



# Ohio Legislative Service Commission

## Bill Analysis

Amanda George

### H.B. 541

130th General Assembly  
(As Introduced)

Reps. Winburn and Blair

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## BILL SUMMARY

### Vicious dogs

- Revises the definition of "vicious dog" in the Dogs Law by doing all of the following:
  - Removing "without provocation" as an element of the definition;
  - Removing "or caused serious injury," thus narrowing a vicious dog to a dog that has killed a person; and
  - Adding that a vicious dog also includes a dog that has killed a companion animal.<sup>1</sup>
- Requires a court, if a dog is finally determined to be a vicious dog, to order the dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society at the owner's expense (hereafter, humanely destroyed), and makes conforming changes.<sup>2</sup>

### Dangerous dogs

- Revises the definition of "dangerous dog" by doing all of the following:
  - Removing "without provocation" as an element of the definition;
  - Removing the exclusion of a dog that has caused serious injury to a person and instead specifically including such a dog as a dangerous dog;

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<sup>1</sup> R.C. 955.11(A)(6).

<sup>2</sup> R.C. 955.222(F).

--Removing killing another dog as an element; and

--Adding that a dangerous dog also includes a dog that has caused injury or serious injury, other than killing, to any companion animal.

- Adds that a dangerous dog also does not include a dog that has caused injury or serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the dog's owner, keeper, or harbinger (hereafter owner).<sup>3</sup>

## **Nuisance dogs**

- Revises the definition of "nuisance dog" by removing "without provocation" as an element of the definition.<sup>4</sup>

## **"Without provocation" affirmative defense**

- Removes "without provocation" as an element of the designation of a nuisance dog, dangerous dog, or vicious dog, and instead states that it is an affirmative defense to such a designation of a dog that the dog was teased, tormented, or abused by a person or that the dog was coming to the aid or defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity.<sup>5</sup>

## **Confinement and restraint prohibition and affirmative defense**

- Revises the confinement and restraint prohibition in the Dogs Law, which currently prohibits an owner of a dog from failing at any time to do either of the following:
  - Keep the dog physically confined or restrained on the premises of the owner by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape; or
  - Keep the dog under the reasonable control of some person.
- Instead, eliminates failure to keep the dog under the reasonable control of some person as a prohibited act, and broadens the first prohibition to prohibit the owner of a dog from failing at any time to keep the dog physically confined or restrained

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<sup>3</sup> R.C. 955.11(A)(1).

<sup>4</sup> R.C. 955.11(A)(3).

<sup>5</sup> R.C. 955.222(E).

by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape regardless of whether the dog is on the owner's premises.<sup>6</sup>

- States that in a prosecution for a violation of the confinement and restraint prohibition in which a dog has caused injury or serious injury to or the death of a person or companion animal, any of the following may be asserted as an affirmative defense, as applicable:
  - The dog was teased, tormented, or abused by a person;
  - The dog was coming to the aid or defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity; or
  - The dog caused injury or serious injury to a person or killed a person while the person was committing or attempting to commit a trespass or other criminal offense on the property of the dog's owner.<sup>7</sup>

### **Criminal penalties for violation of confinement and restraint prohibition**

- Replaces the criminal penalties for violations of the confinement and restraint prohibition involving vicious dogs with the following criminal penalties for violations of that prohibition involving any dogs that have acted as specified:
  - Fifth degree felony if a dog kills or causes serious injury to a person on a first offense. Additionally, if the dog kills a person, the court must order that the dog be humanely destroyed. If the dog causes serious injury to a person, the court may order that the dog be humanely destroyed.
  - Fourth degree felony if a dog kills or causes serious injury to a person and the person in violation has previously been sentenced for a violation of the confinement and restraint prohibition involving a dog that acted as discussed above or below. Additionally, if the dog kills a person, the court must order that the dog be humanely destroyed. If the dog causes serious injury to a person, the court may order that the dog be humanely destroyed.
  - First degree misdemeanor if a dog causes injury, other than killing or serious injury, to a person or causes injury, serious injury, or death of a companion animal on a first offense. Additionally, if the dog causes injury to a person or

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<sup>6</sup> R.C. 955.22(C).

<sup>7</sup> R.C. 955.223.

injury or serious injury to a companion animal, the court may order that the dog be humanely destroyed. If the dog kills a companion animal, the court must order that the dog be humanely destroyed.

--Fifth degree felony if a dog causes injury, serious injury, or death to a companion animal and the person in violation has previously been sentenced for a violation of the confinement and restraint prohibition involving a dog that acted as discussed above. Additionally, if the dog causes injury to a person or injury or serious injury to a companion animal, the court may order that the dog be humanely destroyed. If the dog kills a companion animal, the court must order that the dog be humanely destroyed.

- Retains the requirement that until the court makes a final determination and during the pendency of any appeal and at the discretion of the dog warden, the dog must be confined or restrained in accordance with the continuing provisions governing confining and restraining a dangerous dog or at the county dog pound at the owner's expense.<sup>8</sup>

### **Notification process**

- Requires any person authorized to enforce the Dogs Law (hereafter, investigator) to investigate any complaint that indicates a possible violation of any provision of that Law involving a dog.
- Requires the investigator to notify the dog's owner that there has been a complaint regarding the dog and that the investigator investigated a possible violation if, after investigating an alleged violation, the investigator does not cite the person for or charge the person with a violation.
- Requires the notice to specify all of the following:
  - A citation to the provision or provisions of law a possible violation of which the investigator investigated;
  - Contact information for the investigator; and
  - A requirement that the dog's owner respond to the investigator indicating that the owner has received the notice.
- Requires the investigator to post the notice on the door of the dwelling at which the dog resides within 24 hours of the investigation and the dog's owner to respond

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<sup>8</sup> R.C. 955.99(H).

within 48 hours via email, facsimile, telephone, or social media correspondence, indicating that the owner has received the notice.

- States that if the dog's owner responds within a reasonable time after the 48-hour period, the person is not subject to the fines discussed below, provided that the response is accompanied with a reasonable explanation of why the 48-hour response deadline was not met.
- Requires that if the owner of the dog does not respond within:
  - 48 hours or a reasonable time from the time the notice is posted, the owner must be fined \$25;
  - 96 hours, the owner must be fined \$40; or
  - 7 days, a court may issue a summons or warrant for the owner's arrest.<sup>9</sup>

### **Clarification of arresting authority and training**

- Clarifies that dog wardens and deputies have the same police powers, including the authority to make arrests, as are conferred on sheriffs and police officers in the performance of their duties.<sup>10</sup>
- Requires the Ohio Peace Officer Training Commission to recommend rules to the Attorney General establishing requirements for the training of dog wardens and deputies for the purposes of the exercise of police powers discussed above.<sup>11</sup>

### **Attorney General's registry of Dogs Law violations**

- Requires the Attorney General to establish and maintain a registry of violations of the Dogs Law and of complaints regarding possible violations of it that includes all of the following:
  - Information regarding a dog that is the subject of a violation or complaint, including the dog's breed, color, hair type, gender, registration number, and name;
  - Information regarding the owner of such a dog, including the owner's name, address, gender, and date of birth;

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<sup>9</sup> R.C. 955.60.

<sup>10</sup> R.C. 955.12(E).

<sup>11</sup> R.C. 109.73(A)(13).

--Details of a complaint regarding a possible violation of the Dogs Law, if applicable;

--Details of a violation of the Dogs Law, if applicable, including the name, address, gender, and date of birth of any victim of the violation;

--A description of any enforcement action taken; and

--Any additional information that the Attorney General considers necessary.<sup>12</sup>

- Requires the Attorney General to make the registry available to state and local law enforcement officers, state and local humane society agents, and dog wardens and deputies, and requires such a person that becomes aware of a violation or of a complaint regarding a possible violation to enter into the registry the information specified above.

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## HISTORY

| ACTION     | DATE     |
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| Introduced | 05-19-14 |

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<sup>12</sup> R.C. 955.13.

