



# Ohio Legislative Service Commission

## Bill Analysis

Aida S. Montano

### H.B. 300

129th General Assembly  
(As Introduced)

**Reps.** Goyal and Ruhl, Driehaus, Murray, Phillips, Yuko, Antonio, Patmon

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## BILL SUMMARY

- Prohibits knowingly causing or attempting to cause physical harm to a search and rescue dog or horse if the dog or horse is engaged in a search and rescue operation or if the offender has actual knowledge that the dog or horse is a search and rescue dog or horse ("assaulting a search and rescue dog or horse").
- Prohibits recklessly doing any of specified acts such as taunting, tormenting, or striking, throwing an object or substance at, or engaging in conduct likely to cause serious physical injury or death to a search and rescue dog or horse, interfering with or obstructing such a dog or horse or an individual being assisted by such a dog or horse in a manner that does certain specified things, or failing to reasonably restrain a dog from taunting, tormenting, or otherwise endangering such a dog or horse that is engaged in a search or rescue operation or is known to be such a dog or horse ("harassing a search and rescue dog or horse").
- Provides that if the property that is stolen in a violation of R.C. 2913.02 (theft offenses) is a search and rescue dog or horse and the offender knows or should know that the property stolen is such a dog or horse the violation is the offense of "theft of a police dog or horse, search and rescue dog or horse, or an assistance dog" (expansion of existing offense of "theft of a police dog or horse or an assistance dog").
- Requires an owner of a search and rescue dog to make the dog available to the district board of health for rabies tests within a reasonable time after the dog bites a person if the dog exhibits abnormal behavior after biting the person.
- Repeals existing law's provisions regarding the functions of the Ohio Commission on Service and Volunteerism in establishing a system for recruiting, registering,

training, and deploying volunteers to respond to an emergency declared by the state or a political subdivision.

- Relocates the provisions regarding the establishment of a system for recruiting, registering, training, and deploying volunteers as described in the preceding dot point to the Emergency Management Agency within the Department of Public Safety.
- Prohibits an employer of 40 or more employees from terminating the employment of an employee who is a registered volunteer for being tardy for or absent from an employee's shift if all of specified criteria are met regarding the employee's participation in responding to an emergency.
- Requires a senior official of a tax exempt organization under IRC 501(c)(3) that provides emergency response services to notify the employer of a registered volunteer who is a member of the organization of that membership and of termination of the membership.

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## CONTENT AND OPERATION

### New prohibitions

#### Offense of "assaulting a search and rescue dog or horse"

The bill prohibits any person from knowingly causing, or attempting to cause, "physical harm" to a "search and rescue dog or horse" in either of the following circumstances: (1) the dog or horse is engaged in a "search and rescue operation" at the time the physical harm is caused or attempted, or (2) the dog or horse is not engaged in a search and rescue operation at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog or horse is a search and rescue dog or horse.<sup>1</sup> (See "**Definitions**," below, for the definitions of the terms in quotation marks.) A violation of the prohibition is the offense of "assaulting a search and rescue dog or horse," a misdemeanor of the second degree, except as otherwise described below. If the violation results in the death of the dog or horse, the offense is a felony of the third degree. If the violation results in "serious physical harm" (see "**Definitions**," below) to the dog or horse other than its death, the offense is a felony of the fourth degree. If the violation results in physical harm to the dog or horse other than death or serious physical harm, the offense is a misdemeanor of the first degree.<sup>2</sup>

#### Offense of "harassing a search and rescue dog or horse"

The bill prohibits any person from recklessly doing any of the following:<sup>3</sup>

- (1) Taunting, tormenting, or striking a search and rescue dog or horse;
- (2) Throwing an object or substance at a search and rescue dog or horse;
- (3) Interfering with or obstructing a search and rescue dog or horse, or interfering with or obstructing an individual who is being assisted by a search and rescue dog or horse, in a manner that does any of the following: (a) inhibits or restricts the individual's control of the dog or horse, (b) deprives the individual of control of the dog or horse, (c) releases the dog or horse from its area of control, (d) enters the area of control of the dog or horse without the consent of the individual, including placing food or any other object or substance into that area, or (e) inhibits or restricts the ability of the dog or horse to assist the individual;

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<sup>1</sup> R.C. 2921.321(E).

<sup>2</sup> R.C. 2921.321(G)(5).

<sup>3</sup> R.C. 2921.321(F).

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

(5) If the person is the owner, keeper, or harbinger of a dog, failing to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a search and rescue dog or horse that at the time of the conduct is engaged in a search and rescue operation or that the person knows is a search and rescue dog or horse.

A violation of any of the above prohibitions is the offense of "harassing a search and rescue dog or horse," a misdemeanor of the second degree except as otherwise described below. If the violation results in the death of the search and rescue dog or horse, the offense is a felony of the third degree. If the violation results in serious physical harm to the dog or horse other than its death, the offense is a felony of the fourth degree. If the violation results in physical harm to the dog or horse other than death or serious physical harm, the offense is a misdemeanor of the first degree.<sup>4</sup>

#### **Additional sanctions for assaulting or harassing a search and rescue dog or horse**

In addition to any other sanction or penalty imposed for "assaulting a search and rescue dog or horse" or "harassing a search and rescue dog or horse" under the provisions described above, R.C. Ch. 2929. (Sentencing Law), or any other provision of the Revised Code, whoever violates any of the above prohibitions is responsible for the payment of all of the following:<sup>5</sup>

(1) Any veterinary bill or bill for medication incurred as a result of the violation by the owner of the search and rescue dog or horse;

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

(3) If the violation did not result in the death of the search and rescue dog or horse and if, as a result of that dog or horse being the subject of the violation, the dog or horse needs further training or retraining to be able to continue in the capacity of a search and rescue dog or horse, the cost of any further training or retraining of that dog or horse by the owner of the search and rescue dog or horse;

(4) If the violation resulted in the death of the search and rescue dog or horse or resulted in serious physical harm to that dog or horse to the extent that the dog or horse

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<sup>4</sup> R.C. 2921.321(G)(6).

<sup>5</sup> R.C. 2921.321(G)(7).

needs to be replaced on either a temporary or a permanent basis, the cost of replacing that dog or horse and of any further training by the owner of the search and rescue dog or horse, which replacement or training is required because of the death of or the serious physical harm to the dog or horse that was the subject of the violation.

### **Applicability**

The bill provides that the above prohibitions and sanctions related to search and rescue dogs or horses do not apply to a licensed veterinarian whose conduct is in accordance with the Veterinarians Law. They only apply to an offender who knows or should know at the time of the violation that the search and rescue dog or horse that is the subject of a violation is a search and rescue dog or horse.<sup>6</sup>

### **Theft of search and rescue dog or horse**

Under continuing law, the offense of theft is committed by any person who, with purpose to deprive the owner of property or services, knowingly obtains or exerts control over the property or services in any of the following ways: (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.<sup>7</sup> Generally, a violation of the above prohibition is petty theft, a misdemeanor of the first degree. Based upon the value of the property or services or type of property involved in the commission of the offense, a violation of the above prohibition is one of a variety of designated types of theft and is a felony of the first, second, third, fourth, or fifth degree.

Under existing law, if the property stolen in a violation of the above prohibition is a "police dog or horse or an assistance dog" and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog, a violation of the above prohibition is the offense of "theft of a police dog or horse or an assistance dog," a felony of the third degree.<sup>8</sup> The bill provides that if property that is stolen in a violation of the above prohibition is a search and rescue dog or horse and the offender knows or should know that the property stolen is such a dog or horse, the offense is "theft of a police dog or horse, a search and rescue dog or horse, or an assistance dog" a felony of the third degree.<sup>9</sup>

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<sup>6</sup> R.C. 2921.321(H) and (I).

<sup>7</sup> R.C. 2913.02(A).

<sup>8</sup> R.C. 2913.02(B)(7).

<sup>9</sup> R.C. 2913.02(B)(7).

## Duties after search and rescue dog bites a person

Under the bill, if a search and rescue dog exhibits any abnormal behavior after biting a person, the owner of the dog must make the dog available within a reasonable time after the person is bitten for the board of health for the district in which the bite occurred to perform tests for rabies. The bill provides that the provisions in existing law described below do not apply to a search and rescue dog that has bitten a person while the dog is under the care of a licensed veterinarian or has bitten a person while the dog is being used in a search and rescue operation.<sup>10</sup>

Existing law, not changed by the bill, prohibits any person from doing any of the following:<sup>11</sup>

(1) Removing a dog that has bitten any person from the county in which the bite occurred until a quarantine period (ten days or another period determined by the board of health for the district in which the bite occurred as necessary to observe the dog for rabies) has been completed;

(2) Transferring a dog that has bitten any person until a quarantine period has been completed, except that a person may transfer the dog to the county dog warden or to any other animal control authority;

(3) Killing a dog that has bitten any person until a quarantine period has been completed, except that a dog may be killed in order to prevent further injury or death or if the dog is diseased or seriously injured;

(4) If the person has killed a dog that has bitten any person in order to prevent further injury or death or if the dog is diseased or seriously injured, failing to do both of the following: (a) immediately after the killing of the dog, notify the board of health for the district in which the bite occurred of the facts relative to the bite and the killing, and (b) hold the body of the dog until that board of health claims it to perform tests for rabies. The board of health must then claim the body of the dog and perform those tests.

## Definitions

For purposes of the above provisions, the bill defines the following terms:<sup>12</sup>

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<sup>10</sup> R.C. 955.261(D)(2).

<sup>11</sup> R.C. 955.261(A), (B), and (C).

<sup>12</sup> R.C. 2921.321(J)(5) and (6), 2913.01(JJ), and 955.261(E).

"Search and rescue dog or horse" means a dog or horse that has been trained, and may be used, to assist in a search and rescue operation.

"Search and rescue operation" means an effort conducted at the direction of an agency of this state or of a political subdivision of this state to locate or rescue a lost, injured, or deceased individual.

The following definitions in existing law apply to the bill's provisions on the new offenses pertaining to search and rescue dogs or horses:<sup>13</sup>

"Physical harm" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

"Serious physical harm" means: (1) any physical harm that carries a substantial risk of death, (2) any physical harm that causes permanent maiming or that involves some temporary, substantial maiming, or (3) any physical harm that causes acute pain of a duration that results in substantial suffering.

## **Registered volunteers**

### **Repeal of Ohio Commission on Service and Volunteerism duties regarding registered volunteers**

Under current law, the Ohio Commission on Service and Volunteerism (formerly the Ohio Community Service Council)<sup>14</sup> must advise, assist, consult with, and cooperate with agencies and political subdivisions of Ohio to establish a statewide system for recruiting, registering, training, and deploying the types of volunteers the Commission considers advisable and reasonably necessary to respond to an emergency declared by the state or political subdivision. The Commission also must adopt rules to establish fees, procedures, standards, and requirements the Commission considers necessary to carry out the purposes of the law governing registered volunteers.<sup>15</sup>

The bill repeals the above law and replaces the Ohio Commission on Service and Volunteerism with the Emergency Management Agency within the Department of Public Safety as the agency charged with the same duties under existing law regarding registered volunteers. The bill's provisions described below in "**Information regarding registered volunteers,**" "**Qualified civil immunity of registered volunteers,**" and

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<sup>13</sup> R.C. 2921.321(J)(1) and (3).

<sup>14</sup> Am. Sub. H.B. 153 of the 129th General Assembly replaced the "Ohio Community Service Council" with the "Ohio Commission on Service and Volunteerism."

<sup>15</sup> R.C. 121.404(A) and (C).

"**Definitions**" are relocated from the existing Commission on Service and Volunteerism provisions to the Emergency Management Agency provisions.

The bill also repeals existing law's provision requiring the Ohio Community Service Council or its designee to advise, assist, consult with, and cooperate with, by contract or otherwise, agencies and political subdivisions of this state in establishing a statewide system for volunteers pursuant to R.C. 121.404.<sup>16</sup>

### **Emergency Management Agency**

The Emergency Management Agency within the Department of Public Safety is charged with the emergency management of the state for the purpose of providing protection for its people against any hazard.

Under the bill, the Executive Director of the Emergency Management Agency, jointly with the Director of Health, is charged with the following duties (primarily the same duties as those of the Ohio Commission on Service and Volunteerism, replaced by the bill):<sup>17</sup>

(1) To advise, assist, consult with, and cooperate with agencies and "political subdivisions" (see "**Definitions**," below) of Ohio to establish and maintain a statewide system for recruiting, registering, training, and deploying the types of volunteers reasonably necessary to respond to an emergency declared by the state or a political subdivision;

(2) To establish fees, procedures, standards, and requirements for recruiting, registering, training, and deploying the volunteers as required under the bill.

### **Information regarding registered volunteers**

The bill provides that the status of a "registered volunteer" (see "**Definitions**," below) as a volunteer and any information presented in summary, statistical, or aggregate form that does not identify an individual is a public record under the Public Records Law. Information related to a registered volunteer's specific and unique responsibilities, assignments, or deployment plans, including training, preparedness, readiness, or organizational assignment, is a security record for purposes of the law exempting security records from disclosure under the Public Records Law. Information related to a registered volunteer's personal information, including contact information,

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<sup>16</sup> R.C. 121.40(C)(13). This section in the bill needs to be updated to reflect the change from the "Ohio Community Service Council" to the "Ohio Commission on Service and Volunteerism."

<sup>17</sup> R.C. 5502.281(A).

medical information, or information related to family members or dependents, is not a public record under the Public Records Law.<sup>18</sup>

### **Qualified civil immunity of registered volunteers**

The bill provides that a registered volunteer is not liable in damages to any person or government entity in tort or other civil action, including an action upon a medical, dental, chiropractic, optometric, or other health-related claim or veterinary claim, for injury, death, or loss to person or property that may arise from an act or omission of that volunteer. This immunity applies to a registered volunteer while providing services within the scope of the volunteer's responsibilities during an emergency declared by the state or political subdivision or in disaster-related exercises, testing, or other training activities, if the volunteer's act or omission does not constitute willful or wanton misconduct.<sup>19</sup>

### **Prohibition against termination of employment of employee who is a registered volunteer**

The bill prohibits an employer that employs 40 or more employees from terminating the employment of an employee who is a registered volunteer under the bill for being tardy for or absent from any shift at the employee's employment if all of the following criteria are met:<sup>20</sup>

(1) The employee's tardiness or absence is a direct result of the employee's participation in responding to an emergency declared by the state or a political subdivision or a direct result of the employee responding to a specific request of a government official of a political subdivision.

(2) The employee's participation was in the employee's capacity as a registered volunteer.

(3) The employee was requested to participate by a government official of the state or a political subdivision.

(4) The employee notified the employer of that employee's status as a registered volunteer when the employee became a registered volunteer. If the employee was a registered volunteer before being employed with that employer, the employee must notify the employer of the employee's status as a registered volunteer within a

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<sup>18</sup> R.C. 5502.281(B), relocated from R.C. 121.404(D).

<sup>19</sup> R.C. 5502.281(C), relocated from R.C. 121.404(B).

<sup>20</sup> R.C. 5502.282(A).

reasonable period of time, not to exceed 14 days, of beginning employment with that employer.

(5) The employee has provided advance notice to the employer that the employee will be tardy or absent as a result of responding to an emergency as a registered volunteer, or if it is impossible for the employee to provide such advance notice, the employee has submitted documentation of the employee's participation in responding to an emergency upon the employee's return to work.

(6) The employee submits to the employer written verification of the emergency within two weeks after the employee was tardy or absent from the employee's employment as a result of the employee's participation in responding to the emergency.

### **Notice of employee's status as registered volunteer**

The bill provides that if a registered volunteer is a member of an organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code and is organized to provide emergency response services, the senior official of the organization must notify the registered volunteer's employer that the registered volunteer is a member of the organization. The senior official also must notify the employer when the registered volunteer ceases to be a member of the organization.<sup>21</sup>

Upon receipt of a notice as described in paragraph (4), above, or in the preceding paragraph, the employer must notify the employee or organization, in writing, of the number of employees employed by the employer. Unless otherwise required by R.C. 124.132 (disaster service leave with pay), 124.138 (paid leave for eligible full-time firefighters employed by Adjutant General), or 124.1310 (leave with pay of EMT-basic, EMT-I, first responder, paramedic, or volunteer firefighter), an employer is not required to compensate an employee for those hours of work for which the employee was absent or tardy as a result of the employee responding to an emergency as a registered volunteer.<sup>22</sup>

### **Excuse from employee's duties for training**

Under the bill, an employer may excuse an employee from the employee's duties for training that will allow the employee to maintain the employee's certifications as a registered volunteer in an emergency response unit if the senior official of that emergency response unit has submitted notification to the employer and if the

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<sup>21</sup> R.C. 5502.282(B).

<sup>22</sup> R.C. 5502.282(C).

employee submits notice to the employer of the training not less than two weeks before the training takes place.<sup>23</sup>

## Definitions

For purposes of the above provisions, the bill defines the following terms:<sup>24</sup>

"Registered volunteer" means any individual registered as a volunteer pursuant to procedures established under the bill and who serves without pay or other consideration, other than the reasonable reimbursement or allowance for expenses actually incurred or the provision of incidental benefits related to the volunteer's service, such as meals, lodging, and childcare.

"Political subdivision" means a county, township, or municipal corporation in Ohio.

## Rules adopted by Director of Health; registered volunteers

The bill requires the Director of Health to adopt rules under the Administrative Procedure Act jointly with the Executive Director of the Emergency Management Agency to do both of the following as required under the bill's provisions described above (*italicized language is added by the bill*):<sup>25</sup>

(1) *Advise, assist, consult with, and cooperate with agencies and political subdivisions of this state to establish and maintain a statewide system for recruiting, registering, training, and deploying volunteers reasonably necessary to respond to an emergency declared by the state or a political subdivision;*

(2) *Establish fees, procedures, standards, and requirements necessary for recruiting, registering, training, and deploying the volunteers.*

Existing law requires the Director of Health to establish a system for recruiting, registering, training, and deploying volunteers the Director determines are advisable and reasonably necessary to respond to an emergency involving the public's health.<sup>26</sup>

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<sup>23</sup> R.C. 5502.282(D).

<sup>24</sup> R.C. 5502.281(D), relocated from R.C. 121.404(E).

<sup>25</sup> R.C. 3701.04(B).

<sup>26</sup> R.C. 3701.04(A)(7).

## Legislative intent

The bill states the General Assembly's declaration that it is not the intent in enacting the provisions described above in "**Prohibition against termination of employment of employee who is a registered volunteer**" to allow a person to maintain a public policy tort action under the Ohio Supreme Court's holding in *Greeley v. Miami Valley Maintenance Contrs., Inc.* (1990), 49 Ohio St.3d 228, based on the policies embodied in this chapter, or any federal, state, or local fair employment law.<sup>27</sup>

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## HISTORY

ACTION	DATE
Introduced	07-20-11

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<sup>27</sup> Section 3.

