



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 278

LSC 131 1502-5

131st General Assembly

(As Pending in H. Government Accountability and Oversight)

BILL SUMMARY

- Requires each county humane society, and the Ohio Humane Society, to submit an annual report of enforcement activities to the appropriate county sheriff.
- Specifies that the records of an enforcement activity by a humane society agent are public records under Ohio Public Records Law.
- Specifies procedures for the removal from office of a humane society agent.
- Specifies that a humane society agent is a "public servant" for the purposes of bribery law and is therefore subject to the criminal statute on bribery.
- Eliminates the residency requirement for county humane society agents.
- Repeals the direct authority in current law for the Ohio Humane Society or a county humane society to employ an attorney to prosecute certain violations of law.
- Increases the minimum monthly salary of humane society agents.
- Specifies that an appointment of an agent does not take effect unless approved by the applicable mayor or probate judge.
- Requires Ohio Humane Society agents to complete the same training that is required for county humane society agents, and requires all appointed agents to present proof of successful completion of training.
- Requires authorities to investigate complaints about an agent's failure to complete the required training.

- Authorizes the Director of Agriculture to designate an agent of the Ohio Humane Society to conduct inspections of a premises at which a dangerous wild animal or restricted snake is confined.
- Removes the authority of humane society agents to arrest a person for a violation of law for the protection of persons, and removes a reference to the protection of children and the arrest of a person in relation to cruelty to persons under the Humane Society Law.
- Adds agents appointed by the Ohio Humane Society to the list of professionals, such as nurses and social workers, who have a duty to report child abuse.

CONTENT AND OPERATION

Reports and public records

The bill requires each county humane society to annually submit enforcement activity reports to the county sheriff. Similarly, the Ohio Humane Society must submit annual enforcement activity reports to the Franklin County Sheriff. The bill also specifies that records of a humane society agent enforcement activity are public records under Public Records Law,¹ except that records that are confidential law enforcement investigatory records are not public records.²

Humane society agent removal from office

Under the bill, a humane society agent may be removed from office at the discretion of the probate judge, either upon complaint filed with the judge or upon the judge's own motion. In either case, the judge must conduct a hearing on the removal. The judge also must notify the agent and any other interested person or governmental entity not less than ten days before the hearing. An order removing the agent must state the reasons for the removal, and must be entered upon the probate court's records.³

Bribery law

The bill specifies that a humane society agent is a "public servant" for the purposes of bribery law. Under bribery law, no public servant may knowingly solicit or accept for self or another person any valuable thing or valuable benefit to corrupt or

¹ R.C. 149.43, not in the bill.

² R.C. 1717.16.

³ R.C. 1717.17.



improperly influence the person or another public servant with respect to the discharge of the public servant's duty. Bribery is a felony of the third degree.⁴

Residency requirement

The bill eliminates the residency requirement for county humane society agents. Under current law, an agent must be a resident of the county or municipal corporation for which the agent's appointment is made.⁵

Humane society employment of prosecution attorneys

The bill repeals the direct authority in current law for the Ohio Humane Society or a county humane society to employ an attorney to prosecute certain violations of law. Under current law, a humane society may employ an attorney and one or more assistant attorneys to prosecute violations of law relating to: (1) prevention of cruelty to animals or children, (2) abandonment, nonsupport, or ill-treatment of a child by its parent, (3) employment of a child under 14 years of age in public exhibitions or vocations injurious to health, life, or morals or which cause or permit the child to suffer unnecessary physical or mental pain, and (4) neglect or refusal of an adult to support a destitute parent. These attorneys are paid out of the county treasury in an amount approved as just and reasonable by the board of county commissioners of that county.⁶

Humane society agent pay

The bill increases the minimum monthly salary of a humane society agent as follows: when a village approves the agent, from \$5 to \$25; when a city approves the agent, from \$20 to \$125; and when a county approves the agent, from \$25 to \$150. And, the bill increases the minimum salary amount by \$5 on January 1, 2017, and each fifth year thereafter. Also, the bill clarifies that an Ohio Humane Society agent is entitled to the same pay under the same approval process as applies to county humane society agents.⁷

Approval of humane society agents

The bill specifies that an appointment of an agent does not take effect unless approved by the mayor of the municipal corporation for which it is made. If the society operates outside a municipal corporation, the appointment does not take effect until it is

⁴ R.C. 2921.02.

⁵ R.C. 1717.06.

⁶ R.C. 2931.18 (repealed).

⁷ R.C. 1717.07.



approved by the probate judge of the county for which it is made, or for an individual appointed as an at-large agent by the Ohio Humane Society, approved by the probate judge of the Franklin County Court of Common Pleas. Current law specifies that appointed agents may not make arrests until having been approved.⁸

Proof of training

The bill requires an appointed agent to present proof of successful completion of training, that has been signed by the chief executive officer of the organization or entity that provided the training and by the chief officer of the humane society appointing the agent, to the current active approving authority for approval. Also, proof of successful completion of training must be signed by the appropriate approving authority and filed with the county sheriff. Current law requires that the proof of training only be submitted to the appropriate appointing authority.

The bill also requires individuals who are currently serving as a humane society agent to file the proof of training within six months after the bill's effective date. An individual who has not filed the proof of successful completion of training with the county sheriff, as required by this provision, is suspended as a humane society agent by operation of law until the individual files proof with the county sheriff.⁹

Complaint regarding failure to complete training

The bill requires the current acting authority, which is responsible for considering approval of agent appointments, to investigate a complaint submitted by an individual who suspects that a humane society agent has not successfully completed the required training or that an agent's proof of successful completion of training contains false or misleading information. If the authority finds that the agent has not successfully completed the required training or that the proof of successful completion contains false or misleading information, the authority must rescind the approval of the appointment and order the applicable humane society to revoke the appointment. The humane society must file written notice of a revocation with the county sheriff.¹⁰

References in Humane Society Law – protection of persons

The bill removes the authority of humane society agents to arrest a person for a violation of law for the protection of persons.¹¹ And, the bill removes a reference to the

⁸ R.C. 1717.04 and 1717.06.

⁹ R.C. 1717.04, 1717.06, and 1717.061.

¹⁰ R.C. 1717.062.

¹¹ R.C. 1717.04(A) and 1717.06(A).



protection of children and the arrest of a person in relation to cruelty to persons under the Humane Society Law.¹²

Ohio Humane Society agent jurisdiction

The bill clarifies that the Ohio Humane Society may appoint agents to represent it within a specified jurisdiction of a county or of a municipal corporation where no active county humane society exists.¹³

Parity in law for agents of the Ohio Humane Society

The bill amends numerous provisions of law creating parity in the law between county humane society agents and agents of the Ohio Humane Society.

Training

The bill requires agents of the Ohio Humane Society to complete the same training that is required for agents of a county humane society. Under continuing law, agents of a county humane society must successfully complete a minimum of 20 hours of training on issues relating to the investigation and prosecution of cruelty to and neglect of animals. The training must comply with rules recommended by the Ohio Peace Officer Training Commission.¹⁴

Specific Authority

The bill specifies that an agent of the Ohio Humane Society only has the specific authority granted to the agent under law. Current law includes such a provision for agents of county humane societies. But no comparable provision currently exists with respect to Ohio Humane Society agents.¹⁵

Inspections for the Director of Agriculture

The bill authorizes the Director of Agriculture to designate an agent of the Ohio Humane Society to conduct inspections of a premises at which a dangerous wild animal or restricted snake is confined, and to investigate and order the quarantine or transfer of a dangerous wild animal or restricted snake. Under continuing law, the Director may

¹² R.C. 1717.02 and 1717.09.

¹³ R.C. 1717.04(A).

¹⁴ R.C. 109.73(A)(12) and (D) and 1717.061; R.C. 959.131 (conforming). The training requirements are recodified in the bill to appear in a newly enacted section, R.C. 1717.061.

¹⁵ R.C. 1717.04(C) and 1717.08.



designate agents of a county humane society to conduct these inspections and investigations.¹⁶

Duty to report child abuse

The bill adds agents of the Ohio Humane Society to the list of professionals, such as nurses and social workers, who have a duty to report child abuse. Current law includes an agent of a county humane society, but not those of the Ohio Humane Society. The "Duty to Report" Law requires the person to make a report either by telephone or in person to a public children services agency or to a peace officer. The bill repeals a provision of the Humane Society Law that specifically requires humane society agents, when deeming it in the best interest of a child to have the child removed from possession and control of the parents, to do so in accordance with the Duty to Report Law. It is not clear whether the repealed section of law was deemed to authorize the summary removal, by a humane society agent, of a child from the possession of the parents. But, under the bill, a humane society agent would clearly have a "duty to report" to facilitate the removal of the child.¹⁷

Children services agency memorandum of understanding

Current law requires that each public children services agency prepare a memorandum of understanding that is signed by specified law enforcement and judicial officers in the area of jurisdiction, including the county humane society. The bill specifies that the Ohio Humane Society or the county humane society must be a signatory.¹⁸

HISTORY

ACTION	DATE
Introduced	06-26-15

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¹⁶ R.C. 935.19(B)(5) and 935.20(I)(5).

¹⁷ R.C. 1717.14 (repealed); R.C. 2151.421.

¹⁸ R.C. 2151.421(J)(1)(h).

