



# Ohio Legislative Service Commission

## Bill Analysis

Jeff Grim

### **S.B. 151\***

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

**Sens.** Beagle, Lehner

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## **BILL SUMMARY**

### **Vicious dogs**

- Revises the definition of "vicious dog" in the Dogs Law by, in part, limiting the term to include only a dog that has killed a person, rather than also including a dog that has caused serious injury to a person, and including a dog that has killed a companion animal.
- Requires a court, if a dog is finally determined to be a vicious dog or has killed a person or companion animal, but has not been determined to be a vicious dog, to order the dog to be humanely destroyed.

### **Dangerous dogs**

- Revises the definition of "dangerous dog" by, in part, including a dog that causes serious injury to a person and a dog that causes injury or serious injury to a companion animal.
- Adds that a dangerous dog does not include a dog that has caused injury or 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 dog's owner, keeper, or harbinger (hereafter, owner).

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\* 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.

## **Reasonable cause – designation of dogs**

- Establishes that reasonable cause, for purposes of the statute governing designation of a dog as a nuisance, dangerous, or vicious dog, may be supported by one or more notarized affidavits of a witness describing the situation in which the witness saw the dog engage in behavior that may warrant such a designation.

## **"Without provocation" affirmative defense – designation of dogs**

- Establishes an affirmative defense to a designation of a dog as a nuisance, dangerous, or vicious dog that the dog was teased, tormented, or abused by a person or was coming to the aid or 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 that activity.
- Removes "without provocation" as an element in the definition of a nuisance dog, dangerous dog, or vicious dog in current law, and removes the existing definition of that term containing the same provisions as in the bill's affirmative defense.

## **"Without provocation" affirmative defense – confinement and restraint requirements**

- States that in a prosecution for a violation of the continuing confinement and restraint requirements in connection with which a dog has caused injury or serious injury to or the death of a person or companion animal, any of the following may be asserted as an affirmative defense:

--The dog was teased, tormented, or abused;

--The dog was coming to the aid or 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 that activity; or

--The dog caused injury or serious injury to a person or killed a person while the person was committing or attempting to commit a trespass or other criminal offense on the property of the dog's owner.

## **Criminal penalties for violation of confinement and restraint prohibition**

- Revises the criminal penalties for violating the existing prohibition against failing to confine or restrain a dog as follows:
  - (1) Except as discussed below, changes the penalty from a fourth degree felony to a fifth degree felony if the dog kills a person;



(2) Changes the penalty from a first degree misdemeanor to a fifth degree felony if the dog causes serious injury to a person;

(3) Specifies that a violator is guilty of a fourth degree felony if the dog kills or causes serious injury to a person and the person has been previously sentenced under (1) or (2) above or (4) below;

(4) Specifies that a violator is guilty of a first degree misdemeanor if the dog causes injury, other than serious injury, to a person or causes injury, serious injury, or death to a companion animal;

(5) Specifies that a violator is guilty of a fifth degree felony if the dog causes injury, other than serious injury, to a person or causes injury, serious injury, or death to a companion animal and the person has been previously sentenced under (1), (2), or (4) above.

- Eliminates the requirement that a court, if it does not order a vicious dog to be destroyed, must issue an order applying to the owner specified requirements governing ownership of a dangerous dog.

### **Ownership of certain dogs by felons**

- Adds a violation of child endangerment to the existing list of offenses that preclude a person from owning certain types of dogs, and increases the period of time that a person cannot own such a dog from three years to five years.

### **Notification regarding complaints**

- Requires any person authorized to enforce the Dogs Law (hereafter, investigator) to investigate any complaint that indicates a possible violation of any provision of that Law involving a dog.
- Requires the investigator to notify the dog's owner that there has been a complaint regarding the dog and that the investigator investigated a possible violation if, after investigating an alleged violation, the investigator does not cite the person for or charge the person with a violation.
- Specifies what the notice must include, and requires the investigator to post the notice on the door of the dwelling at which the dog resides within 24 hours of the investigation and the dog's owner to respond within 48 hours via specified forms of communication.
- Requires that if the owner of the dog does not respond within:

--48 hours or a reasonable time from the time the notice is posted, the owner must be fined \$25;

--96 hours, the owner must be fined \$40; or

--Seven days, a court may issue a summons or warrant for the owner's arrest.

### **Criminal penalties relating to sale or transfer of dogs**

- Revises the criminal penalties for violating the existing prohibition against failing to comply with specified requirements for the sale or transfer of a dog as follows:
  - (1) Changes the penalty from a minor misdemeanor to a fourth degree misdemeanor on a first offense; and
  - (2) Changes the penalty from a fourth degree misdemeanor to a third degree misdemeanor on each subsequent offense.
- Applies the above penalties to all violations of the prohibition rather than establishing different penalties for different elements of the prohibition as in current law.

### **Dog wardens' arrest authority and training**

- Clarifies that dog wardens and deputies have the same police powers, including the authority to make arrests, as are conferred on sheriffs and police officers in the performance of their duties.
- Requires the Ohio Peace Officer Training Commission to recommend rules to the Attorney General establishing requirements for the training of dog wardens and deputies for the purposes of the exercise of those police powers.

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## CONTENT AND OPERATION

### Vicious dogs

The bill revises the definition of "vicious dog" in the Dogs Law by doing all of the following:

(1) Narrowing a vicious dog to a dog that has killed a person by removing a dog that caused serious injury to a person;

(2) Adding that a vicious dog also includes a dog that has killed a companion animal; and

(3) Removing "without provocation" as an element of the definition (but see below).<sup>1</sup>

The bill retains in part, with modifications to reflect the above revisions, the existing exclusions from the definition of "vicious dog" of a police dog that has killed any person or companion animal while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties and a dog that has killed any person or companion animal while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, or harbinger (hereafter, owner) of the dog.<sup>2</sup>

The bill then requires a vicious dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society at the owner's expense (hereafter, humanely destroyed) the first time the dog kills a person or companion animal. Under the bill, a court, if the dog is finally determined to be a vicious dog, must order the dog to be humanely destroyed.<sup>3</sup> Additionally, the bill requires a court to order a dog that has not been determined to be a vicious dog, but that is not confined or restrained and has killed a person or companion animal to be humanely destroyed.<sup>4</sup>

Current law instead requires a court to apply to the owner of a dog determined to be a vicious dog specified requirements governing dangerous dogs, including more restrictive confinement and restraint requirements and a requirement to obtain liability

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<sup>1</sup> R.C. 955.11(A)(1).

<sup>2</sup> R.C. 955.11(A)(2).

<sup>3</sup> R.C. 955.222(F).

<sup>4</sup> R.C. 955.99(H)(1).



insurance. It also requires a dog that has first been determined to be a vicious dog, is not confined or restrained, and has killed a person to be humanely destroyed. Current law thus requires a vicious dog to be humanely destroyed only after a second attack.

## **Dangerous dogs**

The bill revises the definition of "dangerous dog" in the Dogs Law by doing all of the following:

(1) Including a dog that has caused serious injury to a person as a dangerous dog;

(2) Adding that a dangerous dog also includes a dog that has caused injury or serious injury to any companion animal;

(3) As a result of the bill's changes to the definition of "vicious dog," removing killing another dog as an element of the definition; and

(4) Removing "without provocation" as an element of the definition (but see below).<sup>5</sup>

The bill retains in part, with modifications to reflect the above revisions, the existing exclusion from the definition of "dangerous dog" of a police dog that has caused injury or serious injury to any person or any companion animal while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties. It adds that a dangerous dog also does not include a dog that has caused injury or 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 dog's owner, keeper, or harbinger (hereafter, owner).<sup>6</sup>

## **Nuisance dogs**

The bill revises the definition of "nuisance dog" by removing "without provocation" as an element of the definition (but see below).<sup>7</sup>

## **Reasonable cause – designation of dogs**

For purposes of the continuing provision governing how a person who is authorized to enforce the Dogs Law designates a dog as a nuisance dog, dangerous dog,

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<sup>5</sup> R.C. 955.11(B)(1).

<sup>6</sup> R.C. 955.11(B)(2).

<sup>7</sup> R.C. 955.11(C).



or vicious dog, the bill retains the specification that the authorized person must have reasonable cause to believe the dog in the person's jurisdiction should so be designated. The bill then establishes that reasonable cause may be supported by one or more notarized affidavits of a witness describing the situation in which the witness saw the dog engage in behavior that may warrant designation of the dog as a nuisance, dangerous, or vicious dog.<sup>8</sup>

### **"Without provocation" affirmative defense – designation of dogs**

The bill establishes an affirmative defense to the designation of a dog as a nuisance dog, dangerous dog, or vicious dog that the dog was teased, tormented, or abused by a person or that the dog was coming to the aid or 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 that activity.<sup>9</sup> Current law instead includes "without provocation" as an element in the definition of a nuisance dog, dangerous dog, and vicious dog and defines "without provocation" by using the same provisions as in the bill's affirmative defense.<sup>10</sup>

### **"Without provocation" affirmative defense – confinement and restraint requirements**

Additionally, the bill establishes an affirmative defense for a person being prosecuted for a violation of the continuing confinement and restraint requirements<sup>11</sup> in the Dogs Law. Under the bill, in a prosecution for a violation of such an offense in connection with which a dog has caused injury or serious injury to or the death of a person or companion animal, any of the following may be asserted as an affirmative defense, as applicable:

(1) The dog was teased, tormented, or abused by a person;

(2) The dog was coming to the aid or 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 that activity; or

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<sup>8</sup> R.C. 955.222(B).

<sup>9</sup> R.C. 955.222(E).

<sup>10</sup> R.C. 955.11(A)(7).

<sup>11</sup> R.C. 955.22(B).



(3) The dog caused injury or serious injury to a person or killed a person while the person was committing or attempting to commit a trespass or other criminal offense on the property of the dog's owner.<sup>12</sup>

### **Criminal penalties for violation of confinement and restraint prohibition**

The bill revises the criminal penalties for violation of the existing prohibition against failing, at any time, to do either of the following:

(1) Keep a dog physically confined or restrained on the owner's premises by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape; or

(2) Keep a dog under the reasonable control of some person.

The prohibition does not apply when a dog is lawfully engaged in hunting and accompanied by its owner.<sup>13</sup>

Under the bill, whoever violates the above prohibition is guilty of one of the following, as applicable:

(1) A fifth degree felony if the dog kills or causes serious injury to a person. Additionally, as discussed above, if the dog kills a person, the court must order that the dog be humanely destroyed. If the dog causes serious injury to a person, the court may order that the dog be humanely destroyed.

(2) A fourth degree felony if the dog kills or causes serious injury to a person and the person in violation has previously been sentenced under (1) above or (3) below. Additionally, as discussed above, if the dog kills a person, the court must order that the dog be humanely destroyed. If the dog causes serious injury to a person, the court may order that the dog be humanely destroyed.

(3) A first degree misdemeanor if the dog causes injury, other than serious injury, to a person or causes injury, serious injury, or death to a companion animal. Additionally, as noted above, if the dog kills a companion animal, the court must order that the dog be humanely destroyed. If the dog causes injury to a person or injury or serious injury to a companion animal, the court may order that the dog be humanely destroyed.

(4) A fifth degree felony if the dog causes injury, other than serious injury, to a person or causes injury, serious injury, or death to a companion animal and the person

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<sup>12</sup> R.C. 955.226.

<sup>13</sup> R.C. 955.22(B).





in violation has previously been sentenced under (1) or (3) above. Additionally, as noted above, if the dog kills a companion animal, the court must order that the dog be humanely destroyed. If the dog causes injury to a person or injury or serious injury to a companion animal, the court may order that the dog be humanely destroyed.<sup>14</sup>

Current law instead stipulates that whoever commits a violation of the above prohibition that involves a vicious dog is guilty of one of the following:

(1) A fourth degree felony if the dog kills a person. Additionally, the court must order that the vicious dog be humanely destroyed.

(2) A first degree misdemeanor if the dog causes serious injury to a person. Additionally, the court may order the vicious dog to be humanely destroyed.<sup>15</sup>

The bill eliminates provisions requiring a court, if it does not order a vicious dog to be destroyed, to issue an order specifying that both of the following apply:

(1) The existing provisions governing the transfer of ownership of a dog, confinement of a dangerous dog, obtaining of liability insurance, debarking of a dangerous dog, and issuance of a dangerous dog registration certificate apply with respect to the dog and the dog's owner as if the dog were a dangerous dog; and

(2) The existing prohibition against ownership of dangerous dogs by felons (see below) applies 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 required liability insurance in an amount, exclusive of interest and costs, that equals or exceeds \$100,000.

The bill retains the requirement that, until the court makes a final determination and during the pendency of any appeal and at the discretion of the dog warden, the dog must be confined or restrained in accordance with the continuing provisions governing confining and restraining a dangerous dog or at the county dog pound at the owner's expense.<sup>16</sup>

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<sup>14</sup> R.C. 955.99(H)(1)(a) to (d).

<sup>15</sup> R.C. 955.99(H)(1)(a) and (b).

<sup>16</sup> R.C. 955.99(H)(2).



## Ownership of certain dogs by felons

The bill revises the continuing provision governing ownership of certain dogs by a person who is convicted of or pleads guilty to specified felony offenses. It adds a violation of child endangerment<sup>17</sup> to the list of offenses and increases the period of time that a person cannot own such a dog from three years to five years.

Current law prohibits a person who is convicted of or pleads guilty to a felony offense of violence committed on or after May 22, 2012, or a felony violation of any provision of the laws governing offenses relating to domestic animals; conspiracy, attempt, and complicity; weapons control; corrupt activity; or drug offenses committed on or after May 22, 2012, from knowingly owning, possessing, having custody of, or residing in a residence with either of the following for a period of three years commencing either on 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, on the date of the person's final release from the other sanctions imposed for the offense or violation:

- (1) An unspayed or unneutered dog older than 12 weeks of age; or
- (2) Any dog that has been determined to be a dangerous dog.

Current law also requires such a person to microchip for permanent identification any dog owned or possessed by or in the custody of the person.<sup>18</sup>

## Notification regarding complaints

The bill requires any person authorized to enforce the Dogs Law (hereafter, investigator) to investigate any complaint that indicates a possible violation of any provision of that Law involving a dog. If, after investigating an alleged violation, the investigator does not cite the person for or charge the person with a violation, the investigator must notify the dog's owner that there has been a complaint regarding the dog and that the investigator investigated a possible violation.

The bill requires the notice to specify all of the following:

- (1) A citation to the provision or provisions of law a possible violation of which the investigator investigated;
- (2) Contact information for the investigator; and

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<sup>17</sup> R.C. 2919.22, not in the bill.

<sup>18</sup> R.C. 955.54.



(3) A requirement that the dog's owner respond to the investigator indicating that the owner has received the notice.

Under the bill, the investigator must post the notice on the door of the dwelling at which the dog resides within 24 hours of the investigation. The dog's owner must respond within 48 hours via email, facsimile, telephone, or social media correspondence, indicating that the owner has received the notice. If the dog's owner responds within a reasonable time after the 48-hour period, the person is not subject to the fines discussed below, provided that the response is accompanied with a reasonable explanation of why the 48-hour response deadline was not met.

If the owner of the dog does not respond within:

--48 hours or a reasonable time from the time the notice is posted, the owner must be fined \$25;

--96 hours, the owner must be fined \$40; or

--Seven days, a court may issue a summons or warrant for the owner's arrest.

The fines must be deposited in the applicable county dog and kennel fund.<sup>19</sup>

### **Criminal penalties relating to sale or transfer of dogs**

The bill revises the criminal penalties for violation of the existing prohibition against failing to comply with specified requirements governing the sale or transfer of a dog. Continuing law prohibits any person from selling or transferring a dog unless the person provides all of the following:

(1) To the buyer or other transferee (hereafter buyer), a transfer of ownership certificate that contains the dog's registration number, the seller's name, and a brief description of the dog;

(2) To the buyer, a written notice relative to the dog's behavior and propensities;

(3) To the buyer, the board of health of the health district in which the buyer resides, and the dog warden of the county in which the buyer resides, if the person has knowledge that the dog is a dangerous dog, a completed copy of a written form on which the person must furnish the buyer's name and address and the dog's age, sex, color, breed, and current registration number. The person must provide the form not later than ten days after the transfer of ownership or possession of any dog.

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<sup>19</sup> R.C. 955.60.

(4) If the person has knowledge that the dog is a dangerous dog, answers to questions relating to whether the dog has ever chased or attempted to attack or bite a person, bitten a person, or seriously injured or killed a person. If the person answers yes to any of the questions, the person must describe the incident or incidents. The questions must be specifically stated on a form required to be provided free of charge by the dog warden of the county in which the person resides.<sup>20</sup>

The bill stipulates that whoever violates any element of the above prohibition is guilty of a fourth degree misdemeanor on a first offense and a third degree misdemeanor on each subsequent offense. Current law instead stipulates that whoever violates the prohibition because of a failure to comply with (1) above is guilty of a minor misdemeanor. In addition, whoever violates the prohibition because of a failure to comply with (2), (3), or (4) above is guilty of a minor misdemeanor on a first offense and a fourth degree misdemeanor on each subsequent offense.<sup>21</sup>

### **Dog wardens' arrest authority and training**

The bill clarifies that dog wardens and deputies have the same police powers, including the authority to make arrests, as are conferred on sheriffs and police officers in the performance of their duties.<sup>22</sup> The bill also requires the Ohio Peace Officer Training Commission to recommend rules to the Attorney General establishing requirements for the training of dog wardens and deputies for the purposes of the exercise of those police powers.<sup>23</sup>

### **Reorganization of the Dogs Law**

The bill reorganizes the following, but makes no substantive changes:

--Provisions governing the transfer of ownership of any dog;<sup>24</sup>

--The confinement and restraint requirements for all dogs;<sup>25</sup>

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<sup>20</sup> R.C. 955.13.

<sup>21</sup> R.C. 955.99(A).

<sup>22</sup> R.C. 955.12(E).

<sup>23</sup> R.C. 109.73(A)(13).

<sup>24</sup> R.C. 955.11(A) to (D) and 955.13.

<sup>25</sup> R.C. 955.22(A)to (C).

--The confinement and restraint requirement for dangerous dogs;<sup>26</sup>

--Requirements regarding ownership of a dangerous dog, including the liability insurance requirement;<sup>27</sup>

--Provisions prohibiting debarking and silencing dangerous dogs;<sup>28</sup> and

--Provisions requiring a dangerous dog registration certificate.<sup>29</sup>

The bill also makes conforming technical changes.<sup>30</sup>

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## HISTORY

ACTION	DATE
Introduced	04-27-15
Reported, S. Agriculture	---

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<sup>26</sup> R.C. 955.22(D) and 955.223(A).

<sup>27</sup> R.C. 955.22(E) and 955.223(B).

<sup>28</sup> R.C. 955.22(F) to (H) and 955.225.

<sup>29</sup> R.C. 955.22(I) and 955.224.

<sup>30</sup> R.C. 955.11(G) and 955.44.

