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Sens. Wagoner, LaRose, Coley, Jordan, Seitz

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ACT SUMMARY

- Defines a "nuisance dog" as a dog that without provocation and while off the premises of its owner, keeper, or harbinger has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person.
- Defines a "dangerous dog" as a dog that, without provocation, has caused injury, other than killing or serious injury, to any person; has killed another dog; or has been the subject of a third or subsequent violation of a prohibition regarding general confinement and control of dogs.
- Defines a "vicious dog" as a dog that, without provocation, has killed or caused serious injury to any person and repeals the automatic inclusion of a pit bull dog as a vicious dog.
- Specifies that "nuisance dog," "dangerous dog," and "vicious dog" do not include a police dog that engages in specified behavior and that "vicious dog" does not include a dog that engages in specified behavior against a trespasser.
- Specifies that an owner, keeper, or harbinger of a dog who was required to comply with the requirements pertaining to a vicious dog prior to the effective date of the

* This version updates the effective date of the act; it also updates the list of sponsors.

act will be required to comply with the requirements pertaining to a dangerous dog on or after the effective date of the act but specifies that this provision does not apply if the owner, harborer, or keeper was required with respect to that dog to comply with those vicious dog requirements solely because the dog was a pit bull dog.

- Repeals the statement that the ownership, keeping, or harboring of a pit bull dog is *prima facie* evidence of the ownership, keeping, or harboring of a vicious dog.
- Eliminates from the special confinement and control requirements that apply for a dangerous dog the option for a dangerous dog to be tied with a leash or tether so that the dog is adequately restrained while that dog is on the premises of the owner, keeper, or harborer and eliminates all references in the special confinement and control requirements to vicious dogs (but see last dot point).
- Amends the penalties for violations of the requirements governing general confinement and control of dogs (R.C. 955.22(C)) if the dog is a nuisance dog, dangerous dog, or vicious dog and requires that a dog that is subject to this violation as a dangerous dog or vicious dog be confined or restrained in accordance with the provisions describing confinement of dangerous dogs or at the county dog pound at the owner's expense until the court makes a final determination and during the pendency of any appeal of the violation.
- Requires a person who has been convicted of or pleaded guilty to three or more violations of R.C. 955.22(C) involving the same dog and the owner, keeper, or harborer of a dangerous dog to obtain liability insurance with an insurer authorized to write liability insurance in Ohio providing coverage in each occurrence because of damage or bodily injury to or death of a person caused by the dangerous dog if so ordered by a court and eliminates references to vicious dogs in the requirement (but see last dot point).
- Requires a person required to have the liability insurance described in the preceding dot point to provide proof of the liability insurance upon request to any law enforcement officer, county dog warden, or public health official, and specifies that failure to do so is a minor misdemeanor.
- Requires a person who has been convicted of or pleaded guilty to three or more violations of R.C. 955.22(C) involving the same dog and the owner, keeper, or harborer of a dangerous dog to do the following (the requirement does not include a reference to vicious dogs but see last dot point):

(1) Notify the local dog warden immediately if the dog is loose or unconfined, the dog bites a person (unless the dog is on the dog owner's property, and the person who is bitten is unlawfully trespassing or committing a criminal act within the boundaries of that property), or the dog attacks another animal while the dog is off the dog owner's property.

(2) Notify the county auditor of the sale, transfer, or death of the dog.

- Requires a person who has been convicted of or pleaded guilty to three or more violations of R.C. 955.22(C) involving the same dog and the owner, keeper, or harbinger of a dangerous dog to obtain a dangerous dog registration certificate from the county auditor, affix a tag that identifies the dog as a dangerous dog to the dog's collar, and ensure that the dog wears the collar and tag at all times, and specifies that failure to do so is a fourth degree misdemeanor (the requirement does not include a reference to vicious dogs but see last dot point).
- Requires the county auditor to issue a dangerous dog registration certificate and a dangerous dog tag to a person who is the owner of a dog, who is 18 years of age or older, and who provides a fee of \$50 and certain specified information.
- Requires the owner of a dog who is issued a dangerous dog registration certificate to renew the dog's registration certificate annually for the same fee and in the same manner as the initial certificate was obtained, and sets up notification procedures for owners who move to new addresses.
- Requires the owner of a dangerous dog to present the dangerous dog registration certificate upon being requested to do so by any law enforcement officer, dog warden, or public health official charged with enforcing R.C. 955.22, and specifies that failure to do so is a minor misdemeanor.
- Eliminates the reference to vicious dogs in certain requirements that currently require special information to be provided when ownership or possession of a dangerous dog or vicious dog is transferred (but see last dot point).
- Prohibits a person who has been convicted of or pleaded guilty to a felony offense of violence or a felony violation of any provision of R.C. Chapter 959. (offenses relating to domestic animals), 2923. (conspiracy, attempt, and complicity; weapons control; corrupt activity), or 2925. (drug offenses) from knowingly owning, possessing, having custody of, or residing in a residence with an unspayed or unneutered dog older than 12 weeks of age, or any dog that has been determined to be a dangerous dog for a specified three-year period; specifies that the three-year period commences either upon the date of release of the person from any period of incarceration

imposed for the offense or violation or, if the person is not incarcerated for the offense or violation, upon the date of the person's final release from the other sanctions imposed for the offense or violation; specifies that the prohibition does not apply to a person who is confined in a Department of Rehabilitation and Correction correctional institution or to a person with respect to any dog that the person owned, possessed, had custody of, or resided in a residence with prior to the act's effective date; and specifies that a violation of the prohibition is a first degree misdemeanor (the prohibition does not refer to vicious dogs but see last dot point).

- Requires a person described in the preceding dot point to microchip for permanent identification any dog owned, possessed by, or in the custody of the person, and specifies that failure to do so is a first degree misdemeanor.
- Eliminates the reference to vicious dogs in current prohibitions regarding surgical silencing and debarking of vicious dogs, instead makes the prohibitions apply to dangerous dogs, and requires that a dog that is subject to the prohibitions be confined or restrained in accordance with the provisions describing confinement of dangerous dogs or at the county dog pound at the owner's expense until the court makes a final determination and during the pendency of any appeal of any of those prohibitions (but see last dot point).
- Requires the owner of a dog that has been confined at the county dog pound as a result of being the subject of a court determination on whether the dog has committed a violation of R.C. 955.22(C) involving a dangerous dog or a vicious dog, or certain violations involving a dog that has been debarked or surgically silenced provide a security of \$100 to the county dog warden to secure payment of all reasonable expenses incurred in keeping the dog during the pendency of the proceedings or appeal, and specifies that failure to provide this security will result in forfeiture of the dog.
- Specifies that, at the end of the confinement period of a dog described in the preceding dot point and upon the release of the dog to the owner, if applicable, the dog warden must provide the owner with the actual cost of the confinement of the dog; if the actual cost is more than \$100, the owner must provide the difference to the dog warden, and if the actual cost is less than \$100, the dog warden must provide the difference to the owner.
- Requires a person who is authorized to enforce Ohio's Dog Law and who has reasonable cause to believe that a dog in the person's jurisdiction is a nuisance dog, dangerous dog, or vicious dog to notify the owner, keeper, or harbinger of that dog, by certified mail or in person, that the person has designated the dog a nuisance

dog, dangerous dog, or vicious dog, as applicable, and that the owner, keeper, or harbinger of the dog may request a hearing regarding the designation.

- Specifies that the municipal court or county court that has territorial jurisdiction over the residence of the owner, keeper, or harbinger of a dog must conduct any hearing concerning the designation of the dog as a nuisance dog, dangerous dog, or vicious dog and grants municipal courts and county courts original subject matter jurisdiction in proceedings of this nature.
- Grants the owner, keeper, or harbinger of a dog that has been designated a nuisance dog, dangerous dog, or vicious dog a right to a hearing on the determination and provides procedures for requesting the hearing and appealing a decision made at it.
- Permits a court, upon motion of an owner, keeper, or harbinger or an attorney representing the owner, keeper, or harbinger, to order that the dog designated as a nuisance dog, dangerous dog, or vicious dog be held in the possession of the owner, keeper, or harbinger until the court makes a final determination or during the pendency of an appeal, as applicable.
- Specifies that, if a dog is finally determined under the provisions described in the four preceding dot points to be a vicious dog, the act's provisions that apply with respect to dangerous dogs generally apply with respect to the dog and the owner, keeper, or harbinger of the dog as if the dog were a dangerous dog.
- Increases the fee for replacement of a lost metal dog tag from 25¢ to \$5 and eliminates the option of paying an alternate fee for a duplicate tag set by the board of county commissioners.
- Increases the fee for recording a transfer of ownership certificate for a dog with the county auditor from 25¢ to \$5.
- Requires fees collected by the county auditor for dangerous dog registration certificates to be deposited in the dog and kennel fund of the county.
- The provisions described in the preceding dot points that specifically refer to this dot point apply with respect to vicious dogs involved in an R.C. 955.22(C) violation that are not to be destroyed and to dogs determined to be a vicious dog under the act's civil mechanism for classifying a dog, as if they were dangerous dogs.

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CONTENT AND OPERATION

Background

Continuing law provides rules that govern the keeping, confinement, and transfer of dangerous dogs and vicious dogs. The act modifies some of those rules and the definitions of those two categories of dogs, provides new penalties for violations of certain other rules that govern the general confinement of dogs when the dog in question is a nuisance dog and defines that category of dog, and makes other changes regarding the keeping, confinement, and transfer of dogs.

Definitions of "nuisance dog," "dangerous dog," "vicious dog," and "serious injury"

Definitions

The act defines "nuisance dog" and "serious injury" and alters the definitions for "dangerous dog" and "vicious dog." Under the act, these terms are defined as the following:

(1) "Nuisance dog" means a dog that "without provocation" and while off the premises of its owner, keeper, or harbinger has chased or approached a person in either a "menacing fashion" or an apparent attitude of attack or has attempted to bite or otherwise endanger any person. It does not include a "police dog" that while being used to assist one or more law enforcement officers in the performance of official duties has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person¹ (see below for definitions of the terms in quotation marks).

(2) "Dangerous dog" means a dog that, without provocation, has caused injury, other than killing or "serious injury" (see (4), below), to any person; has killed another dog; or has been the subject of a third or subsequent violation of R.C. 955.22(C) (see "**General confinement of dogs**," below). However, it does not include a police dog that has caused injury, other than killing or serious injury, to any person or has killed another dog while the police dog is being used to assist one or more law enforcement officers in the performance of official duties.²

(3) "Vicious dog" means a dog that, without provocation, has killed or caused serious injury to any person. It does not include (1) a police dog that has killed or caused serious injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of official duties or (2) a dog that has killed or caused 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 owner, keeper, or harbinger of the dog.³

(4) "Serious injury" means any physical harm that carries a substantial risk of death; any physical harm that involves a permanent incapacity, whether partial or total, or a temporary, substantial incapacity; any physical harm that involves a permanent

¹ R.C. 955.11(A)(3), 955.222(F), and 955.99(Q).

² R.C. 955.11(A)(1), 955.222(F), and 955.99(Q).

³ R.C. 955.11(A)(6), 955.222(F), and 955.99(Q).

disfigurement or a temporary, serious disfigurement; or any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain.⁴

The new definition of "nuisance dog" is essentially the same as the prior definition of "dangerous dog," except that it does not include the part of that prior definition that related to the dog, when engaging in the specified conduct, not being under the reasonable control of its owner, keeper, harbinger, or another responsible person or not being physically restrained or confined in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top. The new definition of "dangerous dog" is the same as one part of the prior definition of "vicious dog." It does not include the part of that prior definition that related to having killed or caused serious injury to any person, which is the definition under the act of a "vicious dog" or the part that defined as a "vicious dog" a dog belonging to a breed commonly known as a pit bull dog. The part of the prior definition of "vicious dog" that defined as a "vicious dog" a dog belonging to a breed commonly known as a pit bull dog is removed from the definition of "vicious dog" and is not included in any other definition. In many provisions of law where the term "vicious dog" formerly appeared, the act either removes or replaces that term with "dangerous dog."⁵

Continuing law, unchanged by the act, defines the following terms that are used in the definitions set forth above:⁶ (1) "menacing fashion" means that a dog would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person, (2) "police dog" means a dog that has been trained, and may be used, to assist one or more law enforcement officers in the performance of their official duties, and (3) "without provocation" means that a dog was not teased, tormented, or abused by a person, or that the dog was not coming to the aid or the 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.

***Prima facie* evidence rule – pit bulls**

Prior law provided in the existing definition of vicious dog that the ownership, keeping, or harboring of a breed of dog commonly known as a pit bull dog was *prima facie* evidence of the ownership, keeping, or harboring of a vicious dog. Under that provision, a person who owned, kept, or harbored a pit bull dog was considered to own, keep, or harbor a vicious dog without the need for additional evidence and solely

⁴ R.C. 955.11(A)(5).

⁵ R.C. 955.11(D), 955.22(A), (D), (E), (F), (G), and (H), and 955.99(L).

⁶ R.C. 955.11(A).

because of the breed of the pit bull dog that the person owned, kept, or harbored (contradictory evidence may be presented, though). The act repeals this *prima facie* evidence rule. Therefore, under the act a person cannot be found to own, keep, or harbor a vicious dog unless evidence is presented to prove that the dog, without provocation and subject to the "police dog" and "trespasser" exceptions specified within the definition of vicious dog, has killed or caused serious injury to any person.⁷

General confinement of dogs

Continuing law, unchanged by the act, requires the owner, keeper, or harbinger of any dog, subject to one exception, to keep the dog physically confined or restrained upon the premises of the owner, keeper, or harbinger by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape or to keep the dog under the reasonable control of some person. The exception to this requirement is a dog that is lawfully engaged in hunting and accompanied by the owner, keeper, harbinger, or handler of the dog.⁸

Under prior law, a person who violated this requirement was fined not less than \$25 or more than \$100 on a first offense and on each subsequent offense was fined not less than \$75 or more than \$250 and could have been imprisoned for not more than 30 days. In addition, the court could order the offender to personally supervise the dog that the offender owns, keeps, or harbors, or cause that dog to complete dog obedience training, or to do both.⁹ The act makes this penalty provision apply only when the dog involved in the violation is not a nuisance dog, dangerous dog, or vicious dog. It adds new penalty language that applies to a person who violates this requirement when the dog involved is a nuisance dog, a dangerous dog, or a vicious dog. This new penalty language is described below in "**Penalties – general confinement.**"

Confinement of dangerous dogs

Prior law required the owner, keeper, or harbinger of a dangerous or vicious dog to confine and control the dog in any of several specified manners, except when the dog was lawfully engaged in hunting or training for the purpose of hunting and was accompanied by the owner, keeper, harbinger, or handler. The act eliminates the references in the requirements to vicious dogs (but see the last paragraph in this part of this analysis) and alters the requirements for the confinement of a dangerous dog by eliminating the option for a dangerous dog to be tied with a leash or tether so that the

⁷ R.C. 955.11(A)(6).

⁸ R.C. 955.22(C).

⁹ R.C. 955.99(E).

dog is adequately restrained while that dog is on the premises of the owner, keeper, or harborer. Therefore, under the act, except when a dangerous dog is lawfully engaged in hunting or training for the purpose of hunting and is accompanied by the owner, keeper, harborer, or handler of the dog, the owner, keeper, or harborer of a dangerous dog must do either of the following:¹⁰

(1) While that dog is on the premises of the owner, keeper, or harborer, securely confine it at all times in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top;

(2) While that dog is off the premises of the owner, keeper, or harborer, keep that dog on a chain-link leash or tether that is not more than six feet in length and additionally do at least one of the following:

(a) Keep that dog in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top;

(b) Have the leash or tether controlled by a person who is of suitable age and discretion or securely attach, tie, or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station such a person in close enough proximity to that dog so as to prevent it from causing injury to any person;

(c) Muzzle that dog.

Under prior law, a violation of any of the special confinement and control requirements described above that involved a dangerous dog was a fourth degree misdemeanor on a first offense and a third degree misdemeanor on each subsequent offense. Additionally, the court could order the offender to personally supervise the dangerous dog that the offender owns, keeps, or harbors, to cause that dog to complete dog obedience training, or to do both, and the court could order the offender to obtain liability insurance. The court, in the alternative, could order the dangerous dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society. The act retains the existing penalties for a violation of any of those requirements that involves a dangerous dog. Prior law provided more stringent penalties for a violation of any of those requirements that involved a vicious dog. Because the act eliminates the references in the requirements to vicious dogs, it also

¹⁰ R.C. 955.22(D).

eliminates references to vicious dogs in the penalties for a violation of the requirements.¹¹

Although the act removes the reference to vicious dogs from the dangerous dog confinement requirements described above and eliminates references to vicious dogs in the penalties for a violation of the requirements, if a violation of R.C. 955.22(C) involves a vicious dog and the sentencing court does not order the dog to be destroyed, or if a dog is determined to be a vicious dog under the act's civil mechanism for classifying a dog, the court must order the offender or owner to comply with the dangerous dog confinement requirements, as if the dog were a dangerous dog¹² (see "**Penalties – general confinement**" and "**Due process for designation of nuisance, dangerous, and vicious dogs**," below).

Penalties – general confinement

R.C. 955.22(C), unchanged by the act, imposes certain general confinement requirements regarding any dog. The requirements are described above in "**General confinement of dogs**."

The act specifies that a violation of R.C. 955.22(C) involving a nuisance dog is a minor misdemeanor on the first offense and a fourth degree misdemeanor on each subsequent offense involving the same dog. Upon a person being convicted of or pleading guilty to a third violation involving the same dog, the court must require the offender to register the involved dog as a dangerous dog. Additionally, the court may order the offender to personally supervise the nuisance dog that the offender owns, keeps, or harbors, to cause that dog to complete dog obedience training, or to do both.¹³

A violation of R.C. 955.22(C) involving a dangerous dog is a fourth degree misdemeanor on the first offense and a third degree misdemeanor on each subsequent offense. Additionally, the court may order the offender to personally supervise the dangerous dog that the offender owns, keeps, or harbors, to cause that dog to complete obedience training, or to do both, and the court may order the offender to obtain liability insurance pursuant to the provision described below under "**Liability insurance**" (that provision, by its terms, expressly applies only to a person with convictions of three or more violations of R.C. 925.22(C)). In the alternative, the court may 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. Until the court makes a

¹¹ R.C. 959.99(G) and (H).

¹² R.C. 955.99(H)(2) and 955.222.

¹³ R.C. 955.99(F).

final determination and during the pendency of any appeal of the violation and at the discretion of the dog warden, the dog must be confined or restrained in accordance with the provisions described above under "**Confinement of dangerous dogs**" or at the county dog pound at the owner's expense.¹⁴

A violation of R.C. 955.22(C) involving a vicious dog is a fourth degree felony if the dog kills a person. The court must order that the vicious dog be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society at the owner's expense. A violation of R.C. 955.22(C) involving a vicious dog is a first degree misdemeanor if the dog causes serious injury to a person. Additionally, the court may 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.¹⁵

If the court does not order a vicious dog involved in a violation of R.C. 955.22(C) as described in the preceding paragraph to be destroyed, the court must issue an order that specifies that the act's provisions that apply with respect to dangerous dogs and that are described above in "**Confinement of dangerous dogs**" and below in "**Insurance, notice, and registration requirements**," "**Transfer of ownership of a dangerous dog**," and "**Debarking or surgically silencing a dangerous dog**," apply with respect to the dog and the owner, keeper, or harbinger of the dog, as if the dog were a dangerous dog and that the provisions of the act that are described below in "**Possession of dogs by felons**" apply with respect to the dog as if it were a dangerous dog. As part of the order, the court must order the offender to obtain the liability insurance described below under "**Liability insurance**," in an amount, exclusive of interest and costs, that equals or exceeds \$100,000. Until the court makes a final determination and during the pendency of any appeal of the violation and at the discretion of the dog warden, the dog must be confined or restrained in accordance with the provisions described above under "**Confinement of dangerous dogs**" or at the county dog pound at the owner's expense.¹⁶

As described above in "**General confinement of dogs**," under the act, an existing penalty provision that currently applies to any person who violates R.C. 955.22(C) and that is unchanged by the act will apply only when the dog involved is not a nuisance dog, a dangerous dog, or a vicious dog.¹⁷

¹⁴ R.C. 955.99(G).

¹⁵ R.C. 955.99(H)(1)(a) and (b).

¹⁶ R.C. 955.99(H)(2).

¹⁷ R.C. 955.99(E).

The definitions of "nuisance dog," "dangerous dog," and "vicious dog" described above in "**Definitions**" apply to the penalty provisions described above.¹⁸

Insurance, notice, and registration requirements

Liability insurance

The act requires a person who has been convicted of or pleaded guilty to three or more violations of R.C. 955.22(C), described above in "**General confinement of dogs**," involving the same dog and the owner, keeper, or harbinger of a dangerous dog to obtain liability insurance with an insurer authorized to write liability insurance in Ohio providing coverage in each occurrence because of damage or bodily injury to or death of a person caused by the dangerous dog if so ordered by a court. Additionally, the act requires the person to provide proof of that liability insurance upon request to any law enforcement officer, county dog warden, or public health official charged with enforcing that requirement or any other provision of R.C. 955.22. Failure to obtain, when ordered by the court, or present proof of liability insurance upon proper request is a minor misdemeanor.¹⁹

The act eliminates a prior requirement that an owner, keeper, or harbinger of a vicious dog always obtain liability insurance, a violation of which was a first degree misdemeanor under existing law.²⁰ However, if a violation of R.C. 955.22(C) involves a vicious dog and the sentencing court does not order the dog to be destroyed, or if a dog is determined to be a vicious dog under the act's civil mechanism for classifying a dog, the court must order the offender or owner to comply with the liability insurance provision described above as if the dog were a dangerous dog²¹ (see "**Penalties – general confinement**," above, and "**Due process for designation of nuisance, dangerous, and vicious dogs**," below).

Notice to local dog warden and county auditor

The act requires a person who has been convicted of or pleaded guilty to three or more violations of R.C. 955.22(C), described above in "**General confinement of dogs**," involving the same dog and the owner, keeper, or harbinger of a dangerous dog (1) to notify the local dog warden immediately if the dog is loose or unconfined, the dog bites a person (unless the dog is on the dog owner's property, and the person who is bitten is

¹⁸ R.C. 955.99(Q).

¹⁹ R.C. 955.22(E)(1) and 955.99(M).

²⁰ R.C. 955.22(E)(1) and 955.99(I).

²¹ R.C. 955.99(H)(2) and 955.222.

unlawfully trespassing or committing a criminal act within the boundaries of that property), or the dog attacks another animal while the dog is off the dog owner's property and (2) to notify the county auditor of the sale, transfer, or death of the dog, within ten days of the sale, transfer, or death. A violation of this requirement is a minor misdemeanor.²²

This requirement does not refer to vicious dogs.²³ However, if a violation of R.C. 955.22(C) involves a vicious dog and the sentencing court does not order the dog to be destroyed, or if a dog is determined to be a vicious dog under the act's civil mechanism for classifying a dog, the court must order the offender or owner to comply with this requirement as if the dog were a dangerous dog²⁴ (see "**Penalties – general confinement,**" above, and "**Due process for designation of nuisance, dangerous, and vicious dogs,**" below).

Dangerous dog registration

Dangerous dog registration certificates

The act requires a person who has been convicted of or pleaded guilty to three or more violations of R.C. 955.22(C) involving the same dog and the owner, keeper, or harbinger of a dangerous dog to obtain a dangerous dog registration certificate from the county auditor, affix a tag that identifies the dog as a dangerous dog to the dog's collar, and ensure that the dog wears the collar and tag at all times. Whoever violates this requirement is guilty of a fourth degree misdemeanor.²⁵

This requirement does not refer to vicious dogs.²⁶ However, if a violation of R.C. 955.22(C) involves a vicious dog and the sentencing court does not order the dog to be destroyed, or if a dog is determined to be a vicious dog under the act's civil mechanism for classifying a dog, the court must order the offender or owner to comply with this requirement as if the dog were a dangerous dog.²⁷

²² R.C. 955.22(E)(3) and (4) and 955.99(M).

²³ *Id.*

²⁴ R.C. 955.99(H)(2) and 955.222.

²⁵ R.C. 955.22(E)(2) and 955.99(J).

²⁶ *Id.*

²⁷ R.C. 955.99(H)(2) and 955.222.

Under the act, the county auditor must issue a dangerous dog registration certificate to a person who is the owner of a dog, who is 18 years of age or older, and who provides the following to the auditor:²⁸

- (1) A fee of \$50;
- (2) The person's address, phone number, and any other appropriate means for the local dog warden or county auditor to contact the person;
- (3) With respect to the person and the dog for which the registration is sought, either satisfactory evidence of the dog's current rabies vaccination or a statement from a licensed veterinarian that a rabies vaccination is medically contraindicated for the dog; either satisfactory evidence of the fact that the dog has been neutered or spayed or a statement from a licensed veterinarian that neutering or spaying of the dog is medically contraindicated for the dog; satisfactory evidence of the fact that the person has posted and will continue to post clearly visible signs at the person's residence warning both minors and adults of the presence of a dangerous dog on the property; and satisfactory evidence of the fact that the dog has been permanently identified by means of a microchip and the dog's microchip number.

Dangerous dog tags

The act requires the county auditor, upon the issuance of a dangerous dog registration certificate to the owner of a dog, to provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner must affix the tag to the dog's collar and ensure that the dog wears the collar and tag at all times.²⁹

Renewal of dangerous dog registration certificates

The owner of a dog who is issued a dangerous dog registration certificate must renew the dog's registration certificate annually for the same fee and in the same manner as the initial certificate was obtained. If an owner who is a certificate holder relocates to a new address within the same county, the owner must provide notice of the new address to the county auditor within ten days of relocating to the new address. If a certificate holder relocates to a new address within another county, the certificate holder must provide written notice of the new address and a copy of the original dangerous dog registration certificate to the county auditor of the new county and provide written notice of the new address to the county auditor of the county where the owner previously resided, within ten days of relocating to the new address. Upon the

²⁸ R.C. 955.22(I)(1).

²⁹ R.C. 955.22(E)(2) and (I)(2).

expiration of the certificate issued in the original county, the person must renew the certificate in the new county.³⁰

Failure to present dangerous dog registration certificate upon proper request

The owner of a dangerous dog must present the dangerous dog registration certificate upon being requested to do so by any law enforcement officer, dog warden, or public health official charged with enforcing R.C. 955.22. Failure to present this certificate upon proper request is a minor misdemeanor.³¹

Transfer of ownership of a dangerous dog

Under law unchanged by the act, upon the transfer of ownership of any dog, the seller must give the buyer a transfer of ownership certificate and, upon request of the transferee, must provide the transferee with information regarding the dog's behavior and propensities. A violation of the first requirement is a minor misdemeanor and a violation of the second requirement is a minor misdemeanor on a first offense and a fourth degree misdemeanor on each subsequent offense.³²

Law largely unchanged by the act also provides that, within ten days after the transfer of ownership or possession of any dog, if the transferor has knowledge that the dog is a dangerous or vicious dog, the transferor must give to the transferee, the board of health for the district in which the transferee resides, and the dog warden of the county in which the transferee resides a completed copy of a written form on which the transferee furnishes the transferee's name and address and the dog's age, sex, color, breed, and current registration number and specifically indicates whether the dog ever has chased or attempted to attack or bite a person, has bitten a person, or has seriously injured or killed a person (if the transferor indicates that any of those behaviors has occurred, the transferor must describe the incident or incidents in which the behavior occurred). A violation of this requirement is a minor misdemeanor on a first offense and a fourth degree misdemeanor on each subsequent offense. The act eliminates the reference in the requirements described in this paragraph to vicious dogs.³³ However, if a violation of R.C. 955.22(C) is committed that involves a vicious dog and the sentencing court does not order the dog to be destroyed, or if a dog is determined to be a vicious dog under the act's civil mechanism for classifying a dog, the court must order

³⁰ R.C. 955.22(I)(2) and (3).

³¹ R.C. 955.22(I)(4) and 955.99(N).

³² R.C. 955.11(B), (C), and (E) and 955.99(A).

³³ R.C. 955.11(D) and (E) and 955.99(A)(2).

the offender or owner to comply with this requirement as if the dog were a dangerous dog.³⁴

Possession of dogs by felons

The act prohibits a person who has been convicted of or pleaded guilty to a felony "offense of violence" (defined in R.C. 2901.01) committed on or after the act's effective date or a felony violation of any provision of R.C. Chapter 959. (offenses relating to domestic animals), 2923. (conspiracy, attempt, and complicity; weapons control; corrupt activity), or 2925. (drug offenses) committed on or after the act's effective date from knowingly owning, possessing, having custody of, or residing in a residence with an unspayed or unneutered dog older than 12 weeks of age or any dog that has been determined to be a dangerous dog. The prohibition applies for a period of three years commencing either upon the date of release of the person from any period of incarceration imposed for the offense or violation or, if the person is not incarcerated for the offense or violation, upon the date of the person's final release from the other sanctions imposed for the offense or violation. The prohibition does not apply to a person who is confined in a correctional institution of the Department of Rehabilitation and Correction. It also does not apply to any person with respect to any dog that the person owned, possessed, had custody of, or resided in a residence with prior to the act's effective date.³⁵ A violation of this prohibition is a first degree misdemeanor.³⁶

A person described in the preceding paragraph must microchip for permanent identification any dog owned, possessed by, or in the custody of the person.³⁷ Failure to microchip the dog is a first degree misdemeanor.³⁸

Debarking or surgically silencing a dangerous dog

Law retained in part by the act prohibits a person from debarking or surgically silencing a dog that the person knows or has reason to believe is a vicious dog, possessing a vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced, or falsely attesting on a waiver form provided by a veterinarian under a specified waiver provision that the person's dog is not a vicious dog or otherwise provide false information on that written waiver form. A violation of

³⁴ R.C. 955.99(H)(2) and 955.222.

³⁵ R.C. 955.54(A) and (C).

³⁶ R.C. 955.99(O).

³⁷ R.C. 955.54(B).

³⁸ R.C. 955.99(O).

the prohibition is a fourth degree felony, and the court must order that the dog be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society. Continuing law provides a waiver form that a veterinarian may use as a basis for debarking or surgically silencing a dog and an affirmative defense for a veterinarian that relates to the waiver form. The act eliminates the references in the prohibitions and the related provisions to vicious dogs and instead makes them apply to dangerous dogs.³⁹ However, if a violation of R.C. 955.22(C) is committed that involves a vicious dog and the sentencing court does not order the dog to be destroyed, or if a dog is determined to be a vicious dog under the act's civil mechanism for classifying a dog, the court must order the offender or owner to comply with these provisions as if the dog were a dangerous dog.⁴⁰

Under the act, if a person debarks or surgically silences a dog that the person knows or has reason to believe is a dangerous dog, possesses a dangerous dog and the person knows or has reason to believe that the dog has been debarked or surgically silenced, or falsely attests on a waiver form provided by a veterinarian that the person's dog is not a dangerous dog or otherwise provides false information on that written waiver form, the person is guilty of a fourth degree felony. The court must order that the dog involved in the violation be humanely destroyed as under continuing law. Additionally, the act provides that until the court makes a final determination and during the pendency of any appeal of the violation and at the discretion of the dog warden, the dog must be confined or restrained in accordance with the provisions described above under "**Confinement of dangerous dogs**" or at the county dog pound at the owner's expense.⁴¹ As described in the preceding paragraph, although the debarking and silencing provisions no longer refer to vicious dogs, they apply to vicious dogs in certain specified circumstances, and, as a result, the sanction provisions described in this paragraph also apply with respect to vicious dogs that are within the scope of those other provisions.

Notice of confinement and security due

Notice and assessment

Under the act, if a dog is confined at the county dog pound while a court determines whether the owner has committed a violation of R.C. 955.22(C) involving a dangerous dog or a vicious dog, or a violation of R.C. 955.22(F) involving a person who has debarked or surgically silenced a dog that the person knew or had reason to believe

³⁹ R.C. 955.22(F) to (H) and 955.99(L).

⁴⁰ R.C. 955.99(H)(2) and 955.222.

⁴¹ R.C. 955.99(L).

is a dangerous dog, who possessed a dangerous dog when the person knew or had reason to believe that the dog had been debarked or surgically silenced, or who falsely attested on a waiver form provided by a veterinarian that the person's dog is not a dangerous dog or otherwise provided false information on that written waiver form (see above regarding the application of these provisions with respect to vicious dogs), the county dog warden must give written notice of the confinement to the owner of the dog. If the county dog warden is unable to give the notice to the owner of the dog, the warden must post the notice on the door of the residence of the owner or in another conspicuous place on the premises at which the dog was seized. The notice must include a statement that a security in the amount of \$100 is due to the county dog warden within ten days to secure payment of all reasonable expenses, including medical care and boarding of the dog for 60 days, expected to be incurred by the county dog pound in caring for the dog pending the determination. The county dog warden may draw from the security any actual costs incurred in caring for the dog.⁴²

Failure of owner to pay security

If the person ordered to post security under the provision described in the preceding paragraph does not do so within ten days of the confinement of the animal, the dog is forfeited, and the county dog warden may determine the disposition of the dog unless the court issues an order that specifies otherwise.⁴³

Actual cost of confinement

Not more than ten days after the court makes a final determination of whether an owner has committed a violation described above in "**Notice and assessment**," the county dog warden must provide the owner of the dog with the actual cost of the confinement of the dog. If the county dog warden finds that the security provided by the owner is less than the actual cost of confinement of the dog, the owner must remit the difference between the security provided and the actual cost to the warden within 30 days after the court's determination. If the county dog warden finds that the security provided by the owner is greater than that actual cost, the warden must remit the difference between the security provided and the actual cost to the owner within 30 days after the court's determination.⁴⁴

⁴² R.C. 955.99(P)(1).

⁴³ R.C. 955.99(P)(2).

⁴⁴ R.C. 955.99(P)(3).

Dogs considered vicious dogs prior to effective date of the act

The act specifies that, subject to the exception described in the next sentence, an owner, keeper, or harbinger of a dog who was required to comply with the requirements pertaining to a vicious dog prior to the effective date of the act will be required to comply with the requirements pertaining to a "dangerous dog" on or after that effective date. This provision does not apply to an owner, harbinger, or keeper of a dog who was required with respect to that dog to comply with the requirements pertaining to a vicious dog prior to the act's effective date solely because the dog belonged to a breed that is commonly known as a pit bull dog.⁴⁵

Due process for designation of nuisance, dangerous, and vicious dogs

Notice to dog owner

Under the act, if a person who is authorized to enforce R.C. Chapter 955. (Dog Law) has reasonable cause to believe that a dog in the person's jurisdiction is a nuisance dog, dangerous dog, or vicious dog, the person must notify the owner, keeper, or harbinger of that dog, by certified mail or in person, that the person has designated the dog a nuisance dog, dangerous dog, or vicious dog, as applicable, and that the owner, keeper, or harbinger of the dog may request a hearing regarding the designation. The notice must include instructions for filing a request for a hearing in the county in which the dog's owner, keeper, or harbinger resides.⁴⁶

Hearings

The act specifies that the municipal court or county court that has territorial jurisdiction over the residence of the owner, keeper, or harbinger of a dog must conduct any hearing concerning the designation of the dog as a nuisance dog, dangerous dog, or vicious dog. Related to this, the act grants municipal courts and county courts original subject matter jurisdiction in proceedings of this nature.⁴⁷

If the owner, keeper, or harbinger of the dog disagrees with its designation as a nuisance dog, dangerous dog, or vicious dog, as applicable, the owner, keeper, or harbinger, not later than ten days after receiving notification of the designation, may request a hearing regarding the determination. The request for a hearing must be in writing and must be filed with the municipal court or county court that has territorial jurisdiction over the residence of the dog's owner, keeper, or harbinger. At the hearing,

⁴⁵ Section 3.

⁴⁶ R.C. 955.222(B) and (F).

⁴⁷ R.C. 955.222(A) and (F), 1901.18(A)(13), and 1907.031(A)(7).

the person who designated the dog as a nuisance dog, dangerous dog, or vicious dog has the burden of proving, by clear and convincing evidence, that the dog is a nuisance dog, dangerous dog, or vicious dog. The owner, keeper, or harbinger of the dog or the person who designated the dog as a nuisance, dangerous, or vicious dog may appeal the court's final determination as in any other case filed in that court.⁴⁸

Confinement of nuisance dog, dangerous dog, or vicious dog prior to hearing and during pendency of appeal

A court, upon motion of an owner, keeper, or harbinger or an attorney representing the owner, keeper, or harbinger, may order that the dog designated as a nuisance dog, dangerous dog, or vicious dog be held in the possession of the owner, keeper, or harbinger until the court makes a final determination or during the pendency of an appeal, as applicable. Until the court makes a final determination and during the pendency of any appeal, the dog must be confined or restrained in accordance with the provisions described above under "**Confinement of dangerous dogs**," regardless of whether the dog has been designated as a vicious dog or a nuisance dog rather than a dangerous dog. The owner, keeper, or harbinger of the dog cannot be required to comply with any other Revised Code requirements that concern a nuisance dog, dangerous dog, or vicious dog, as applicable, until the court makes a final determination and during the pendency of any appeal.⁴⁹

Treatment of dogs determined to be vicious dogs

If a dog is finally determined under the act's due process provisions described above to be a vicious dog, the provisions of the act that apply with respect to dangerous dogs and that are described above in "**Confinement of dangerous dogs**," "**Insurance, notice, and registration requirements**," "**Transfer of ownership of a dangerous dog**," and "**Debarking or surgically silencing a dangerous dog**," apply with respect to the dog and the owner, keeper, or harbinger of the dog as if the dog were a dangerous dog. Also, the provisions of the act that are described above in "**Possession of dogs by felons**" apply with respect to the dog as if it were a dangerous dog, and the court must issue an order that specifies that those provisions apply with respect to the dog and the owner, keeper, or harbinger in that manner. As part of the order, the court must require the owner, keeper, or harbinger to obtain the liability insurance described above under "**Liability insurance**" in an amount, exclusive of interest and costs, that equals or exceeds \$100,000.⁵⁰

⁴⁸ R.C. 955.222(C) and (F).

⁴⁹ R.C. 955.222(D).

⁵⁰ R.C. 955.99(E).

Fees

Replacement of metal tags issued to dogs registered with the county auditor

The act increases the fee for replacement of a lost metal dog tag from 25¢ to \$5 and eliminates the option of paying an alternate fee for a duplicate tag set by the board of county commissioners.⁵¹

Transfer of ownership certificate

The act increases the fee for recording a transfer of ownership certificate for a dog with the county auditor from 25¢ to \$5.⁵²

Dangerous dog registration certificate fees

Fees collected by the county auditor for dangerous dog registration certificates must be deposited in the dog and kennel fund of the county.⁵³

HISTORY

| ACTION | DATE |
|--|----------|
| Introduced | 01-11-11 |
| Reported, H. Criminal Justice | 06-15-11 |
| Passed House (69-29) | 06-28-11 |
| Reported, S. Judiciary | 01-12-12 |
| Passed Senate (27-5) | 01-31-12 |
| House concurred in Senate amendments (67-30) | 02-08-12 |

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⁵¹ R.C. 955.08.

⁵² R.C. 955.11(B).

⁵³ R.C. 955.22(I)(5).