



Ohio Legislative Service Commission

Bill Analysis

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(As Passed by the House)

Reps. Combs, Derickson, Grossman, Patmon, Pillich, Beck, Stinziano, Dovilla, Maag, Blair, Stebelton, Rosenberger, Hackett, Ashford, Winburn, Garland, Williams, Weddington, Bubb, Blessing, Hayes, Slaby, Antonio, Brenner, DeGeeter, Duffey, Fedor, Gerberry, Goyal, C. Hagan, R. Hagan, Heard, Hottinger, Letson, Lundy, Mallory, Mecklenborg, O'Brien, Szollosi, Uecker, Yuko, Batchelder

BILL SUMMARY

- Increases the penalty for committing cruelty to animals for a second or subsequent violation from a second degree to a first degree misdemeanor.
- Requires a court, in addition to any other sanctions for an offender who 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 commits a felony violation of the prohibition against knowingly committing cruelty to a companion animal.
- Requires a juvenile court, in addition to any other disposition for a delinquent child, to require a child under 18 years of age who is adjudicated a delinquent child for committing cruelty to a companion animal to undergo psychological evaluation to determine if the child needs individual or family counseling and, if recommended by the evaluation, to undergo individual or family counseling.
- Specifies that a juvenile court that imposes a requirement as described in the preceding dot point 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 based on a crime not involving a family or household member, a criminal temporary protection order based on a crime involving a family or household member, a civil stalking or sexually oriented offense protection order, or a civil domestic violence protection order or approving a civil domestic violence consent agreement, to include within the scope of the protection order or consent agreement any companion animal in the residence of the person to be protected.
- Modifies one of the disposition options available to the court when a child is adjudicated a delinquent child to permit the court to require the child to not be absent without legitimate excuse from the "school" the child is supposed to attend for a certain specified period of time, instead of the "public school" the child is supposed to attend.

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CONTENT AND OPERATION

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."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 The prohibition does not apply in specified circumstances relating to animal research, veterinary medicine, hunting, field trials, training, or the administration of medicine. 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 court may order the forfeiture to the impounding agency of any or all of the companion animals in the offender's care, may prohibit or limit the offender's ownership or care for companion animals, may order the offender to pay for the costs incurred by an impounding agency for the care of an impounded companion animal, and may in specified circumstances (see the first paragraph under **"Psychological treatment and counseling for a delinquent child who commits cruelty against a companion animal,"** below) order as a community control sanction or as a condition of probation that the offender undergo psychological evaluation or counseling. Any fine money collected for a violation of the prohibition is paid to the county humane society or the local or state law enforcement agency that primarily was responsible for or involved in the investigation and prosecution of the violation, with a county humane society using any moneys so received for required training of humane society agents.³

The bill requires a court, in addition to any other sanction imposed on the offender, to impose a term of "basic probation supervision" or a term of "intensive probation supervision" for any felony violation of the prohibition if the offender is not already undergoing counseling imposed as a community control sanction or as a condition of probation for committing cruelty to a companion animal.⁴ "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 in specified circumstances by the Parole Board, including basic parole supervision and basic post-release control supervision. "Intensive probation supervision" means a requirement that the offender maintain frequent contact with a person appointed by the court or in specified circumstances by the Parole Board to supervise the offender while the offender is seeking or maintaining necessary employment and participating in

¹ R.C. 959.131(B), not in the bill.

² R.C. 959.131(A)(1), not in the bill.

³ R.C. 959.131(B), (D), and (E), not in the bill, and R.C. 959.99(E)(1), (3), and (4).

⁴ R.C. 959.99(E)(1)(a).

training, education, and treatment programs as required by the court or Board's order, including intensive parole supervision and intensive post-release control supervision.⁵

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 committing cruelty to a companion animal involving either knowing conduct or negligent conduct 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. The court must order the offender to pay the costs of the evaluation or counseling.⁶

The bill requires a juvenile 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 based on knowing conduct, as described above in "**Cruelty to a companion animal**," to undergo psychological evaluation. The evaluation must determine if the child needs individual or family counseling and 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.⁷

Cruelty to animals in general

Current law, unchanged by the bill, prohibits a person from engaging in specified types of cruelty to any animal (see below).⁸ Currently, 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. All fines collected for a violation of this prohibition are paid to the society or association for the

⁵ R.C. 959.99(E)(1)(b), by reference to R.C. 2929.01, not in the bill.

⁶ R.C. 959.99(E)(4).

⁷ R.C. 959.99(E)(4)(b) and 2152.19(F).

⁸ R.C. 959.13(A), not in the bill.

prevention of cruelty to animals, if there is such a society in the county, township, or municipality where the violation occurred.⁹

The bill changes the penalty for second and subsequent violations of the prohibition described above. Under the bill, a first violation continues to be a misdemeanor of the second degree, but each subsequent violation is a misdemeanor of the first degree. The bill retains the existing forfeiture and fine distribution provisions for violations of the prohibition.¹⁰

The specified types of cruelty to which the current prohibition, unchanged by the bill, applies are the following:¹¹

(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 overlies, crush, wound, or kill each other.

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 continuing education programs

⁹ R.C. 959.99(D) and R.C. 959.13(C), not in the bill.

¹⁰ R.C. 959.99(D) and R.C. 959.13(C), not in the bill.

¹¹ R.C. 959.13(A), not in the bill.

certified by the Ohio State Medical Association and the Ohio Osteopathic Association regarding the counseling of individuals who abuse animals and requires the State Board of Psychology to approve one or more continuing education courses of study on the same topic. 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 by the Counselor, Social Worker, and Marriage and Family Therapist Board to take the animal abuse continuing education course(s).¹²

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 within the scope of the orders. In all of the bill's amendments to those sections, "companion animal" has the same meaning as is described above in "**Cruelty to a companion animal.**"

Criminal protection orders based on a crime not involving a family or household member

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), 2903.211 (menacing by stalking), 2903.22 (menacing), or 2911.211 (aggravated trespass), a violation of a municipal ordinance substantially similar to any of those sections containing a misdemeanor offense, or the commission of a sexually oriented offense, any of a list of specified persons may file a motion requesting a protection order as a pretrial condition of release. The court must conduct a hearing on the motion not later than the next court day after the motion is filed.

If the court finds at the hearing 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

¹² R.C. 4731.284, 4732.141(H), and 4757.33(C).

victim. The court also may issue such a protection order pursuant to its own motion (upon the filing of a complaint alleging a violation described above).¹³

If the court issues such a 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 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 the order any companion animal that is in the complainant's or alleged victim's residence.¹⁴

Civil stalking or sexually oriented offense protection orders involving any person

Under current law, a person may file a petition in the court of common pleas of the county in which the person resides alleging that another person engaged in a violation of R.C. 2903.211 (menacing by stalking) against the person or against a family or household member of the person or committed a sexually oriented offense against the person or a family or household member of the person 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 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.¹⁵

¹³ R.C. 2903.213.

¹⁴ R.C. 2903.213(B), (C)(1), (D)(1), and (J)(2).

¹⁵ R.C. 2903.214.

The bill does not change the procedure for requesting or issuing such a protection order. However, the bill specifies that the court may include within the scope of the order any companion animal that is in the residence of the person to be protected.¹⁶

Criminal temporary protection orders based on a crime involving a family or household member

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, a family or household member of an alleged victim, or another specified person 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 on the motion not later than 24 hours after the filing of the motion to determine whether to issue the order. If the court issues a temporary protection order as an *ex parte* order, it must conduct 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 family or household member. The court also may issue such an order on its own motion (upon the filing of a complaint alleging any of the above violations or offenses).¹⁷

The bill does not change the procedure for requesting or issuing such a protection order. However, it provides that the court may include within the scope of

¹⁶ R.C. 2903.214(A)(7) and (E)(1)(a).

¹⁷ R.C. 2919.26.

the order any companion animal that is in the complainant's or alleged victim's residence.¹⁸

Domestic violence civil protection orders

Under current law, a person may file a petition in a court of common pleas alleging that a respondent engaged in domestic violence against a family or household member (defined to include acts generally thought of as domestic violence and also the commission of a sexually oriented offense against a family or household member) and requesting the issuance of a civil domestic violence protection order under R.C. 3113.31. 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 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 specified remedies.¹⁹

The bill does not change the procedures for requesting or issuing such a protection order or approving such a consent agreement. However, it provides that the court may include within the scope of the order or consent agreement any companion animal that is in the petitioner's residence.²⁰

¹⁸ R.C. 2919.26(B), (C)(1), (D)(1), and (K)(1).

¹⁹ R.C. 3113.31.

²⁰ R.C. 3113.31(A)(7) and (E)(10).

Disposition orders for a delinquent child

Under current law, a juvenile court has several disposition options available when a child is adjudicated a delinquent child. One of these options, in addition to any other disposition imposed, is to require the child to *not be absent without legitimate excuse from the public school the child is supposed to attend* for five or more consecutive days, seven or more school days in one school month, or 12 or more school days in a school year (other disposition options are available when the child's adjudication is based on the child being a chronic truant or a habitual truant – those options are described in "**Delinquent child dispositions related to chronic or habitual truancy**" under "**Background**," below). The bill amends this option to remove the word "public," so that the court may require the child to *not be absent without legitimate excuse from the school the child is supposed to attend*.²¹

Current Juvenile Law and Delinquent Child Law, unchanged by the bill, specify that a "legitimate excuse for absence from the public school the child is supposed to attend" (legitimate excuse for school absence) includes, but is not limited to the fact that the child in question has enrolled in and is attending *another public or nonpublic school* in Ohio or another state, is excused from attendance at school for any of the reasons specified in R.C. 3321.04, or has received an age and schooling certificate in accordance with R.C. 3331.01.²² This phrase is similar, but not identical, to the phrase currently used in the dispositional option amended by the bill, as described in the preceding paragraph. If a court determines that the difference between the phrases is minor and technical in nature, the phrase that lists the examples of a legitimate excuse for school absence might apply to the dispositional option amended by the bill. If this is true, since the bill's change to that dispositional option is not technical in nature, the phrase that lists the examples of a legitimate excuse for school absence probably no longer applies to that dispositional option. However, if a court determines that because the phrases are not identical the phrase that lists the examples of a legitimate excuse for school absence does not apply to the dispositional option amended by the bill, the bill's change to that dispositional option is not linked in any way to the phrase that lists the examples of a legitimate excuse for school absence.

²¹ R.C. 2152.19(A)(6).

²² R.C. 2151.011(B)(20) and 2152.01(C), not in the bill.

Background

Delinquent child dispositions related to chronic or habitual truancy

Under current law, if a child is adjudicated a delinquent child for being a "chronic truant" or a "habitual truant" who previously has been adjudicated an unruly child for being a habitual truant, in addition to any other disposition made, the court may do any or all of the following: (1) require the child to participate in a truancy prevention mediation program, (2) make any order of disposition authorized by R.C. 2152.19, except that it cannot commit the child to a school, camp, institution, or other facility for the care of delinquent children or to a detention facility or district detention facility unless it determines that the child violated a lawful court order made pursuant to either R.C. 2151.354 or the provision described in "**Disposition orders for a delinquent child**" under the **CONTENT AND OPERATION** portion of this analysis, (3) if the court determines that the parent, guardian, or other person having care of the child has failed to cause the child's attendance at school in violation of R.C. 3321.38, require the parent, guardian, or other person having care of the child to participate in a truancy prevention mediation program, or (4) if the court makes the determination described in clause (3) of this paragraph, require the parent, guardian, or other person having care of the child to participate in a community service program, preferably one that requires the involvement of the parent, guardian, or other person in the child's school.²³

As used in these provisions, "chronic truant" means any child of compulsory school age who is *absent without legitimate excuse for absence from the public school the child is supposed to attend* for seven or more consecutive school days, ten or more school days in one school month, or 15 or more school days in a school year, and "habitual truant" means any child of compulsory school age who is *absent without legitimate excuse for absence from the public school the child is supposed to attend* for five or more consecutive school days, seven or more school days in one school month, or 12 or more school days in a school year.²⁴ See "**Disposition orders for a delinquent child**" under the **CONTENT AND OPERATION** portion of this analysis for the provision that lists examples of a "legitimate excuse for absence from the public school the child is supposed to attend," as used in these definitions.

²³ R.C. 2152.19(A)(7).

²⁴ R.C. 2152.02(D), not in the bill, and R.C. 2151.011(B)(17) and 2151.01(C), not in the bill.

HISTORY

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