



Ohio Legislative Service Commission

Bill Analysis

Jennifer Huntzinger

H.B. 70

128th General Assembly
(As Introduced)

Reps. Gerberry, Hagan

BILL SUMMARY

- Increases the degree of offense for the prohibition against cruel treatment of a companion animal by the animal's custodian or caretaker to a felony of the fifth degree.

CONTENT AND OPERATION

Prohibition against cruel treatment of a companion animal by the animal's custodian or caretaker

Current law specifies that a violation of the prohibition against cruel treatment of a companion animal by the animal's custodian or caretaker (described in the next paragraph) or the prohibition against an owner or keeper of a dog, cat, or other domestic animal from abandoning the animal is a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense. The bill makes a violation of the prohibition against cruel treatment of a companion animal by the animal's custodian or caretaker a felony of the fifth degree on a first offense and each subsequent offense. (R.C. 959.99(E)(2) and (3).)

Current law, unchanged by the bill, prohibits a person who confines or who is the custodian or caretaker of a "companion animal" from negligently doing any of the following (see **COMMENT 1**):

(1) "Torturing," "tormenting," needlessly mutilating or maiming, cruelly beating, poisoning, needlessly killing, or committing an act of "cruelty" against the companion animal (see **COMMENT 2**);

(2) Depriving the companion animal of necessary sustenance, confining the companion animal without supplying it during the confinement with sufficient

quantities of good, wholesome food and water, or impounding or confining the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight, if it can be reasonably expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment or confinement in any of those specified manners.

Current law, also unchanged by the bill, specifies that the prohibition described in the preceding paragraph does not apply to any of the following:

(1) A companion animal used in scientific research conducted by an institution in accordance with the federal Animal Welfare Act and related regulations;

(2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Chapter 4741. of the Revised Code (see **COMMENT 3**);

(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 under Chapter 4741. of the Revised Code. (R.C. 959.131(A), (C), and (D), not in the bill.)

Additionally, current law, unchanged by the bill except for technical changes, provides that a court may order a person who is convicted of or pleads guilty to the prohibition against cruel treatment of a companion animal by the animal's custodian or caretaker to forfeit to an impounding agency, as defined in R.C. 959.132, any or all of the companion animals in that person's ownership or care. The court may also prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time, and may order the person to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under R.C. 959.132. Additionally, if a court has reason to believe that a person who is convicted of or pleads guilty to a violation of R.C. 959.131 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, and the court must order the offender to pay the costs of the evaluation or counseling. (R.C. 959.99(E)(4) and (5).)

COMMENT

1. As used in R.C. 959.131, "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)).

2. "Cruelty," "torment," and "torture" include every act, omission, or neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief (R.C. 959.131(A)(2) by reference to 1717.01(B), not in the bill).

3. "Practice of veterinary medicine" means the practice of any person who performs any of the following actions (R.C. 959.131(A)(4) by reference to 4741.01(B), not in the bill):

(1) Diagnoses, prevents, or treats any disease, illness, pain, deformity, defect, injury, or other physical, mental, or dental condition of any animal;

(2) Administers to or performs any medical or surgical technique on any animal that has any disease, illness, pain, deformity, defect, injury, or other physical, mental, or dental condition or performs a surgical procedure on any animal;

(3) Prescribes, applies, or dispenses any drug, medicine, biologic, anesthetic, or other therapeutic or diagnostic substance, or applies any apparatus for any disease, illness, pain, deformity, defect, injury, or other physical, mental, or dental condition of any animal;

(4) Uses complementary, alternative, and integrative therapies on animals;

(5) Renders professional advice or recommendation by any means, including telephonic or other electronic communication with regard to any activity described in paragraphs (1) to (4);

(6) Represents the person's self, directly or indirectly, publicly or privately, as having the ability and willingness to perform an act described in paragraphs (1) to (4);

(7) Uses any words, letters, abbreviations, or titles in such connection and under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine.

HISTORY

ACTION

DATE

Introduced

03-10-09

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