



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 60*

131st General Assembly
(As Reported by S. Agriculture)

Reps. Patmon and Hall, Antonio, Brown, Patterson, Gerberry, Slaby, LaTourette, Grossman, Boyd, Cera, Barnes, Leland, Lepore-Hagan, Phillips, Sheehy, Romanchuk, Blessing, Ruhl, Anielski, Ashford, Baker, Celebrezze, Dovilla, Driehaus, Fedor, Hackett, Hambley, Henne, Howse, G. Johnson, T. Johnson, M. O'Brien, S. O'Brien, Pelanda, Ramos, Rogers, Schuring, Sears, Slesnick, K. Smith, Sweeney

BILL SUMMARY

Knowingly committing acts of cruel treatment against companion animals

- Prohibits a person from knowingly causing serious physical harm to a companion animal, violation of which is a fifth degree felony.
- Defines "serious physical harm," and revises the definition of "companion animal" to specifically include dogs and cats kept in pet stores for purposes of the Offenses Relating to Domestic Animals Law.
- Revises the prohibition in current law against knowingly committing specified types of cruel treatment against a companion animal by an owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal.

Negligently committing acts of cruel treatment against companion animals

- Revises the separate but identical prohibitions in current law against negligently committing specified types of cruel treatment against a companion animal by a person who confines or is the custodian or caretaker of a companion animal and by an owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal.

* This analysis was prepared before the report of the Senate Agriculture Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

Humane society's employment of attorney

- Prohibits a humane society or its agent from employing an attorney or one or more assistant attorneys to prosecute a felony violation of the statute prohibiting cruel treatment of companion animals.

Humane agents training

- Adds to the purposes for which a county humane society must use fine moneys received for violation of prohibitions regarding companion animals the provision of additional training for humane agents.

Use of animals to secure opioids

- Requires state agency collaboration in the development of resources and educational materials to enhance the ability of veterinarians to identify current or potential clients who may abuse opioids and may use animals in their care to improperly secure them.

Penalty for "assaulting a police dog or horse" if the dog or horse is killed

- Modifies the penalty for "assaulting a police dog or horse" if the dog or horse is killed to require a mandatory prison term and a mandatory fine.

CONTENT AND OPERATION

Knowingly committing acts of cruel treatment against companion animals

General prohibition against causing serious physical harm

The bill prohibits a person from knowingly causing serious physical harm to a companion animal.¹ Violation of that prohibition is a fifth degree felony.²

For purposes of the Offenses Relating to Domestic Animals Law, the bill defines "serious physical harm" to mean any of the following:

(1) Physical harm that carries an unnecessary or unjustifiable substantial risk of death;

(2) Physical harm that involves either partial or total permanent incapacity;

¹ R.C. 959.131(C).

² R.C. 959.99(E)(2).

(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; or

(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

In addition, the bill revises the definition of "companion animal" in that Law to specify that the location where a dog or cat is kept includes a pet store. Under current law, a companion animal is any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept.⁴

The bill applies to the above prohibition the following exceptions established in existing law to the continuing prohibitions against cruel treatment of a companion animal:

(1) A companion animal used in scientific research conducted by an institution in accordance with the federal Animal Welfare Act and related regulations;

(2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under the Veterinarians Law;

(3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;

(4) The use of common training devices if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals; and

(5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under the Veterinarians Law.⁵

³ R.C. 959.131(A)(12).

⁴ R.C. 959.131(A)(1).

⁵ R.C. 959.131(G).



Prohibition applicable to owners, managers, and employees of dog kennels

The bill also revises the existing prohibition against knowingly committing specified types of cruel treatment against a companion animal by an owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal. Current law prohibits such an owner, manager, or employee from knowingly doing either of the following:

(1) Torturing, tormenting, needlessly mutilating or maiming, cruelly beating, poisoning, needlessly killing, or committing an act of cruelty against the companion animal; or

(2) Depriving the companion animal of necessary sustenance, confining the companion animal without supplying it during the confinement with sufficient quantities of food and water, or impounding or confining the companion animal without affording it, during the impoundment or confinement, with access to shelter if it is substantially certain that the companion animal would die or experience unnecessary or unjustifiable pain or suffering due to the deprivation, confinement, or impoundment or confinement in any of those specified manners.⁶

The bill retains item (1), above, but revises item (2) by doing all the following:

--Specifying that the sufficient quantities of food must be good and wholesome;

--Replacing "if it is substantially certain that the companion animal would die or experience unnecessary or unjustifiable pain or suffering due to the deprivation, confinement, or impoundment, or confinement in any of those specified manners" with "if it is reasonably expected that the companion animal would die or experience unnecessary or unjustifiable pain or suffering";⁷ and

--In a separate provision, prohibiting impounding or confining a companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it is reasonably expected that the companion animal would die or experience unnecessary or unjustifiable pain or suffering as a result of or due to the lack of adequate shelter.⁸

⁶ R.C. 959.131(E)(1) and (2).

⁷ R.C. 959.131(E)(2).

⁸ R.C. 959.131(E)(3).



Violation remains a fifth degree felony.⁹

Negligently committing acts of cruel treatment against companion animals

The bill revises existing prohibitions against negligently committing specified types of cruel treatment against a companion animal by a person who confines or is the custodian or caretaker of a companion animal and by an owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal. Existing law establishes separate but identical prohibitions for persons who confine or are custodians or caretakers of companion animals and for such owners, managers, or employees of dog kennels.

Current law prohibits both such a person and such an owner, manager, or employee of a dog kennel from negligently doing any of the following:

(1) Committing any act by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

(2) Omitting any act of care by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

(3) Committing any act of neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

(4) Needlessly killing the companion animal; and

(5) Depriving the companion animal of necessary sustenance, confining the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impounding or confining the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment or confinement in any of those specified manners.¹⁰

⁹ R.C. 959.99(E)(4).

¹⁰ R.C. 959.131(D) and (F).



The bill removes items (1) to (4), above, in both prohibitions and replaces them in both with a prohibition against torturing, tormenting, or committing an act of cruelty against the companion animal.¹¹ The bill also revises item (5), above, in both prohibitions by dividing it as follows:

--First prohibiting depriving a companion animal of necessary sustenance or confining it without supplying good, wholesome food and water as specified in current law; and

--In a separate provision, prohibiting impounding or confining a companion animal without affording it with access to shelter as specified in current law.¹²

Criminal penalties remain unchanged under the bill. Under continuing law, a person who confines or is the custodian or caretaker of a companion animal and who violates the applicable prohibition is guilty of a second degree misdemeanor on a first offense and a first degree misdemeanor on each subsequent offense. An owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal and who violates the applicable prohibition is guilty of a first degree misdemeanor.¹³

Humane society's employment of attorney

The bill creates an exception to existing law by prohibiting a humane society or its agent from employing an attorney or one or more assistant attorneys to prosecute a felony violation of the statute prohibiting cruel treatment of companion animals. Current law authorizes a humane society or its agent to employ an attorney and one or more assistant attorneys to prosecute violations of certain laws, including laws regarding the prevention of cruelty to animals or children. The bill retains that authority, but with the above exception.¹⁴

¹¹ R.C. 959.131(D)(1) and (F)(1).

¹² R.C. 959.131(D)(2) and (3) and (F)(2) and (3).

¹³ R.C. 959.99(E)(3) and (5).

¹⁴ R.C. 2931.18.



Humane agents training

The bill requires a county humane society that receives fine moneys for violation of the prohibitions in current law and the bill regarding companion animals to use the fine moneys to either provide additional training for humane agents or, as in current law, to provide training for humane agents required under the Humane Societies Law.¹⁵

Use of animals to secure opioids

The bill requires the Attorney General, State Veterinary Medical Licensing Board, State Board of Pharmacy, and Ohio Veterinary Medical Association to collaborate in the development of resources and educational materials to enhance the ability of veterinarians to identify current or potential clients who may abuse opioids and may use animals in their care to improperly secure them.¹⁶

Penalty for "assaulting a police dog or horse" if the dog or horse is killed

Introduction

The bill modifies the penalty for the offense of "assaulting a police dog or horse" if the offense results in the death of the dog or horse. Currently, the penalty for that offense when it results in the dog's or horse's death is a third degree felony.¹⁷ The penalty for the offense currently does not include a mandatory prison term and, as for most other third degree felonies, the sentencing court has guided discretion in determining whether to impose a prison term sanction or one or more community residential sanctions, nonresidential sanctions, or financial sanctions, and there is no presumption for or against a prison term.¹⁸

Mandatory prison term

The bill retains the third degree felony penalty for the offense of "assaulting a police dog or horse" when the offense results in the dog's or horse's death, but it requires that the court impose on the offender as a mandatory prison term one of the prison terms prescribed for a third degree felony. The mandatory prison term cannot be reduced pursuant to judicial release, the state's 80% release mechanism, earned credits, or any other early release provision.¹⁹ The prison terms prescribed for a third degree

¹⁵ R.C. 959.131(H).

¹⁶ R.C. 4741.05.

¹⁷ R.C. 2921.321(A) and (E)(1).

¹⁸ R.C. 2929.13(A), (C), and (F) and 2929.14 to 2929.18.

¹⁹ R.C. 2921.321(A) and (E)(1)(a) and 2929.13(F)(4); also, R.C. 2921.321(E)(5)(d).



felony that apply to assaulting a police dog or horse are a definite prison term of 9, 12, 18, 24, 30, or 36 months.²⁰

Mandatory fine

The bill enacts a mandatory fine for the offense of "assaulting a police dog or horse" when the offense results in the dog's or horse's death. Under the bill, in addition to any other sanction imposed for the offense when it results in the dog's or horse's death, the sentencing court must impose on the offender as a financial sanction a mandatory fine from the range prescribed for a third degree felony.²¹ The fine must be paid to the law enforcement agency that was served by the police dog or horse that was killed. The law enforcement agency may use the fine for one or more of the following purposes: (1) if the dog or horse was not owned by the agency, the payment to its owner of the cost of the dog or horse and the cost of the training to qualify the dog or horse as a police dog or horse, if the agency has not previously paid that cost, or (2) after payment of the costs in paragraph (1), if applicable, payment of one or more of the following: the cost of replacing the dog or horse that was killed, the cost of training the replacement dog or horse to qualify it as a police dog or horse, or the cost of further training of the replacement dog or horse that is needed to train it to the level of training achieved by the dog or horse that was killed.²²

A mandatory fine imposed under this provision is a judgment in favor of the law enforcement agency to which it is paid, and the offender subject to the fine is the judgment debtor. Once the fine is imposed as a judgment, the state or political subdivision may use specified standard civil judgment collection methods to collect the amount of the fine. The court may designate its clerk or another person to collect the fine, and the clerk or designated person may contract for the collection with a public agency or private vendor.²³

Under existing sentencing law, unchanged by the bill, the court may hold a hearing if necessary to determine whether the offender is able to pay the fine or is likely in the future to be able to pay it. If the court finds that the offender satisfactorily has completed all other sanctions imposed upon the offender and that all restitution ordered has been paid, it may suspend any financial sanctions imposed that have not

²⁰ R.C. 2929.14(A)(3)(b).

²¹ R.C. 2921.321(A) and (E)(1)(b) and 2929.18(B)(10).

²² R.C. 2921.321(E)(1)(b).

²³ R.C. 2921.321(D) and (F).



been paid. No fine imposed under this provision precludes a victim from bringing a civil action against the offender.²⁴

Offense of "assaulting a police dog or horse" – elements and current penalties

Existing law, unchanged by the bill, prohibits a person from knowingly causing, or attempting to cause, physical harm to a police dog or horse if: (1) the dog or horse is assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, or (2) the dog or horse is not assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog or horse is a police dog or horse.²⁵ The prohibition does not apply to a licensed veterinarian whose conduct is in accordance with Ohio law governing the licensing of veterinarians. The prohibition applies only to a person who knows or should know at the time of the violation that the police dog or horse that is the subject of a violation under the prohibition is a police dog or horse.²⁶

A violation of the prohibition is the offense of "assaulting a police dog or horse." Currently, if the violation results in the death of the police dog or horse, it is a third degree felony – this is the penalty modified by the bill as described above. Currently, in all other cases, unchanged by the bill, the penalty for the offense is one of the following: (1) except as described in clause (2) or (3), it is a second degree misdemeanor, (2) if the violation results in serious physical harm to the police dog or horse other than its death, it is a fourth degree felony, and (3) if the violation results in physical harm to the police dog or horse other than death or serious physical harm, it is a first degree misdemeanor.²⁷

In addition to any other sanction or penalty imposed for the offense of "assaulting a police dog or horse" and unchanged by the bill, the offender is responsible for the payment of: (1) any veterinary bill or bill for medication incurred as a result of the violation by the police department, (2) the cost of any damaged equipment resulting from the violation, (3) if the violation resulted in serious physical harm to the police dog or horse that was the subject of the violation to the extent that it needs to be replaced on either a temporary or a permanent basis, the cost of replacing the dog or horse and of any further training of a new police dog or horse, which replacement or training is

²⁴ R.C. 2921.321(E), (G), and (H).

²⁵ R.C. 2921.321(A).

²⁶ R.C. 2921.321(F) and (G).

²⁷ R.C. 2921.321(E)(1).

required because of the serious physical harm to the dog or horse, and (4) if the violation did not result in the death of the subject police dog or horse and if, as a result of the violation, the dog or horse needs further training or retraining to be able to continue as a police dog or horse, the cost of any further training or retraining of the dog or horse by a law enforcement officer. Currently, if the violation resulted in the death of the subject police dog or horse and the dog or horse needs to be replaced on either a temporary or a permanent basis, the offender is responsible for the cost of replacing the dog or horse and of any further training of a new police dog or horse – the bill repeals this provision and replaces it with the mandatory fine described above.²⁸

Existing law, unchanged by the bill, also sets forth the offenses of "harassing a police dog or horse," "assaulting an assistance dog," and "harassing an assistance dog,"²⁹ which are related to, but involve conduct different from that prohibited under, the offense of "assaulting a police dog or horse."

HISTORY

ACTION	DATE
Introduced	02-11-15
Reported, H. Agriculture & Rural Development	06-17-15
Passed House (93-2)	06-25-15
Reported, S. Agriculture	---

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²⁸ R.C. 2921.321(E)(5).

²⁹ R.C. 2921.321(B) to (D), (E)(2) to (5), (F), and (G).

