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SUMMARY

Humane societies and humane society agents

- Removes references in law to the “Ohio Humane Society,” which was designated as the state society for the prevention of cruelty to animals, but was not functioning as an animal welfare society.
- Clarifies that any branch of the Ohio Humane Society that was organized prior to the act’s effective date (March 31, 2021) is considered to be a county humane society and has the same powers as a county humane society.
- Requires each county humane society to submit an annual report of enforcement activities to the appropriate county sheriff.
- Specifies that, generally, the records of an enforcement activity by a humane society agent are public records under the laws governing public records.
- Prohibits a humane society from entering into a nonprosecution agreement with a person for an alleged violation of law unless a judge has reviewed and approved the agreement.
- Specifies that an appointment of an agent does not take effect unless approved by the appropriate mayor or probate judge.
- Requires the approving authority to notify the county sheriff and the board of county commissioners when a humane society agent’s appointment has been approved, and to file proof of the agent’s successful training with the sheriff.
- Requires an individual who is currently serving as a humane society agent to obtain and present proof of training by October 1, 2021.

- Requires mayors, probate judges, and county sheriffs to maintain as a public record a copy of the proof of training for each humane society agent operating in their jurisdictions.
- Requires authorities to investigate complaints about an agent's failure to complete the required training, and establishes a procedure for the disposition of the complaints.
- Increases the minimum monthly salary of humane society agents.
- Specifies procedures for removing a humane society agent from office.
- Specifies that a humane society agent is a public servant under the bribery law and is therefore subject to the criminal prohibition against bribery.
- Specifies that a county humane society may appoint, rather than employ, an attorney to prosecute certain violations of law.
- Removes all of a humane society's authority regarding children other than a duty to report suspected child abuse.

Animal cruelty: seizure and impoundment

- Allows an officer to seize and impound *any* animal, instead of only a companion animal, that the officer has probable cause to believe is the subject of an animal cruelty violation.
- Requires that the written notice, which an impounding officer must provide to an animal owner whose animal is being seized and impounded, be given within 24 hours after the animal is seized and impounded.
- Modifies the law governing the bond amount that a court may determine must be provided by an animal owner for the care of the animal during impoundment.

Limited license for drugs used for animal euthanasia

- Authorizes the State Board of Pharmacy to issue a limited license to the office of a county dog warden solely for purchasing, possessing, and administering drugs for euthanizing animals and pre-euthanizing drugs for inducing anesthesia, sedation, or unconsciousness.
- Prohibits a dog warden or a dog warden's agent or employee from performing euthanasia by lethal injection, or administering pre-euthanasia drugs, unless the facility in which the dog warden, agent, or employee works is licensed.
- Requires a dog warden or a dog warden's agent or employee to complete a euthanasia technician certification course as a condition of licensure.
- Requires the State Veterinary Medical Licensing Board, in consultation with the Pharmacy Board, to approve substances to be used for lethal injection of an animal rather than requiring both Boards to approve those substances.

- Requires the Pharmacy Board, in consultation with the Veterinary Medical Board, to approve pre-euthanasia drugs.
- Removes the order of preference in former law regarding authorized methods for euthanizing an animal when using a lethal solution.

Chemical capture of companion animals

- Authorizes the Pharmacy Board to grant a chemical capture classification to an animal shelter or county dog warden's limited license, which allows a certified officer to use an anesthetic drug on a companion animal to immobilize and capture or attempt to immobilize and capture the animal.
- Establishes requirements and procedures with which an animal shelter or county dog warden must comply to receive a chemical capture classification designation.
- Requires the Board to adopt rules governing chemical capture.
- Specifies that only a certified officer may chemically capture an animal.
- Requires a person to complete specified training requirements prior to becoming a certified officer.
- Specifies that a certified officer may chemically capture a companion animal to limit injury to the officer, the animal or another animal, or the public.
- States that chemical capture of a companion animal by a certified officer is not an act of cruelty, that possession of dangerous drugs is authorized when the possession occurs within the scope of duties by a certified officer, and that the Veterinarians Law does not apply to an act of chemical capture by a certified officer.
- Establishes various prohibitions related to the chemical capture of a companion animal.

Veterinarians and veterinary technicians

- Clarifies that the act's provisions do not preclude a licensed veterinarian or veterinarian technician from engaging in the practice of veterinary medicine.

Impounded dogs

- Revises the law governing the disposition of a dog that is seized and impounded by a dog warden and not redeemed by its owner.

Reenactment of animal law provisions

Reenacts current law provisions governing animal fighting, bestiality, and humane agent residency requirements, which were found inapplicable in the Ohio Sixth Appellate District; thus making those provisions enforceable in that district.

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DETAILED ANALYSIS

Humane Societies and humane society agents

Elimination of references to the Ohio Humane Society

The act removes references in law to the Ohio Humane Society, which does not function as an animal welfare society in Ohio. Under prior law, the Ohio Humane Society was designated as “[t]he state society for the prevention of cruelty to animals.”¹ “The Ohio Humane Society” is still an incorporated entity in Ohio, but it no longer works towards the prevention of cruelty to animals. Rather, it is focused on children’s welfare and currently operates under the name Families Forward.² Consequently, the act eliminates the Ohio Humane Society as a statewide animal welfare society, leaving county humane societies as the statutory agents for the law governing the prevention of cruelty to animals.³

The Ohio Humane Society was incorporated in 1887. Local branches of it were formed and are still in existence. Therefore, the act specifies that a humane society that organized as a branch of the Ohio Humane Society prior to the act’s effective date (March 31, 2021):

1. Continues to have the same powers and duties that were authorized on March 1, 2019; and
2. Is considered to be a county humane society organized for all laws regarding county humane societies.⁴

Accordingly, the act specifies that a humane society agent who was appointed prior to March 31, 2021, by a branch of the Ohio Humane Society is considered to be a county humane society agent for the laws governing the prevention of cruelty to animals.⁵

Enforcement activity reports

The act requires each county humane society to annually submit enforcement activity reports to the county sheriff. It also specifies that humane society agent enforcement activity records are legal public records (except for records that are confidential law enforcement investigatory records).⁶ By June 29, 2021, the probate judge of a county in which a humane

¹ R.C. 1717.03 and 1717.04, repealed; R.C. 955.16, 1717.02, 1717.08, 1717.09, and 1717.16, conforming.

² See <https://www.familiesforward.net/index.cfm?fuseaction=cms.page&id=1012>.

³ R.C. 1717.03 and 1717.04, repealed; makes conforming changes to R.C. 109.73, 935.19, 935.20, 955.16, 959.131, 959.132, 1717.02, 1717.05, 1717.06, 1717.07, 1717.08, 1717.09, 2151.421, and 5101.63.

⁴ R.C. 1717.05(E).

⁵ R.C. 1717.06(B).

⁶ R.C. 149.43, not in the act, and R.C. 1717.16.

society agent operates must send written notice to the humane society informing it about the act's provisions related to the filing of annual enforcement activity reports.⁷

Nonprosecution agreements

The act prohibits a humane society from entering into a nonprosecution agreement unless the agreement has been reviewed and approved by the judge that has presided over the hearing related to the case. (The hearing is required to determine if an officer had probable cause to seize the animal.) It requires the judge, as part of the review, to reconsider whether the bond amount (if previously set) is necessary and reasonable for the animal's care. A judge cannot approve an agreement that requires a person to provide financial compensation that is in excess of what is necessary and reasonable for the animal's care during the impoundment of the animal. Furthermore, the act renders a nonprosecution agreement void and unenforceable if a judge has not approved it.⁸

Humane society agent's appointment approval and proof of training

Continuing law authorizes a county humane society to appoint humane society agents. The act clarifies that an approving authority (which is either the mayor if the humane society is located within a municipality or the probate judge if the humane society is located outside a municipality) must approve a humane society agent's appointment in order for the appointment to take effect. Prior law provided that the mayor or probate judge had to approve the agent's appointment, but it did not specifically state that the appointment did not take effect until the approval.⁹

Under continuing law, an individual must successfully complete at least 20 hours of training on issues relating to the investigation and prosecution of cruelty to and neglect of animals, prior to their appointment as a humane society agent. Under the act, the individual must submit proof of training as follows:

1. **For an individual who completes training after March 31, 2021**, the individual must present to the approving authority proof of successful training signed by the training entity before the approving authority can approve the appointment. The approving authority must then notify the sheriff and board of county commissioners when the agent's appointment has been approved.¹⁰
2. **For an individual who is serving as humane society agent on or before March 31, 2021**, the agent must present proof of successful training to the approving authority by September 30, 2021. Within two days after receiving the proof, the approving authority must notify the sheriff and board of county commissioners. If the agent does not

⁷ Section 5.

⁸ R.C. 1717.18; R.C. 1717.01, and 1717.10, conforming.

⁹ R.C. 1717.06(C)(2).

¹⁰ R.C. 1717.06 and 1717.061.

present the required proof by September 30, 2021, the agent is suspended as a humane society agent until the proof is filed with the county sheriff. In addition, the probate judge of the county in which a humane society operates must, by June 29, 2021, send written notice to the society informing it of this requirement.¹¹

Public record

The act requires an approving authority to maintain, as a public record, a copy of each humane agent's proof of training received by the authority.¹² The authority must file a copy of the proof with the county sheriff within two days of the appointment of a new agent or within two days of receiving proof from an agent appointed prior to March 31, 2021. The sheriff must maintain the copy as a public record.¹³

Complaint regarding failure to complete training

An individual may file a complaint with an appointing authority if the individual has reasonable cause to believe either of the following:

1. A humane society agent has not successfully completed the required training; or
2. An agent's proof of successful completion of training contains false or misleading information.

The complaint must be in the form of an affidavit. The approving authority must notify the humane society and investigate the complaint.

If the authority finds that the agent has not provided signed proof of training, the authority must provide written notification to the agent's humane society to inform the society that the agent has 30 days from the date of the notification to provide signed proof. The authority must rescind the approval of the appointment and order the humane society to revoke the appointment if:

1. The agent does not provide the signed proof within the 30-day period; or
2. The authority finds that the agent knowingly provided proof of successful training completion that contains false or misleading information.

The humane society must file written notice with the county sheriff of the revocation of a humane society agent's appointment.¹⁴

Agent pay

The act increases a humane society agent's minimum monthly salary as follows:

¹¹ Sections 4 and 5.

¹² R.C. 1717.06(C)(2).

¹³ R.C. 1717.06(D) and Section 4.

¹⁴ R.C. 1717.062.

1. When a village approves the agent, from \$5 to \$25;
2. When a city approves the agent, from \$20 to \$125; and
3. When a county approves the agent, from \$25 to \$150.

It also automatically increases the minimum salaries set forth above by \$5 every five years beginning January 1, 2020. Finally, it allows a county to pay the agent from its dog and kennel fund and also retains law that allows pay for agents to be drawn from the county general fund.¹⁵

Humane society agent removal from office

The act authorizes the probate judge to revoke the approval of an agent's appointment for just cause, under the following procedure:

1. Motion to revoke

A person may start the procedure by filing with the probate court a motion to revoke the appointment. The motion must be a sworn affidavit describing the conduct that constitutes just cause for the motion.

2. Probate judge's hearing determination

After reviewing the facts, the probate judge may dismiss the motion without a hearing or direct the court clerk to serve the humane society agent with a summons and a copy of the motion and any accompanying memorandum. The summons must state the time and place for a hearing.

3. Humane society's right to a hearing

The humane society agent may waive the right to a hearing. If the humane society agent does so, the probate judge must revoke the humane society agent's appointment as requested in the motion. If the humane society agent does not waive the right to a hearing, the probate judge must conduct a hearing. The humane society agent is entitled to the assistance of counsel at the hearing.

4. Burden of proof at the hearing

At the hearing, the person who filed the motion has the burden of proving, by a preponderance of the evidence, that just cause exists for the revocation of the humane society agent's appointment.

5. Hearing outcome

If, after the hearing, the probate judge finds that the person who filed the motion has not sustained the burden of proof, the probate judge must deny the motion. If the probate

¹⁵ R.C. 1717.07.

judge finds that the burden of proof has been met, the probate judge must grant the motion and revoke the humane society agent's appointment.¹⁶

Lack of agents

The act requires a humane society to notify the county sheriff and the approving authority when all approved humane society agents have ceased to perform the duties of the appointment and no agents are operating within the jurisdiction.¹⁷

Bribery law

The act specifies that a humane society agent is a public servant and therefore subject to Ohio's bribery law. Under that law, a public servant cannot knowingly solicit or accept for themselves or another person any valuable thing or valuable benefit to corrupt or improperly influence the person or another public servant regarding the discharge of the public servant's duty. Bribery is a third degree felony.¹⁸

Humane society appointment of attorneys

The act authorizes humane societies to appoint, rather than employ, attorneys to prosecute violations of law relating to prevention of cruelty to animals, except for certain felony violations related to companion animals. The act requires a county to pay these attorneys from the county general fund or the county dog and kennel fund in an amount the county board of commissioners determines just and reasonable.

Under prior law, a county humane society could *employ* an attorney to prosecute certain violations of law. Those attorneys were paid out of the county treasury, but not specifically the county general fund or the county dog and kennel fund.¹⁹

References in Humane Society Law – protection of persons

Generally, the act limits a humane society's authority to the protection of animals. In that regard, it removes the authority of humane society agents to arrest a person for a violation of law for the protection of persons.²⁰ It also removes a reference in law to the protection of children and the arrest of a person in relation to cruelty to persons.²¹ These duties are performed by other legal entities, such as public children services agencies and local law enforcement.

¹⁶ R.C. 1717.17.

¹⁷ R.C. 1717.06(E).

¹⁸ R.C. 2921.02.

¹⁹ R.C. 2931.18.

²⁰ R.C. 1717.06(A).

²¹ R.C. 1717.02 and 1717.09.

Additionally, the act eliminates a humane society's authority to employ attorneys to prosecute violations of law relating to the cruelty to persons. Specifically, it eliminates the authority for these attorneys to prosecute violations of law relating to all of the following:

1. Cruelty to children, or the abandonment, nonsupport, or ill-treatment of a child by its parent;
2. Employment of a child under 14 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
3. Neglect or refusal of an adult to support a destitute parent.²²

Finally, the act repeals law that authorized a humane society that is willing to render its services without compensation to be appointed by the court of common pleas as a trustee of a child under the law governing domestic relations.²³

Removal of a child and duty to report abuse

The act repeals law that specifically required 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 law governing the reporting of child abuse. It is not clear whether the repealed section of law authorized the summary removal of a child from the possession of the parents by a humane society agent.

The act retains law that requires a humane society agent to report the abuse of a child. It further retains law that requires each public children services agency to 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.²⁴

Animal cruelty: seizure and impoundment

The act allows an officer (humane society agent or other animal control officer) to seize and impound *any* animal, instead of only a companion animal as in prior law, that the officer has probable cause to believe is the subject of an animal cruelty violation. A companion animal is an animal that is kept inside a residential dwelling and any dog or cat.

The act also requires the seizure and impoundment notice to be made within 24 hours of the seizure. (Prior law did not specify a time by which notice had to be provided.) It then requires any bond posted for the care of the animal to be in an amount that is necessary and reasonable for the animal's care as determined by the court. (Prior law specified that the amount had to be an amount that the court determined was "needed," or when renewing the bond, an amount that was "sufficient" for the animal's care.) Finally, the act authorizes the

²² R.C. 2931.18.

²³ R.C. 3113.10, repealed; R.C. 3113.04 and 3313.07, not in the act.

²⁴ R.C. 1717.14, repealed and 2151.421(A)(1)(b) and (K).

court to order a person who is convicted of or pleads guilty to the animal cruelty offense to reimburse the impounding agency for costs of care that have not been paid that are *reasonable and necessary*. (Prior law specified that those costs had to be *reasonably necessary*.)²⁵

Limited license for drugs used for animal euthanasia

Overview

Under continuing law, the State Board of Pharmacy may issue a limited license to an animal shelter for purchasing, possessing, and administering drugs (in dosage form) for animal euthanasia. In order to receive a license, an agent or employee of an animal shelter must successfully complete a euthanasia technician certification course. However, if the agent or employee is a registered veterinary technician, the agent or employee does not need to complete the course.²⁶

Limited license for dog wardens

The act authorizes the Pharmacy Board to issue a limited license to the office of a county dog warden that allows the office to purchase and use drugs for euthanasia. (Continuing law authorizes animal shelters to receive this license.)²⁷ Given this authorization, it prohibits an agent or employee of a dog warden from performing euthanasia by lethal injection unless both:

1. The office of the dog warden has a limited license; and
2. The agent or employee (which may include the dog warden) has received certification after successfully completing a euthanasia technician certification course. (If the agent, employee, or dog warden is a veterinarian technician, completion of the course is not required.)

The act also prohibits the agent or employee of a dog warden (as well as an agent or employee of an animal shelter) from administering pre-euthanasia drugs that induce anesthesia, sedation, or unconsciousness unless both conditions in (1) and (2) above apply. It retains a requirement that the administration of drugs must be performed in a humane and proficient manner in conformity with approved methods and not in violation of Ohio's animal cruelty laws.²⁸

Under law retained by the act, the curriculum for a euthanasia technician certification course must be approved by the State Veterinary Medical Licensing Board, be at least 16 hours in length, and include information in at least the following:

²⁵ R.C. 959.131, 959.132 and 959.99(E)(6)(b). Animal cruelty offenses are generally codified in Chapter 959 of the Revised Code.

²⁶ R.C. 4729.531.

²⁷ R.C. 4729.531.

²⁸ R.C. 4729.532(A), (C), and (D).

1. The pharmacology, proper administration, and storage of euthanasia solutions;
2. Federal and state laws regulating the storage and accountability of euthanasia solutions;
3. Euthanasia technician stress management; and
4. Proper disposal of euthanized animals.

The act adds that the curriculum also must include information on both:

1. The pharmacology, proper administration, and storage of sedation and anesthesia solutions; and
2. Federal and state laws regulating the storage and accountability of sedation and anesthesia solutions.²⁹

Drugs used by licensees

The act requires the Veterinary Medical Board, in consultation with the Pharmacy Board, to approve by rule any substance used by a county dog warden or an agent or employee of a county dog warden or animal shelter to euthanize an animal by lethal injection. It prohibits a dog warden or an agent or employee of a dog warden or animal shelter from performing euthanasia by lethal injection using any substance other than an approved substance. Former law instead required the Veterinary Medical Board and the Pharmacy Board to both approve by rule a combination of drugs that contained pentobarbital and at least one other drug used for euthanasia purposes. The act also allows the Pharmacy Board to approve the transfer of euthanasia drugs from an animal shelter or dog warden to another licensee.³⁰

The act removes the order of preference in law regarding authorized methods for euthanizing an animal when using a lethal solution. Now, when using a lethal solution to perform euthanasia on an animal, a dog warden or an agent or employee of a dog warden or animal shelter must use the solution in accordance with one of the following methods, but not in the order listed as in former law:

1. Intravenous injection by hypodermic needle;
2. Intraperitoneal injection by hypodermic needle;
3. Intracardial injection by hypodermic needle, but only on an animal verified to be unconscious; or
4. Oral administration of solution or powder.³¹

Prior law specified under method (3), above, that the animal had to be sedated or unconscious. Also under prior law, method (4), above, required the solution or powder to be added to food.

²⁹ R.C. 4729.532(C).

³⁰ R.C. 4729.531(A), 4729.532(A), and 4729.533(B).

³¹ R.C. 4729.532(A).

Use of dangerous drugs

The act requires a county dog warden to apply for a limited category II or III terminal distributor license from the Pharmacy Board if the dog warden intends to use dangerous drugs for euthanasia purposes. With regard to the application, both of the following apply:

1. The dog warden must include with the application a list of the dangerous drugs to be administered to animals and the personnel who are authorized to administer them to animals.³²
2. Once issued a license, the dog warden may possess and use dangerous drugs for euthanasia as authorized by the act.³³

Finally, the act prohibits a county dog warden, like an animal shelter as in continuing law, from being licensed as a terminal distributor of dangerous drugs unless:

1. The dog warden will maintain supervision and control over the possession and custody of dangerous drugs that are acquired by or on behalf of the dog warden; and
2. At least one of the dog warden's agents or employees is a certified euthanasia technician.³⁴

Chemical capture of companion animals

License classification

The act allows an animal shelter or county dog warden that holds a limited license to apply to the Pharmacy Board for a chemical capture classification to the limited license. The classification allows the holder to purchase, possess, and administer a combination of drugs for chemical capture. Chemical capture means using an anesthetic drug on a companion animal to do any of the following: (1) immobilize and capture, (2) attempt to immobilize and capture, or (3) attempt to immobilize or capture.³⁵

An animal shelter or dog warden must include in the chemical capture classification application a list of the dangerous drugs to be used in chemical capture and the certified officers employed by the applicant who are authorized to engage in chemical capture (see below). The Board may grant a chemical capture classification to the limited license once application is so made.³⁶

To qualify for a chemical capture classification, an applicant must appoint or employ a certified officer. If an applicant meets the act's requirements and rules adopted under the act

³² R.C. 4729.54(F).

³³ R.C. 4729.54(H)(2) and 4729.542(C)

³⁴ R.C. 4729.55(B) and (H).

³⁵ R.C. 955.151(A) and 4729.533(B); R.C. 959.131(A)(1), not in the act.

³⁶ R.C. 4729.533(B) and 4729.542(A).

(see below), the Board must grant the classification. The Board may suspend or revoke a classification or refuse to issue or renew a classification for any violation of the act's provisions regarding chemical capture or a violation of the rules (see below).³⁷

The Pharmacy Board, in consultation with the Veterinary Medical Board, must adopt rules that:

1. Specify the information an applicant must provide for issuance or renewal of a chemical capture classification;
2. Specify the drugs to be used in chemical capture; the proper storage, administration, and use of approved drugs; the proper storage, maintenance, and use of instruments and equipment used in chemical capture; and the proper disposal of instruments used in chemical capture;
3. Establish criteria for determining when chemical capture is appropriate; the care of a companion animal immediately after capture; and recordkeeping for the drugs used and actions taken during a chemical capture; and
4. Address any other matters the Board considers necessary or appropriate for administration and enforcement of the act's provisions regarding chemical capture.³⁸ If the Board fails to adopt the rules by March 31, 2023 (two years after the act's effective date), the Attorney General or a county prosecuting attorney may seek a court order requiring adoption of the rules.³⁹

The holder of a limited license with a chemical capture classification must notify the Board immediately of any changes in the dangerous drugs to be used in chemical capture or in the certified officers employed by the holder.⁴⁰

Certified officers

Training

As indicated above, only certified officers may engage in the chemical capture of a companion animal. An individual is a certified officer if the individual either successfully completes an approved chemical capture course or successfully completes training acceptable to the Pharmacy Board from the National Animal Control Association or Safe Capture International, Inc.⁴¹

In order to be an approved chemical capture course, the curriculum must include the following topics:

³⁷ R.C. 4729.533(C) and(D).

³⁸ R.C. 4729.533(E).

³⁹ Section 6.

⁴⁰ R.C. 4729.542(B).

⁴¹ R.C. 4729.534(B).

1. The pharmacology, proper administration, storage, and recordkeeping of drugs used in chemical capture;
2. Federal and state laws regulating the storage and accountability of drugs used in chemical capture;
3. Chemical capture technology, animal behavior, post-immobilization procedures, proper public and personnel safety, and marksmanship training; and
4. Any other topic specified by the Board.⁴²

Other provisions applicable to certified officers

The act does all of the following regarding certified officers:

1. Specifies that, in a civil action, a certified officer is immune from liability for any harm the officer causes to a companion animal, livestock, or wild animal if the officer is acting within the scope of the officer's employment and is in compliance with rules governing certified officers adopted by the Pharmacy Board;⁴³
2. Establishes authority, in the law governing dogs, for a certified officer appointed or employed by an animal shelter or county dog warden that holds a chemical capture classification to chemically capture a companion animal in accordance with the act in order to limit injury to the officer, the animal or another animal, or the public;⁴⁴
3. States that chemical capture of a companion animal by a certified officer in accordance with Ohio law is not an act of cruelty;⁴⁵ and
4. Declares that the law governing veterinarians does not apply to an act of chemical capture by a certified officer.⁴⁶

Prohibitions and penalties

The act prohibits the following:

1. A person from performing chemical capture with a drug or combination of drugs other than the drugs specified in rules adopted by the Pharmacy Board;
2. An animal shelter or county dog warden from permitting an individual to perform chemical capture unless the shelter or warden holds a chemical capture classification and the individual is a certified officer; and

⁴² R.C. 4729.534(C).

⁴³ R.C. 4729.534(D).

⁴⁴ R.C. 955.151(B).

⁴⁵ R.C. 959.134.

⁴⁶ R.C. 4741.201.

3. An individual from performing chemical capture unless the individual is a certified officer and is appointed or employed by an animal shelter or county dog warden that holds a chemical capture classification.⁴⁷

A person who purposely violates any of those prohibitions is guilty of a first degree misdemeanor.⁴⁸

Veterinarians and veterinary technicians

Regarding both chemical capture and animal euthanasia by agents and employees of animal shelters, county dog wardens, and agents and employees of county dog wardens, the act specifies that its provisions and continuing law do not preclude licensed veterinarians and registered veterinary technicians from engaging in the practice of veterinary medicine.⁴⁹

Impounded dogs

The act revises law governing the disposition of a dog that has been seized and impounded by a county dog warden, but that has not been redeemed by its owner, keeper, or harbinger (“owner”). Generally under continuing law, a county dog warden must house and feed a dog that has been seized and impounded for a specified time period. However, if a dog is not redeemed after that time period, the act allows the dog to be adopted out or donated to any person, including either of the following entities:

1. A nonprofit special agency that is engaged in training any type of assistance dogs; or
2. A nonprofit teaching or research institution or organization that is certified by the Director of Health as being engaged in teaching or research concerning the prevention and treatment of diseases of human beings or animals.

The act does not specify that the county dog warden must give preference to any person or entity that wishes to adopt a dog. It also allows the county dog warden to charge an adoption fee for any dog that is adopted. Under continuing law, any dog that is not redeemed or sold may be humanely destroyed.

Under prior law, the dog warden could sell any dog to any person, including to any nonprofit Ohio institution or organization that is certified by the Director of Health as being engaged in teaching or research concerning the prevention and treatment of diseases of human beings or animals. However, if a nonprofit agency that trains assistance dogs requested a dog that had not been redeemed, the county dog warden *had to* donate the dog to the agency instead of selling the dog to another person or entity.⁵⁰

⁴⁷ R.C. 4729.535.

⁴⁸ R.C. 4729.991.

⁴⁹ R.C. 4729.532(E) and 4729.535.

⁵⁰ R.C. 955.16.

Uniformity of animal law provisions

Background

The 131st General Assembly enacted S.B. 331, which took effect March 21, 2017. It amended a variety of laws related to: (1) pet stores, (2) dog breeders, (3) animal fighting, (4) bestiality, (5) humane agent residency requirements, (6) micro wireless facilities, and (7) minimum wage. After its enactment, many municipalities challenged the act, claiming, among other things, that it violated the Ohio Constitution's one-subject rule.⁵¹

The Ohio Constitution states that “[n]o bill shall contain more than one subject, which shall be clearly expressed in its title.”⁵² If a bill is challenged for violating the one-subject rule, a court may sever portions of an act that violate the rule in order to cure the defect and save the portions which do relate to a single subject.⁵³ However, if the court can discern no “primary” subject matter of the bill, severance is not possible and the bill must be held unconstitutional in its entirety.⁵⁴

The courts in *City of Bexley v. State*, *City of Cincinnati v. State*, and *City of Cleveland v. State* preserved the pet store regulations enacted by S.B. 331, as well as all other animal-related provisions (dog breeding, animal fighting, bestiality, and humane agent residency requirements).

However, the Sixth District Appellate Court in *City of Toledo v. State* (which heard consolidated actions from the cities of Toledo, Maumee, Napoleon, Sylvania, and Perrysburg) found that the “application of the severance doctrine to save any portion of [Sub.] S.B. 331 is unwarranted because there is no discernible primary subject of the bill.” The court did not save any provisions of the bill, including the animal fighting, bestiality, or humane agent residency requirement provisions. Therefore, the laws governing animal fighting, bestiality, and humane agent residency requirements that were enacted by S.B. 331 could not be enforced within the jurisdiction of the Sixth Appellate District, which includes all of Erie, Fulton, Huron, Lucas, Ottawa, Sandusky, Williams, and Wood counties. Prior to this act, in that jurisdiction:

- A person could have been prosecuted for violating the animal fighting law only as it existed prior to March 21, 2017;

⁵¹ *City of Toledo v. State*, 2018 Ohio App. LEXIS 4854, 2018-Ohio-4534, 123 N.E.3d 343 (6th Dist.), *City of Bexley v. State*, Franklin C.P. No. 2017-CV-2672, 92 N.E.3d 397 (June 2, 2017), *City of Cincinnati v. State*, 2018 Ohio App. LEXIS 4826, 2018-Ohio-4498, 121 N.E.3d 897 (1st Dist.), and *City of Cleveland v. State*, 2019 Ohio App. LEXIS 364, 2019-Ohio-315 (8th Dist.).

⁵² Ohio Constitution, Article II, Section 15(D).

⁵³ *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*, 86 Ohio St.3d 451, 715 N.E.2d 1062 (1999), *State ex rel. Hinkle v. Franklin Cty. Bd. of Elections*, 62 Ohio St.3d 145, 580 N.E.2d 767 (1991), see also R.C. 1.50.

⁵⁴ *Akron Metro. Hous. Auth. Bd. of Trustees v. State*, 2008 Ohio App. LEXIS 2384, 2008-Ohio-2836 (11th Dist.).

- A person in that jurisdiction could not have been prosecuted for violating the bestiality law because that law did not exist prior to that date;⁵⁵ and
- A county humane society could appoint agents, but the agents had to be residents of the county or municipal corporation for which the appointment was made.⁵⁶

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The act reenacts prohibitions associated with cockfighting, bearbaiting, or pitting an animal against another (animal fighting activities); sexual conduct with an animal (bestiality); and hiring a county humane agent who lives outside the county or municipal corporation for which the society is located. Prior to March 31, 2021, these provisions applied in all areas of the state except Erie, Fulton, Huron, Lucas, Ottawa, Sandusky, Williams, and Wood counties. By reenacting these provisions, the act makes them uniformly enforceable across the state, including in the Sixth Appellate District.⁵⁷ For more information regarding the provisions that are reenacted by the act, see [S.B. 331's final analysis](#).

HISTORY

Action	Date
Introduced	02-12-19
Reported, H. Agriculture and Rural Development	05-14-19
Passed House (92-0)	10-30-19
Reported, S. Agriculture & Natural Resources	12-03-20
Passed Senate (33-0)	12-03-20
House concurred in Senate amendments (85-0)	12-08-20

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⁵⁵ Although the District Courts were split on the severability issue concerning S.B. 331's provisions, the Ohio Supreme Court did not accept the appeal of *City of Toledo v. State* for review. See The Supreme Court of Ohio Case Announcements, March 20, 2019.

⁵⁶ R.C. 1717.06.

⁵⁷ Section 4.