



# Ohio Legislative Service Commission

## Bill Analysis

Andrea Holmes

### Sub. H.B. 25

129th General Assembly  
(As Reported by H. Criminal Justice)

**Reps.** Combs, Derickson, Grossman, Patmon, Pillich, Beck, Stinziano, Dovilla, Maag, Blair, Stebelton, Rosenberger, Hackett, Ashford, Winburn, Garland, Williams, Weddington, Bulp, Blessing, Hayes, Slaby

---

## 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, a criminal domestic violence temporary protection order, a civil stalking order, a 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.

---

## 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. "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.<sup>1</sup> 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 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.<sup>2</sup>

---

<sup>1</sup> R.C. 959.131(A)(1).

<sup>2</sup> R.C. 959.131(B) and (D), not in the bill and R.C. 959.99(E)(1) and (3).

The bill 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 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.<sup>3</sup>

### **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.<sup>4</sup>

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 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.<sup>5</sup>

### **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 requires the State Board of Psychology to approve one or more continuing education courses of study regarding the counseling of individuals who abuse animals. The bill also requires that the professional standards committees of the Counselor, Social Worker, and Marriage

---

<sup>3</sup> R.C. 959.99(E)(1)(a).

<sup>4</sup> R.C. 959.99(E)(4).

<sup>5</sup> R.C. 959.99(E)(4)(b) and 2152.19(F).

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).<sup>6</sup>

## **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.

### **Criminal protection orders 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) or a municipal ordinance substantially similar to any of those sections containing a misdemeanor offense, or the commission of a sexually oriented offense and a motion requesting the order, 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

---

<sup>6</sup> R.C. 4731.284, 4732.141(H), and 4757.33(C).

the order any companion animal that is in the complainant's or alleged victim's residence.<sup>7</sup>

### **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 section 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.

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.<sup>8</sup>

### **Criminal temporary protection orders 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

---

<sup>7</sup> R.C. 2903.213(B), (C)(1), (D)(1), and (J)(2).

<sup>8</sup> R.C. 2903.214(A)(7) and (E)(1)(a).

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 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 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 made as described above.<sup>9</sup>

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 the order any companion animal that is in the complainant's or alleged victim's residence.<sup>10</sup>

### **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 (defined to include the commission of a sexually oriented offense against a family or household member) 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

---

<sup>9</sup> R.C. 2919.26.

<sup>10</sup> R.C. 2919.26(B), (C)(1), (D)(1), and (K)(1).

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 remedies as specified in R.C. 3113.31(E)(1).<sup>11</sup>

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.<sup>12</sup>

## **Background/existing law--cruelty to animals**

### **Prohibition**

Current law, unchanged by the bill, prohibits a person from doing any of the following:<sup>13</sup>

(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

---

<sup>11</sup> R.C. 3113.31.

<sup>12</sup> R.C. 3113.31(A)(7) and (E)(10).

<sup>13</sup> R.C. 959.13(A), not in the bill.

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.

### **Penalty**

Under current law, a violation of the prohibition described above 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.<sup>14</sup>

### **Disposition orders for a delinquent child**

Under existing law, a court has several disposition options available when a child is adjudicated a delinquent child. One of these options 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. 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, whether that school is public or non-public.<sup>15</sup>

---

## **HISTORY**

ACTION	DATE
Introduced	01-18-11
Reported, H. Criminal Justice	05-25-11

h0025-rh-129.docx/ks

---

<sup>14</sup> R.C. 959.99(D).

<sup>15</sup> R.C. 2152.19(A)(6).

