



# Ohio Legislative Service Commission

## Bill Analysis

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### **Sub. H.B. 90**

LSC 130 0215-2

130th General Assembly

(As Proposed)

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## **BILL SUMMARY**

- Revises the general prohibition against negligently committing specified types of cruel treatment against a companion animal that is applicable to anyone who confines or is the custodian or caretaker of a companion animal.
- Specifically prohibits an owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal from negligently committing specified acts of cruel treatment against a companion animal.
- Grants a prosecutor discretion to prosecute an owner, manager, or employee of a dog kennel under either of the following:
  - The general prohibition against negligent cruel treatment of a companion animal, violation of which is a second degree misdemeanor on a first offense and a first degree misdemeanor on each subsequent offense; or
  - The specific prohibition against negligent cruel treatment of a companion animal by such an owner, manager, or employee, violation of which is a first degree misdemeanor on each offense.
- Specifically prohibits an owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal from knowingly committing specified acts of cruel treatment against a companion animal.
- Grants a prosecutor discretion to prosecute an owner, manager, or employee of a dog kennel under either of the following:
  - The general prohibition in existing law against knowing cruel treatment of a companion animal by any person, violation of which is a first degree misdemeanor on a first offense and a fifth degree felony on each subsequent offense; or

--The bill's specific prohibition against knowing cruel treatment of a companion animal by such an owner, manager, or employee, violation of which is a fifth degree felony on each offense.

- Revises the definition of "cruelty," "torment," and "torture" for purposes of the statutes relating to animals, including the Humane Societies Law.

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## **CONTENT AND OPERATION**

### **Negligently committing acts of cruel treatment against a companion animal**

#### **General prohibition**

The bill revises the general prohibition against negligently committing specified types of cruel treatment against a companion animal by prohibiting any person who confines or is the custodian or caretaker of a companion animal from negligently doing any of the following:

- (1) Committing any act by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue against the companion animal;
- (2) Omitting any act of care by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue against the companion animal;
- (3) Committing any act of neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue against the companion animal; or
- (4) Killing the companion animal.

Rather than prohibiting the acts specified in items (1) to (4), above, existing law prohibits any person who confines or is the custodian or caretaker of a companion animal from negligently torturing, tormenting, needlessly mutilating or maiming, cruelly beating, poisoning, needlessly killing, or committing an act of cruelty against a companion animal.<sup>1</sup>

The bill retains the prohibition in existing law against negligently depriving a 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 reasonably be expected that the

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

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.<sup>2</sup>

Under law retained by the bill, violation of the general prohibition against negligent treatment of companion animals is a second degree misdemeanor on a first offense and a first degree misdemeanor on each subsequent offense.<sup>3</sup>

Under continuing law, a companion animal is any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept. A companion animal does not include livestock or any wild animal.<sup>4</sup>

### **Prohibition applicable to an owner, manager, or employee of a dog kennel**

The bill additionally prohibits an owner, manager, or employee of a kennel of dogs that is either registered as such with the applicable county auditor<sup>5</sup> or licensed as a high-volume breeder of dogs<sup>6</sup> (dog kennel) who confines or is the custodian or caretaker of a companion animal from negligently committing any of the acts specified in items (1) to (4), above, or negligently depriving or confining the companion animal as discussed above.<sup>7</sup> Violation of that prohibition is a first degree misdemeanor on each offense.<sup>8</sup>

### **Prosecutor's discretion**

The bill then grants a prosecutor discretion to prosecute an owner, manager, or employee of a dog kennel for violating either the general prohibition against negligently committing acts of cruelty against a companion animal by any person, a violation of which is a second degree misdemeanor on a first offense and a first degree misdemeanor on each subsequent offense as discussed above, or the prohibition established by the bill that is specifically applicable to such an owner, manager, or

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<sup>2</sup> R.C. 959.131(C).

<sup>3</sup> R.C. 959.99(E)(2).

<sup>4</sup> R.C. 959.131(A)(1).

<sup>5</sup> R.C. 955.04, not in the bill.

<sup>6</sup> R.C. 956.04, not in the bill.

<sup>7</sup> R.C. 959.131(E).

<sup>8</sup> R.C. 959.99(E)(4).



employee, a violation of which is a first degree misdemeanor on each offense as discussed above.<sup>9</sup>

## **Knowingly committing acts of cruel treatment against a companion animal**

### **Prohibition**

The bill prohibits an owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal from knowingly committing any of the following acts:

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

(2) Depriving, confining, or impounding the companion animal in the manner discussed above regarding negligence.<sup>10</sup>

Violation of the prohibition is a fifth degree felony on each offense.<sup>11</sup>

The bill retains the provision in existing law that prohibits any person from torturing, tormenting, needlessly mutilating or maiming, cruelly beating, poisoning, needlessly killing, or committing an act of cruelty against a companion animal,<sup>12</sup> a violation of which is a first degree misdemeanor on a first offense and a fifth degree felony on each subsequent offense.<sup>13</sup>

### **Prosecutor's discretion**

The bill then grants a prosecutor discretion to prosecute an owner, manager, or employee of a dog kennel for knowingly torturing, tormenting, needlessly mutilating or maiming, cruelly beating, poisoning, needlessly killing, or committing an act of cruelty against the companion animal under either the general prohibition against knowingly committing such acts of cruelty against a companion animal by any person, a violation of which is a first degree misdemeanor on a first offense and a fifth degree felony on each subsequent offense as discussed above, or the prohibition established by the bill

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<sup>9</sup> R.C. 959.131(G).

<sup>10</sup> R.C. 959.131(D).

<sup>11</sup> R.C. 959.99(E)(3).

<sup>12</sup> R.C. 959.131(B).

<sup>13</sup> R.C. 959.99(E)(2).



that is specifically applicable to such an owner, manager, or employee, a violation of which is a fifth degree felony on each offense as discussed above.<sup>14</sup>

### **Additional court actions**

Through the operation and application of existing statutes governing the treatment of companion animals, a court may order a person who is convicted of or pleads guilty to the prohibitions established by the bill to forfeit to an impounding agency, as defined in those statutes, 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 those statutes. Additionally, if a court has reason to believe that a person who is convicted of or pleads guilty to the prohibitions 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.<sup>15</sup>

### **Exceptions**

The bill applies to the prohibitions established by the bill the following exceptions in existing law to the continuing prohibitions against cruel treatment of a companion animal:<sup>16</sup>

(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 the Veterinarians Law;

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<sup>14</sup> R.C. 959.131(F).

<sup>15</sup> R.C. 959.99(E)(5) and (6).

<sup>16</sup> R.C. 959.131(H).

(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; and

(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 the Veterinarians Law.

### **Definition of "cruelty," "torment," and "torture"**

The bill amends the definition of "cruelty," "torment," and "torture" for purposes of the statutes governing the treatment of companion animals, the Humane Societies Law, and every law relating to animals. Under the bill, that term is defined to include every act, omission, or neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue against an animal. The bill eliminates a provision in the existing definition of "cruelty," "torment," and "torture" that specifies that certain acts are cruelty, torment, or torture only when there is a reasonable remedy or relief.<sup>17</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	02-28-13

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<sup>17</sup> R.C. 959.131(A)(2) and 1717.01(B).

