

As Introduced

133rd General Assembly

Regular Session

2019-2020

S. B. No. 205

Senators Hottinger, O'Brien

Cosponsors: Senators Obhof, Kunze, Rulli, Yuko

A BILL

To amend sections 959.131, 959.99, and 2953.36 of
the Revised Code to increase the penalties for
serious acts of cruelty towards or the killing
of a companion animal.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 959.131, 959.99, and 2953.36 of
the Revised Code be amended to read as follows:

Sec. 959.131. (A) As used in this section:

(1) "Companion animal" means any animal that is kept
inside a residential dwelling and any dog or cat regardless of
where it is kept, including a pet store as defined in section
956.01 of the Revised Code. "Companion animal" does not include
livestock or any wild animal.

(2) "Cruelty," "torment," and "torture" have the same
meanings as in section 1717.01 of the Revised Code.

(3) "Residential dwelling" means a structure or shelter or
the portion of a structure or shelter that is used by one or
more humans for the purpose of a habitation.

- (4) "Practice of veterinary medicine" has the same meaning as in section 4741.01 of the Revised Code. 18
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- (5) "Wild animal" has the same meaning as in section 1531.01 of the Revised Code. 20
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- (6) "Federal animal welfare act" means the "Laboratory Animal Act of 1966," Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970," Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976," Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985," Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended. 22
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- (7) "Dog kennel" means an animal rescue for dogs ~~that is registered under section 956.06 of the Revised Code,~~ a boarding kennel, or a training kennel. 30
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- (8) "Boarding kennel" ~~has~~ and "animal rescue for dogs" ~~have~~ the same ~~meaning~~ meanings as in section 956.01 of the Revised Code. 33
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- (9) "Training kennel" means an establishment operating for profit that keeps, houses, and maintains dogs for the purpose of training the dogs in return for a fee or other consideration. 36
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- (10) "Livestock" means horses, mules, and other equidae; cattle, sheep, goats, and other bovidae; swine and other suidae; poultry; alpacas; llamas; captive white-tailed deer; and any other animal that is raised or maintained domestically for food or fiber. 39
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- (11) "Captive white-tailed deer" has the same meaning as in section 1531.01 of the Revised Code. 44
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(12) "Serious physical ~~harm~~injury" means any of the following: 46
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(a) Physical ~~harm~~injury resulting from the unnecessary or unjustifiable cruel beating of a companion animal that causes prolonged or intractable pain or carries an unnecessary or unjustifiable a substantial risk of death; 48
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(b) Physical ~~harm that involves either partial or total permanent incapacity~~injury resulting from the unnecessary or unjustifiable mutilation or maiming of a companion animal that causes prolonged or intractable pain or carries a substantial risk of death; 52
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(c) Physical ~~harm that involves acute pain of a duration that results in substantial suffering or that involves any degree of prolonged or intractable pain~~, injury resulting from the poisoning of a companion animal that proximately causes the death of the companion animal 57
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~~(d) 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.~~ 62
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(B) No person shall knowingly torture, torment, ~~needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or~~ commit an act of cruelty against a companion animal. 66
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(C) ~~(1) No person shall knowingly cause serious physical harm~~injury to or needlessly kill a companion animal. 69
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(2) No person shall knowingly organize, promote, aid, or abet in violating division (C) (1) of this section. 71
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(D) No person who confines or who is the custodian or 73

caretaker of a companion animal shall recklessly deprive the 74
companion animal of necessary sustenance or confine the 75
companion animal without supplying it during the confinement 76
with sufficient quantities of good, wholesome food and water. 77

(E) No person who confines or who is the custodian or 78
caretaker of a companion animal shall negligently do any of the 79
following: 80

(1) Torture, torment, or commit an act of cruelty against 81
the companion animal; 82

(2) Deprive the companion animal of necessary sustenance 83
or confine the companion animal without supplying it during the 84
confinement with sufficient quantities of good, wholesome food 85
and water if it can reasonably be expected that the companion 86
animal would become sick or suffer in any other way as a result 87
of or due to the deprivation or confinement; 88

(3) Impound or confine the companion animal without 89
affording it, during the impoundment or confinement, with access 90
to shelter from heat, cold, wind, rain, snow, or excessive 91
direct sunlight if it can reasonably be expected that the 92
companion animal would become sick or suffer in any other way as 93
a result of or due to the lack of adequate shelter. 94

~~(E)~~ (F) No owner, manager, or employee of a dog kennel who 95
confines or is the custodian or caretaker of a companion animal 96
shall knowingly do any of the following: 97

(1) Torture, torment, needlessly mutilate or maim, cruelly 98
beat, poison, needlessly kill, or commit an act of cruelty 99
against the companion animal; 100

(2) Deprive the companion animal of necessary sustenance 101
or confine the companion animal without supplying it during the 102

confinement with sufficient quantities of good, wholesome food 103
and water if it ~~is~~can reasonably be expected that the companion 104
animal would ~~die or experience unnecessary or unjustifiable pain~~ 105
~~or suffering~~become sick or suffer in any other way as a result 106
of or due to the deprivation or confinement; 107

(3) Impound or confine the companion animal without 108
affording it, during the impoundment or confinement, with access 109
to shelter from heat, cold, wind, rain, snow, or excessive 110
direct sunlight if it ~~is~~can reasonably expected that the 111
companion animal would ~~die or experience unnecessary or~~ 112
~~unjustifiable pain or suffering~~become sick or suffer in any 113
other way as a result of or due to the lack of adequate shelter. 114

~~(F)~~(G) No owner, manager, or employee of a dog kennel who 115
confines or is the custodian or caretaker of a companion animal 116
shall negligently do any of the following: 117

(1) Torture, torment, or commit an act of cruelty against 118
the companion animal; 119

(2) Deprive the companion animal of necessary sustenance 120
or confine the companion animal without supplying it during the 121
confinement with sufficient quantities of good, wholesome food 122
and water if it can reasonably be expected that the companion 123
animal would become sick or suffer in any other way as a result 124
of or due to the deprivation or confinement; 125

(3) Impound or confine the companion animal without 126
affording it, during the impoundment or confinement, with access 127
to shelter from heat, cold, wind, rain, snow, or excessive 128
direct sunlight if it can reasonably be expected that the 129
companion animal would become sick or suffer in any other way as 130
a result of or due to the lack of adequate shelter. 131

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| (G) <u>(H)</u> Divisions (B), (C), (D), (E), and (F) , <u>and (G)</u> of | 132 |
| this section do not apply to any of the following: | 133 |
| (1) A companion animal used in scientific research | 134 |
| conducted by an institution in accordance with the federal | 135 |
| animal welfare act and related regulations; | 136 |
| (2) The lawful practice of veterinary medicine by a person | 137 |
| who has been issued a license, temporary permit, or registration | 138 |
| certificate to do so under Chapter 4741. of the Revised Code; | 139 |
| (3) Dogs being used or intended for use for hunting or | 140 |
| field trial purposes, provided that the dogs are being treated | 141 |
| in accordance with usual and commonly accepted practices for the | 142 |
| care of hunting dogs; | 143 |
| (4) The use of common training devices, if the companion | 144 |
| animal is being treated in accordance with usual and commonly | 145 |
| accepted practices for the training of animals; | 146 |
| (5) The administering of medicine to a companion animal | 147 |
| that was properly prescribed by a person who has been issued a | 148 |
| license, temporary permit, or registration certificate under | 149 |
| Chapter 4741. of the Revised Code. | 150 |
| (H) <u>(I)</u> Notwithstanding any section of the Revised Code | 151 |
| that otherwise provides for the distribution of fine moneys, the | 152 |
| clerk of court shall forward all fines the clerk collects that | 153 |
| are so imposed for any violation of this section to the | 154 |
| treasurer of the political subdivision or the state, whose | 155 |
| county humane society or law enforcement agency is to be paid | 156 |
| the fine money as determined under this division. The treasurer | 157 |
| to whom the fines are forwarded shall pay the fine moneys to the | 158 |
| county humane society or the county, township, municipal | 159 |
| corporation, or state law enforcement agency in this state that | 160 |

primarily was responsible for or involved in the investigation 161
and prosecution of the violation. If a county humane society 162
receives any fine moneys under this division, the county humane 163
society shall use the fine moneys either to provide the training 164
that is required for humane agents under section 1717.06 of the 165
Revised Code or to provide additional training for humane 166
agents. 167

Sec. 959.99. (A) Whoever violates section 959.18 or 959.19 168
of the Revised Code is guilty of a minor misdemeanor. 169

(B) Except as otherwise provided in this division, whoever 170
violates section 959.02 of the Revised Code is guilty of a 171
misdemeanor of the second degree. If the value of the animal 172
killed or the injury done amounts to three hundred dollars or 173
more, whoever violates section 959.02 of the Revised Code is 174
guilty of a misdemeanor of the first degree. 175

(C) Whoever violates section 959.03, 959.06, 959.12, or 176
959.17 or division (A) of section 959.15 of the Revised Code is 177
guilty of a misdemeanor of the fourth degree. 178

(D) Whoever violates division (A) of section 959.13 or 179
section 959.21 of the Revised Code is guilty of a misdemeanor of 180
the second degree. In addition, the court may order the offender 181
to forfeit the animal or livestock and may provide for its 182
disposition, including, but not limited to, the sale of the 183
animal or livestock. If an animal or livestock is forfeited and 184
sold pursuant to this division, the proceeds from the sale first 185
shall be applied to pay the expenses incurred with regard to the 186
care of the animal from the time it was taken from the custody 187
of the former owner. The balance of the proceeds from the sale, 188
if any, shall be paid to the former owner of the animal. 189

(E) (1) Whoever violates division (B) or (D) of section 190
959.131 of the Revised Code is guilty of a misdemeanor of the 191
first degree on a first offense and a felony of the fifth degree 192
on each subsequent offense. 193

(2) Whoever violates division (C) (1) of section 959.131 of 194
the Revised Code is guilty of a felony of the ~~fifth~~third 195
degree. 196

(3) Conduct of the type described in division (C) (2) of 197
section 959.131 of the Revised Code shall not be prosecuted 198
under section 2923.03 of the Revised Code, but rather shall be 199
prosecuted as a violation of division (C) (2) of section 959.131 200
of the Revised Code. Whoever violates division (C) (2) of section 201
959.131 of the Revised Code is guilty of a felony of the fourth 202
degree. 203

~~(3)~~ (4) Whoever violates section 959.01 of the Revised 204
Code or division ~~(D)~~ (E) of section 959.131 of the Revised Code 205
is guilty of a misdemeanor of the second degree on a first 206
offense and a misdemeanor of the first degree on each subsequent 207
offense. 208

~~(4)~~ (5) Whoever violates division ~~(E)~~ (F) of section 209
959.131 of the Revised Code is guilty of a felony of the fifth 210
degree. 211

~~(5)~~ (6) Whoever violates division ~~(F)~~ (G) of section 212
959.131 of the Revised Code is guilty of a misdemeanor of the 213
first degree. 214

~~(6)~~ (7) (a) A court may order a person who is convicted of 215
or pleads guilty to a violation of section 959.131 of the 216
Revised Code to forfeit to an impounding agency, as defined in 217
section 959.132 of the Revised Code, any or all of the companion 218

animals in that person's ownership or care. The court also may 219
prohibit or place limitations on the person's ability to own or 220
care for any companion animals for a specified or indefinite 221
period of time. 222

(b) A court may order a person who is convicted of or 223
pleads guilty to a violation of section 959.131 of the Revised 224
Code to reimburse an impounding agency for the reasonably 225
necessary costs incurred by the agency for the care of a 226
companion animal that the agency impounded as a result of the 227
investigation or prosecution of the violation, provided that the 228
costs were not otherwise paid under section 959.132 of the 229
Revised Code. 230

~~(7)~~ (8) If a court has reason to believe that a person who 231
is convicted of or pleads guilty to a violation of section 232
959.131 or 959.21 of the Revised Code suffers from a mental or 233
emotional disorder that contributed to the violation, the court 234
may impose as a community control sanction or as a condition of 235
probation a requirement that the offender undergo psychological 236
evaluation or counseling. The court shall order the offender to 237
pay the costs of the evaluation or counseling. 238

(F) Whoever violates section 959.14 of the Revised Code is 239
guilty of a misdemeanor of the second degree on a first offense 240
and a misdemeanor of the first degree on each subsequent 241
offense. 242

(G) Whoever violates section 959.05 or 959.20 of the 243
Revised Code is guilty of a misdemeanor of the first degree. 244

(H) Whoever violates section 959.16 of the Revised Code is 245
guilty of a felony of the fourth degree for a first offense and 246
a felony of the third degree on each subsequent offense. 247

(I) Whoever violates division (B) or (C) of section 959.15 248
of the Revised Code is guilty of a felony and shall be fined not 249
more than ten thousand dollars. 250

Sec. 2953.36. (A) Except as otherwise provided in division 251
(B) of this section, sections 2953.31 to 2953.35 of the Revised 252
Code do not apply to any of the following: 253

(1) Convictions when the offender is subject to a 254
mandatory prison term; 255

(2) Convictions under section 2907.02, 2907.03, 2907.04, 256
2907.05, 2907.06, 2907.321, 2907.322, or 2907.323, former 257
section 2907.12, or Chapter 4506., 4507., 4510., 4511., or 4549. 258
of the Revised Code, or a conviction for a violation of a 259
municipal ordinance that is substantially similar to any section 260
contained in any of those chapters, except as otherwise provided 261
in section 2953.61 of the Revised Code; 262

(3) Convictions of an offense of violence when the offense 263
is a misdemeanor of the first degree or a felony and when the 264
offense is not a violation of section 2917.03 of the Revised 265
Code and is not a violation of section 2903.13, 2917.01, or 266
2917.31 of the Revised Code that is a misdemeanor of the first 267
degree; 268

(4) Convictions on or after October 10, 2007, under 269
section 2907.07 of the Revised Code or a conviction on or after 270
October 10, 2007, for a violation of a municipal ordinance that 271
is substantially similar to that section; 272

(5) Convictions on or after October 10, 2007, under 273
section 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.31, 274
2907.311, 2907.32, or 2907.33 of the Revised Code when the 275
victim of the offense was under eighteen years of age; 276

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| (6) Convictions of an offense in circumstances in which the victim of the offense was less than sixteen years of age when the offense is a misdemeanor of the first degree or a felony, except for convictions under section 2919.21 of the Revised Code; | 277 278 279 280 281 |
| (7) Convictions of a felony of the first or second degree; | 282 |
| (8) <u>Convictions under division (C)(1) of section 959.131 of the Revised Code;</u> | 283 284 |
| <u>(9) Bail forfeitures in a traffic case as defined in Traffic Rule 2.</u> | 285 286 |
| (B) Sections 2953.31 to 2953.35 of the Revised Code apply to a conviction listed in this section if, on the date of the conviction, those sections did not apply to the conviction, but after the date of the conviction, the penalty for or classification of the offense was changed so that those sections apply to the conviction. | 287 288 289 290 291 292 |
| Section 2. That existing sections 959.131, 959.99, and 2953.36 of the Revised Code are hereby repealed. | 293 294 |
| Section 3. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act: | 295 296 297 298 299 300 301 302 |
| Section 959.99 of the Revised Code as amended by both Sub. H.B. 60 and Sub. S.B. 331 of the 131st General Assembly. | 303 304 |

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| Section 2953.36 of the Revised Code as amended by Sub. | 305 |
| H.B. 53, Sub. H.B. 56, and Am. Sub. H.B. 164, all of the 131st | 306 |
| General Assembly. | 307 |