



Ohio Legislative Service Commission

Bill Analysis

Aida S. Montano

H.B. 274

130th General Assembly
(As Introduced)

Reps. Patmon and Sears, Barnes, Cera, Lundy

BILL SUMMARY

- Prohibits any person from knowingly causing "serious physical harm" to a companion animal.
- Enhances the penalty for any person knowingly torturing, tormenting, needlessly mutilating or maiming, cruelly beating, poisoning, needlessly killing, or committing an act of cruelty against a companion animal if the violation proximately causes the animal's death.
- Prohibits any person who confines or is the custodian or caretaker of a companion animal from negligently torturing, tormenting, or committing an act of cruelty against the companion animal.
- Prohibits an owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal from negligently torturing, tormenting, or committing an act of cruelty against the companion animal.

CONTENT AND OPERATION

Cruel treatment of companion animals

The bill prohibits any person from knowingly causing "serious physical harm" to a "companion animal" (see "**Definitions**"). A violation of this prohibition is a felony of the fifth degree.¹

¹ R.C. 959.131(C) and 959.99(E)(2).

Continuing law 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.² Under current law, a violation of this prohibition is a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense. The bill provides that if a violation causes the death of a companion animal, the violator is guilty of a felony of the fifth degree. For purposes of this provision, death of a companion animal includes euthanization upon the recommendation of a veterinarian licensed by the Veterinary Medical Licensing Board to practice veterinary medicine.³

Prohibitions – any person who confines or is the custodian or caretaker of a companion animal

Negligent acts

The bill prohibits any person who confines or who is the custodian or caretaker of a companion animal from *negligently* torturing, tormenting, or committing an act of "cruelty" against the companion animal (see "**Definitions**"). Except as described below in "**Aggravating circumstance**," a violation of this prohibition is a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.⁴

The new prohibition replaces a provision of current law that prohibits any person who confines or who is the custodian or caretaker of a companion animal from negligently and needlessly killing the companion animal or from negligently doing any of the following against the companion animal, when there is a reasonable remedy or relief:⁵

- Committing any act by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue;
- Omitting any act of care by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue;
- Committing any act of neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue.

² R.C. 959.131(B)

³ R.C. 959.99(E)(1) and (6). An error in the bill refers to division (E)(5) instead of (E)(6) of R.C. 959.99.

⁴ R.C. 959.131(D)(1) and 959.99(E)(3).

⁵ R.C. 959.131(C)(1) to (4) in current law.



A violation of any of the above prohibitions in current law is a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.⁶

Prohibitions – owners, managers, and employees of dog kennels

The bill modifies the prohibition under current law against an owner, manager, or employee of a "dog kennel" (see "**Definitions**") who confines or is the custodian or caretaker of a companion animal knowingly depriving the companion animal of necessary sustenance, or confining the companion animal without supplying it during the confinement with sufficient quantities of *good, wholesome* (added by the bill) food and water *if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of the deprivation or confinement* (instead of "if it is substantially certain that the companion animal would die or experience unnecessary or unjustifiable pain or suffering due to the deprivation or confinement").⁷

The bill modifies and relocates the prohibition under current law against an owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal knowingly confining (the bill deletes "impounding") 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* (added by the bill) *if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter* (instead of "if it is substantially certain that the companion animal would die or experience unnecessary or unjustifiable pain or suffering due to the . . . impoundment or confinement in any of those specified manners").⁸

The bill retains the penalty for a felony of the fifth degree under current law for a violation of the above prohibitions.⁹

Negligent acts

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 *negligently* torturing, tormenting, or committing an act of cruelty against the companion animal. Except as

⁶ R.C. 959.99(E)(2) in current law.

⁷ R.C. 959.131(E)(2).

⁸ R.C. 959.131(E)(3).

⁹ R.C. 959.99(E)(4).

described in "**Aggravating circumstance**," a violation of this prohibition is a misdemeanor of the first degree.¹⁰

The new prohibition replaces a provision of current law that prohibits an owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal from negligently and needlessly killing the companion animal or from negligently doing any of the following against the companion animal, when there is a reasonable remedy or relief:¹¹

- Committing any act by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue;
- Omitting any act of care by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue;
- Committing any act of neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue.

A violation of any of the above prohibitions in current law is a misdemeanor of the first degree.¹²

Aggravating circumstance

The bill raises the penalty to a felony of the fifth degree for a violation of the prohibition described in "**Negligent acts**" under "**Prohibitions – any person who confines or is the custodian of a companion animal**," and "**Negligent acts**" under "**Prohibitions – owners, managers, and employees of dog kennels**," if the violation proximately causes the death of a companion animal. It also raises the penalties to a felony of the fifth degree for a violation of the following prohibitions if the violation proximately causes the death of the companion animal involved:

- The prohibition against any person who confines or is the custodian or caretaker of a companion animal from negligently: (1) depriving the animal of necessary sustenance or confining it without supplying it during confinement with sufficient quantities of good, wholesome food and water, or (2) confining the companion animal without affording it, during impoundment or confinement, with access to shelter from heat, cold,

¹⁰ R.C. 959.131(F)(1) and 959.99(E)(5).

¹¹ R.C. 959.131(E)(1) to (4) in current law.

¹² R.C. 959.99(E)(4) in current law.

wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.

- The prohibition against an owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal from negligently doing either (1) or (2), above.

For purposes of the above enhanced penalties, death of a companion animal includes the euthanization of a companion animal upon the recommendation of a veterinarian licensed by the Veterinary Medical Licensing Board to practice veterinary medicine.¹³

Use of fine moneys

Continuing law requires that fine moneys for violation of the prohibitions regarding companion animals be forwarded to the county humane society or the county, township, municipal corporation, or state law enforcement agency that primarily was responsible for or involved in the investigation and prosecution of the violation. The bill requires a county humane society that receives any fine moneys *either* to provide the training that is required for humane agents under the Humane Societies Law *or to provide additional training for humane agents* (added by the bill).¹⁴

Relocation of provisions and conforming changes

The bill relocates certain of current law's prohibitions to separate divisions.¹⁵ It makes conforming changes in the division references pertaining to the prohibitions.¹⁶

Definitions

The bill modifies the definition of "companion animal" to mean any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept,

¹³ R.C. 959.99(E)(6).

¹⁴ R.C. 959.131(H).

¹⁵ R.C. 959.131(D)(3), (E)(3), and (F)(3).

¹⁶ R.C. 959.132(H).

including a "pet store" (added by the bill) (defined in continuing law as a retail store that sells dogs to the public); but not including livestock or any wild animal.¹⁷

For purposes of the above prohibitions, the bill defines "serious physical injury" as any of the following:¹⁸

- Physical harm that carries a substantial risk of death;
- Physical harm that involves either partial or total permanent incapacity;
- Physical harm that involves acute pain of a duration that results in substantial suffering or that involves any degree of prolonged or intractable pain.

The following definitions in continuing law apply to the bill:

"Cruelty," "torment," and "torture" includes 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.¹⁹

"Dog kennel" means any of the following:²⁰

- An "animal rescue for dogs," defined as a facility that keeps, houses, and maintains dogs such as a dog pound operated by a municipal corporation, or by a county, or that is operated by a humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization that is devoted to the welfare, protection, and humane treatment of dogs and other animals, and is registered with the Director of Agriculture.
- A "boarding kennel," defined as an establishment operated for profit that keeps, houses, and maintains dogs solely for the purpose of providing shelter, care, and feeding in return for a fee or other consideration.

¹⁷ R.C. 959.131(A)(1).

¹⁸ R.C. 959.131(A)(12).

¹⁹ R.C. 959.131(A)(2), by reference to R.C. 1717.01, not in the bill.

²⁰ R.C. 959.131(A)(7), (8), and (9), by reference to R.C. 956.01 and 956.06, not in the bill.



- A "training kennel," defined as an establishment operated for profit that keeps, houses, and maintains dogs for the purpose of training them in return for a fee or other consideration.

HISTORY

ACTION	DATE
Introduced	09-30-13

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