



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 164
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Sens. Hottinger and Yuko

Amanda George Goodman, Attorney

SUMMARY

Companion animal cruelty prohibitions and penalties

- Revises the law and penalties associated with companion animal cruelty.
- Specifies that any violation of the Companion Animal Abuse Law that is a first degree misdemeanor or a felony is classified as a violent offense.

Use of gas chamber to destroy animals

- Prohibits an animal shelter from recklessly destroying a domestic animal by the use of a carbon monoxide gas chamber, carbon dioxide gas chamber, or any other nonanesthetic inhalant.

DETAILED ANALYSIS

Companion animal cruelty prohibitions and penalties

The bill revises Ohio's companion animal abuse laws by generally increasing the penalties for certain existing violations and establishing new prohibitions. A companion animal is a cat or dog, regardless of where the cat or dog is kept, and any other animal kept inside a residential dwelling. The changes made by the bill are detailed in the table below.

Changes to Ohio's Companion Animal Abuse Law		
Activity addressed	Current law	I_134_1120-1
Companion animal cruelty	<p>Prohibits a person from knowingly causing serious physical harm to a companion animal.¹</p> <p>Penalty: 5th degree felony.</p> <p>Serious physical harm is any of the following:</p> <ol style="list-style-type: none"> 1. Physical harm that carries an unnecessary or unjustifiable substantial risk of death; 2. Physical harm that involves either partial or total permanent incapacity; 3. Physical harm that involves acute pain of a duration that results in substantial suffering or that involves any degree of prolonged or intractable pain; and 4. Physical harm that results from a person who confines or who is the custodian or caretaker of a companion animal depriving the companion animal of good, wholesome food and water that proximately causes the death of the companion animal.³ 	<p>Instead, prohibits a person from doing any of the following, unnecessarily or unjustifiably, to a companion animal that causes acute pain that results in substantial suffering, prolonged or intractable pain, or that carries a substantial risk of death to the companion animal:</p> <ol style="list-style-type: none"> 1. Cruelly beating; 2. Mutilating or maiming; 3. Poisoning. <p>Penalty: 5th degree felony.²</p> <p>Generally, no provision, except revises the fourth prong of serious physical harm by lowering the mental state from knowingly to recklessly, thus prohibiting a person who confines or who is the custodian or caretaker of a companion animal from <i>recklessly</i> depriving the companion animal of necessary sustenance or confining the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water.</p> <p>Penalty: 1st degree misdemeanor on first offense and 5th degree</p>

¹ R.C. 959.131(C) and 959.99(E)(2).

² R.C. 959.131(B)(2) and 959.99(E)(2).

³ R.C. 959.131(A)(12) and (C) and 959.99(E)(2).

Changes to Ohio's Companion Animal Abuse Law		
Activity addressed	Current law	I_134_1120-1
		felony on each subsequent offense. ⁴
Needlessly killing a companion animal	Prohibits a person from knowingly needlessly killing a companion animal. Penalty: 1 st degree misdemeanor on a first offense, 5 th degree felony on each subsequent offense. ⁵	Same. Penalty: 5 th degree felony in all circumstances. ⁶
Acts of cruelty that proximately cause a companion animal's death	No provision. No provision.	Prohibits a person from knowingly doing any of the following, unnecessarily or unjustifiably, to a companion animal that proximately causes the companion animal's death: 1. Cruelly beating; 2. Mutilating or maiming; 3. Poisoning. Penalty: 4 th degree felony. ⁷
Aiding and abetting	No provision.	Prohibits a person from knowingly organizing, promoting, aiding, or abetting a violation of animal cruelty specified above that proximately causes the companion animal's death.

⁴ R.C. 959.131(E) and 959.99(E)(1).

⁵ R.C. 959.131(B) and 959.99(E)(1).

⁶ R.C. 959.131(B)(2) and 959.99(E)(2).

⁷ R.C. 959.131(C)(1) and 959.99(E)(3).

Changes to Ohio's Companion Animal Abuse Law		
Activity addressed	Current law	I_134_1120-1
	No provision.	Penalty: 5 th degree felony. Also, specifies that a violation must be prosecuted as an animal abuse violation rather than under the criminal complicity statute. ⁸
Presumption against prison time	No provision.	Specifies that any violation of the Companion Animal Abuse Law that is a 1 st degree misdemeanor or a felony is classified as a violent offense. ⁹ Thus, a judge is not required to sentence an offender to a community control sanction, but instead must impose a prison term on a first offense. In addition, these violations would not be expungable in the same manner as nonviolent 4 th and 5 th degree felonies and misdemeanors.

The bill also makes additional changes as follows:

- Subjects both nonregistered and registered animal rescues to the same felony-level penalty (fifth degree) for certain animal abuse acts. Under current law, an owner, manager, or employee of a nonregistered animal rescue for dogs is subject to a first degree misdemeanor for those acts. Registered animal rescues are subject to a fifth degree felony for the same acts.¹⁰
- Standardizes the use of terminology that describes animal abuse acts related to depriving a companion animal of good, wholesome food and water and confining a companion animal without affording it with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight.¹¹

⁸ R.C. 959.131(C)(2) and 959.131(E)(4).

⁹ R.C. 2901.01.

¹⁰ R.C. 959.131(A)(7) and (8); also see R.C. 959.131(F) and (G).

¹¹ R.C. 959.131(F)(2) and (3); also see R.C. 959.131(E)(2) and (3) and 959.131(G)(2) and (3).

Animal shelter use of gas chamber to destroy animals

The bill prohibits an animal shelter (i.e., county humane society, dog pound, or local animal shelter operated by a local governmental entity) from recklessly destroying a domestic animal by the use of a carbon monoxide gas chamber, carbon dioxide gas chamber, or any other nonanesthetic inhalant. A violation of this prohibition is a fourth degree misdemeanor (up to 30 days in jail and a fine of up to \$250). However, an animal shelter may destroy a domestic animal by the use of these methods if the State Veterinary Medical Licensing Board, in consultation with the State Board of Pharmacy, declares that there is a shortage of approved lethal injection substances.

Current law prohibits and imposes a fourth degree misdemeanor for destroying a domestic animal by any person by the use of:

- A high altitude decompression chamber; or
- Any method other than a method that immediately and painlessly renders the domestic animal initially unconscious and subsequently dead.

The existing prohibition and the prohibition established by the bill do not apply to or prohibit the slaughtering of livestock under the law governing livestock slaughter or the taking of any wild animal when taken in accordance with the law governing hunting and fishing. As added by the bill, these prohibitions also do not apply to both of the following:

1. The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate under Ohio law; and
2. An animal used in scientific research conducted by a research facility in accordance with the federal Animal Welfare Act and related regulations.¹²

HISTORY

Action	Date
Introduced	04-15-21

S0164-I-134/ks

¹² R.C. 959.06 and 959.99(C); R.C. 2929.24, and 2929.29, not in the bill.