Raussen, Schmidt, Schneider, Taylor, Walcher

Sens. Austria, Amstutz, Fedor, Padgett, Roberts, Spada, Zurz, Blessing, Mumper

Effective date: *

ACT SUMMARY

- Provides that if a person violates the prohibition against stealing the property of another, if the stolen property is a police dog or horse or a service dog, and if the offender knows or should know that the stolen property is a police dog or horse or a service dog, the offense is "theft of a police dog or horse or service dog" and is a felony of the third degree.
- Expands the offense of "harassing a police dog or horse" to also prohibit certain conduct that pertains to inhibiting or restricting a police dog's or horse's ability to assist a law enforcement officer or to failing to restrain a dog from tormenting, etc., a police dog or horse.
- Creates the offense of "harassing a service dog," which includes prohibitions that generally parallel the prohibitions included in the offense of "harassing a police dog or horse" as expanded by the act.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

- Increases the penalty in certain circumstances for the offenses of "assaulting a police dog or horse," "assaulting a handicapped assistance (renamed "service") dog," and "harassing a police dog or horse."
- Subjects a person who commits the offense of "assaulting a police dog or horse," "harassing a police dog or horse," "assaulting a service dog," or "harassing a service dog" to repayment of specified costs, such as veterinary bills, replacement costs, and retraining costs of a dog or horse, associated with the offense.
- Specifies that the offenses related to assaulting or harassing a police dog or horse or service dog do not apply unless the offender knows or should know at the time of the conduct that the police dog or horse or service dog that is the subject of the offense is such a dog or horse.
- Exempts owners of seizure assistance, seizure response, or seizure alert dogs for a person with a seizure disorder from paying a dog registration fee (in the same manner as owners of other types of service dogs are exempted), and expands the preexisting exemption that applies to dogs that provide support or assistance for mobility impaired persons to also apply to dogs in training to provide such support or assistance.
- Changes the term "handicapped assistance dog," as used in the preexisting offense related to assaulting such dogs, to "service dog," expands the term to include a dog that serves as a seizure assistance, seizure response, or seizure alert dog for any person with any seizure disorder, and uses the new term in the new offense related to harassing such dogs.
- Changes a phrase used in various Revised Code provisions to define the terms "permanently and totally disabled" and "disabled adult" from "person unfit to work" to "person unable to work."

CONTENT AND OPERATION

Theft of a police dog or horse or service dog

Formerly

Preexisting law, unchanged by the act, prohibits a person, with purpose to deprive the owner of property or services, from knowingly obtaining or exerting control over either the property or services in any of the following ways (R.C.

2913.02(A)): (1) without the consent of the owner or person authorized to give consent, (2) beyond the scope of the express or implied consent of the owner or person authorized to give consent, (3) by deception, (4) by threat, or (5) by intimidation.

Formerly, a violation of this prohibition was the offense of petty theft, theft, grand theft, aggravated theft, theft from an elderly person or disabled adult, grand theft of a motor vehicle, or theft of drugs, depending on the circumstances of the offense. The penalties for these offenses ranged from a misdemeanor of the first degree to a felony of the first degree, depending on the value of the property or services stolen, the type of property stolen, and whether the victim was elderly or disabled. (R.C. 2913.02(B).)

Operation of the act

The act modifies the law regarding the name of, and penalty for, a violation of the preexisting prohibition described above, in specified circumstances involving a police dog or horse or a service dog. The act provides that, if the property stolen is a police dog or horse¹ or a service dog, as defined below in "**Terminology and definitional changes, service dog**," and the offender knows or should know that the property stolen is a police dog or horse or service dog, a violation of R.C. 2913.02 is the offense of "theft of a police dog or horse or a service dog," a felony of the third degree (R.C. 2913.02(B)(7)).

Assault and harassment offenses related to a police dog or horse or service dog

Prohibitions regarding assault of a police dog or horse

Preexisting law, unchanged by the act, prohibits any person from knowingly causing, or attempting to cause, physical harm to a police dog or horse in either of the following circumstances (R.C. 2921.321(A)): (1) the police dog or horse is assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, or (2) the police dog or horse is not assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog or horse is a police dog or horse.

¹ "Police dog or horse" means a dog or horse that has been trained, and may be used, to assist law enforcement officers in the performance of their official duties (R.C. 2913.01(II) by reference to R.C. 2921.321(G)(2), unchanged by the act, but redesignated as division (H)(2)).

A violation of this prohibition is the offense of "assaulting a police dog or horse." The preexisting penalties for the offense, and the changes the act makes to them, are listed below in **'Penalties for assault and harassment offenses related to a police dog or horse or service dog.'**

Prohibitions regarding harassment of a police dog or horse

Formerly. Preexisting law, retained but expanded by the act as described below, prohibits a person from recklessly doing any of the following (R.C. 2921.321(B)(1) through (4)): (1) taunting, tormenting, or striking a police dog or horse, (2) throwing an object or substance at a police dog or horse, (3) interfering with or obstructing a police dog or horse, or interfering with or obstructing a law enforcement officer assisted by a police dog or horse, in a manner that either inhibits or restricts the officer's control of the police dog or horse, deprives the officer of control of the police dog or horse, releases the police dog or horse from its area of control, or enters the area of control of the police dog or horse without the consent of the officer, including placing food or any other object or substance into that area, or (4) engaging in any conduct that is likely to cause serious physical injury or death to a police dog or horse.

Under preexisting law, unchanged by the act, a violation of this prohibition is the offense of "harassing a police dog or horse." The preexisting penalties for the offense, and the changes the act makes to them, are listed below in **'Penalties for assault and harassment offenses related to a police dog or horse or service dog.'** Former law provided that, in addition to the penalties so listed, a person who violated this prohibition was responsible for the payment of all of the following (existing R.C. 2921.321(E)(3)): (1) any veterinary bills or bills for medication incurred by the police department as a results of the violation, (2) any damaged equipment that resulted from the violation, and (3) the cost of replacing the police dog or horse and of any further training of a new police dog or horse by a law enforcement officer that is required because of the death of or serious physical harm to the police dog or horse that was the subject of the violation.

Operation of the act. The act adds two additional prohibitions within the offense of "harassing a police dog or horse." Under the act, a person is additionally prohibited from recklessly doing either of the following (R.C. 2921.321(B)(3)(e) and (5)):

(1) Interfering with or obstructing a police dog or horse, or interfering with or obstructing a law enforcement officer who is being assisted by a police dog or horse, in a manner that inhibits or restricts the ability of the police dog or horse to assist a law enforcement officer.

(2) Failing to reasonably restrain a dog that the person owns, keeps, or harbors from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a police dog or horse that either: (a) at the time of the conduct is assisting a law enforcement officer in the performance of the officer's duties, or (b) the person knows is a police dog or horse.

The penalties for a violation of either new prohibition are listed below in "**Penalties for assault and harassment offenses related to a police dog or horse or service dog.**"

Prohibitions regarding assault of a handicapped assistance (service) dog

Formerly. Preexisting law, retained but expanded by the act as described below, prohibits a person from knowingly causing, or attempting to cause, physical harm to a handicapped assistance dog in either of the following circumstances (R.C. 2921.321(C)): (1) the handicapped assistance dog is assisting a blind, deaf, or mobility impaired person at the time the physical harm is caused or attempted, or (2) the handicapped assistance dog is not assisting a blind, deaf, or mobility impaired person at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog is a handicapped assistance dog.

A violation of this prohibition is the offense of "assaulting a handicapped assistance dog." The preexisting penalties for the offense, and the changes the act makes to them, are listed below in "**Penalties for assault and harassment offenses related a police dog or horse or service dog.**"

Operation of the act. Consistent with other changes it makes (see "**Terminology and definitional changes,**" below), the act changes references in the prohibition to a "handicapped assistance dog" to a "service dog," expands references in the prohibition to a dog that is "assisting" a blind, deaf, or mobility impaired person to references to a dog that is "assisting or servicing" such a person, and expands references in the prohibition to the persons being assisted or served by the dog to also include a "person with a seizure disorder" (R.C. 2921.321(C)). The act renames the offense as "assaulting a service dog." The penalties for a violation of the modified offense are listed below in "**Penalties for assault and harassment offenses related to a police dog or horse or service dog.**"

Prohibitions regarding harassment of a service dog

The act creates the offense of "harassing a service dog." Under the act, a person is prohibited from recklessly doing any of the following (R.C. 2921.321(D)):

(1) Taunting, tormenting, or striking a "service dog" (see "**Terminology and definitional changes**," below);

(2) Throwing an object or substance at a service dog;

(3) Interfering with or obstructing a service dog, or interfering with or obstructing a blind, deaf, or mobility impaired person or person with a seizure disorder who is being assisted or served by a service dog, in a manner that does any of the following: (a) inhibits or restricts the assisted or served person's control of the service dog, (b) deprives the assisted or served person of control of the service dog, (c) releases the service dog from its area of control, (d) enters the area of control of the service dog without the consent of the assisted or served person, including placing food or any other object or substance into that area, or (e) inhibits or restricts the ability of the service dog to assist the assisted or served person.

(4) Engaging in any conduct that is likely to cause serious physical injury or death to a service dog;

(5) Failing to reasonably restrain a dog that the person owns, keeps, or harbors from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a service dog that either: (a) at the time of the conduct is assisting or serving a blind, deaf, or mobility impaired person or person with a seizure disorder, or (b) the person knows is a service dog.

A violation of this prohibition is the offense of "harassing a service dog." The penalties for the offense are listed below in "**Penalties for assault and harassment offenses related to a police dog or horse or service dog.**"

Penalties for assault and harassment offenses related to a police dog or horse or service dog

Former law contained the penalties that follow for the offenses of assaulting a police dog or horse, harassing a police dog or horse, and assaulting a handicapped assistance dog (R.C. 2921.321(E)(1), (2), and (3)). The act increases these penalties, as indicated (R.C. 2921.321(E)(1), (2), and (3)); as indicated above, the act renames the offense of "assaulting a handicapped assistance dog" as the offense of "assaulting a service dog"):

The offenses of assaulting a police dog or horse, harassing a police dog or horse, and assaulting a service dog	Former penalty	Penalty under the act
Generally	M2	M2
Violation results in physical harm ² to the police dog or horse or service dog but does not result in its death or in serious physical harm. ³	M1	M1
Violation results in serious physical harm to police dog or horse or service dog but does not result in its death.	F5	F4
Violation results in the death of the police dog or horse or service dog.	F4	F3

The act enacts the following penalties for the new offense of "harassing a service dog" that it enacts (R.C. 2921.32(E)(4)):

The offense of harassing a service dog	Former penalty	Penalty under the act
Generally	No provision	M2
Violation results in physical harm to the service dog but does not result in its death or in serious physical harm	No provision	M1
Violation results in serious physical harm to service dog but does not result in its death	No provision	F4
Violation results in the death of the service dog	No provision	F3

The act also moves the economic penalties imposed under prior law on a person who commits the offense of "harassing a police dog or horse," discussed above in "*Harassment of a police dog or horse*," expands these economic

² "Physical harm" means any injury, illness, or other physiological impairment, regardless of its gravity or duration (R.C. 2921.321(G)(1), unchanged by the act, but redesignated as division (H)(1)).

³ "Serious physical harm" means (a) any physical harm that carries a substantial risk of death, (b) any physical harm that causes permanent maiming or that involves some temporary, substantial maiming, (c) any physical harm that causes acute pain of a duration that results in substantial suffering. (R.C. 2921.321(G)(3), unchanged by the act, but redesignated as division (H)(3).)

penalties, and applies the expanded economic penalties to all four offenses of "assaulting a police dog or horse," "harassing a police dog or horse," "assaulting a service dog," and "harassing a service dog." The act provides that, in addition to any other sanction or penalty imposed for the offense, a person who commits the offense of "assaulting a police dog or horse," "harassing a police dog or horse," "assaulting a service dog," or "harassing a service dog" is responsible for the payment of all of the following (R.C. 2921.321(E)(5)):

(1) Any veterinary bill or bill for medication incurred by the police department regarding the police dog or horse-related offenses or incurred by the blind, deaf, or mobility impaired person or person with a seizure disorder assisted or served by the service dog regarding the service dog-related offenses;

(2) The cost of any damaged equipment that results from the offense;

(3) The cost of any further training or retraining of the dog or horse that was the subject of the offense by a law enforcement officer or by the blind, deaf, or mobility impaired person or person with a seizure disorder assisted or served by the service dog, if the offense did not result in the death of the police dog or horse or the service dog that was the subject of the offense and if, as a result of that dog or horse being the subject of the offense, the dog or horse needs further training or retraining to be able to continue in the capacity of a police dog or horse or service dog;

(4) The cost of replacing the dog or horse and of any further training of a new police dog or horse or a new service dog by a law enforcement officer or by the blind, deaf, or mobility impaired person or person with a seizure disorder assisted or served by the service dog, which replacement or training is required because of the death of or serious physical harm to the dog or horse that was the subject of the offense, if the offense resulted in the death of the dog or horse that was the subject or the serious physical harm to the dog or horse that was the subject to the extent that the dog or horse needs to be replaced on either a temporary or permanent basis.

Knowledge of an animal's status as a police dog or horse or service dog in order for the assault and harassment offenses related to a police dog or horse or service dog to apply

The act specifies that the offenses of "assaulting a police dog or horse," "harassing a police dog or horse," "assaulting a service dog," and "harassing a service dog," as described in the preceding portions of this part of the analysis, only apply to an offender who knows or should know at the time of the violation of the prohibition in question that the police dog or horse or service dog that is the subject of the offense is a police dog or horse or service dog (R.C. 2921.321(G)).

Registration of service dogs

Preexisting law, retained but expanded by the act as described below, provides that if an owner of a dog that is in training to become or serves as a guide or leader for a blind person or as a listener for a deaf person or that provides support or assistance for a mobility impaired person makes application for registration of the dog and can show proof that the dog is in training or has been trained for that purpose by a nonprofit special agency engaged in such work, the owner of such a guide, leader, hearing, or support dog is exempt from any dog registration fee. This registration of such a dog is permanent for as long as the dog is in training or serves in such a service capacity. Registration certificates and tags for such a dog are stamped "Ohio Handicapped-Assistance Dog-Permanent Registration."

The act includes dogs that are in training to provide support or assistance for a mobility impaired person and dogs in training to become or serving as a seizure assistance, seizure response, or seizure alert dogs for a person with a seizure disorder within the above-described dog registration fee exemption. Like the registration under preexisting law of the other types of service dogs, registration under the act for the expanded list of dogs is permanent for as long as the dog is in training or serves in the specified capacity. The act changes the name on the certificate and tag for such a dog from "Ohio Handicapped Assistance Dog-Permanent Registration" to "Ohio Service Dog-Permanent Registration" and provides that previously issued tags with the prior name on the tag continue to be valid. (R.C. 955.011(A).)

Terminology and definitional changes

Service dog

Formerly, the law regarding the preexisting offense of "assaulting a handicapped assistance dog" used and defined the term "handicapped assistance dog" as a dog that served as a guide or leader for a blind person or as a listener for a deaf person or that provided support or assistance for a mobility impaired person. The act changes the term "handicapped assistance dog" to "service dog." (R.C. 2921.321(G)(4), conforming changes in R.C. 955.011(A).)

In addition, the act expands the definition of "service dog" so that the term also includes a dog that serves as a seizure assistance, seizure response, or seizure alert dog for a person with any seizure disorder. Prior law only included a dog that served as a guide or leader for a blind person, served as a listener for a deaf person, or provided assistance for a mobility impaired person within the definition of "service dog." (R.C. 2921.321(G)(4).)

Persons unable to work

Various provisions of the Revised Code regarding persons with disabilities, in various contexts, formerly used the term "person unfit to work" in definitions of "permanently and totally disabled" and "disabled adult" to describe an individual with a disability. The act changes the term "person unfit to work" to "person unable to work." (R.C. 323.151(E), 2913.01(DD), 4503.064(D), and 5117.01(I).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-08-04	p. 1398
Reported, H. Criminal Justice	03-18-04	p. 1708
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Reported, S. Judiciary	05-26-04	pp. 2004-2005
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