

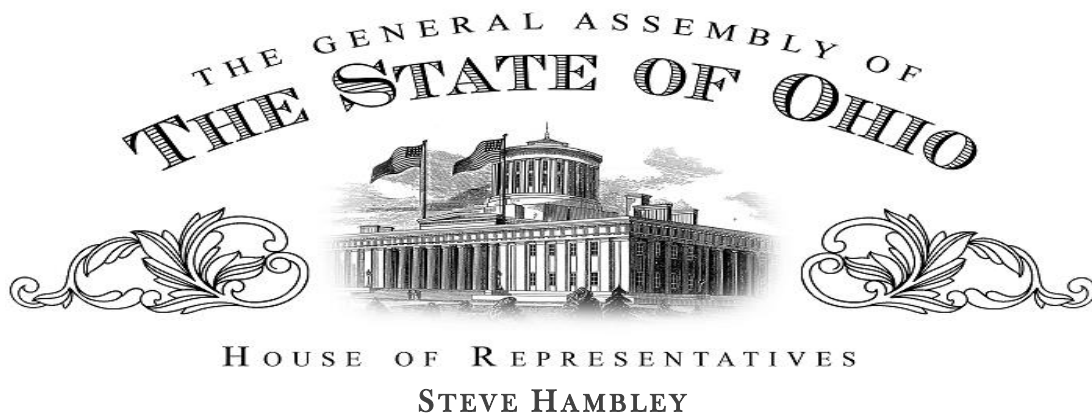
Chairman Butler, Vice Chair Hughes, Ranking Member Boggs, and members of the Ohio House Government Accountability and Oversight committee: Thank you for allowing me to present House Bill 147 which would update the Ohio Revised Code relating to humane societies and their agents. This legislation will not only bring the code up to date with current humane society practices, but it will also ensure public accountability for these organizations and their agents. House Bill 147 is the culmination of over two years of work, two bills in the 131st General Assembly, and nearly ten versions of this legislation discussed on numerous occasions with various interested parties.

Under current law, humane societies may employ attorneys to act as special prosecutors in cases of animal or child abuse and cruelty, as well as appoint humane agents to enforce the law. In no other area of criminal law do we allow a non-profit agency, whose board is not subject to oversight by elected officials, to represent both the law enforcement AND prosecution side of criminal matters.

I believe in recognition of these concerns, in 2015, the General Assembly enacted Goddard's Law which elevated criminal animal abuse of companion animals to a potential felony case and in accordance with provisions of that bill, out of the hands of these private prosecutors working for the Humane Societies. The adopted statute section reads: "A humane society or its agent shall not employ an attorney or one or more assistant attorneys to prosecute a felony violation of section 959.131 of the Revised Code."

While these much needed changes in state law had my full support, they only partly addressed the concerns raised in my two prior bills (HB 198 and HB 278) in the 131st General Assembly. The proposed changes to humane society law, the oversight of non-prosecution agreements and subjecting humane society agents to the state bribery law that are critical features of HB 147 are long overdue updates to the ORC. Collectively, they are intended to help ensure due process of those accused of animal abuse and public accountability for county humane societies and their actions.

As most of you know, I was a Medina County Commissioner for 18 years. Late in 2013, a number of residents came to me to complain about the actions of the humane agent working for the local humane society, as well as the private prosecutor hired by the humane society. Not being an investigator, I gathered the various complaints upon conferring with my County Administrator and we met with our Probate Judge in order to properly convey the documents and the complaints against the humane agent, as well as the private prosecutor. Subsequently, he engaged the County Sheriff and the County Prosecutor into conducting an investigation into the various charges and complaints. I have attached a copy of the investigation conducted by the Sheriff's department for your review and consideration.



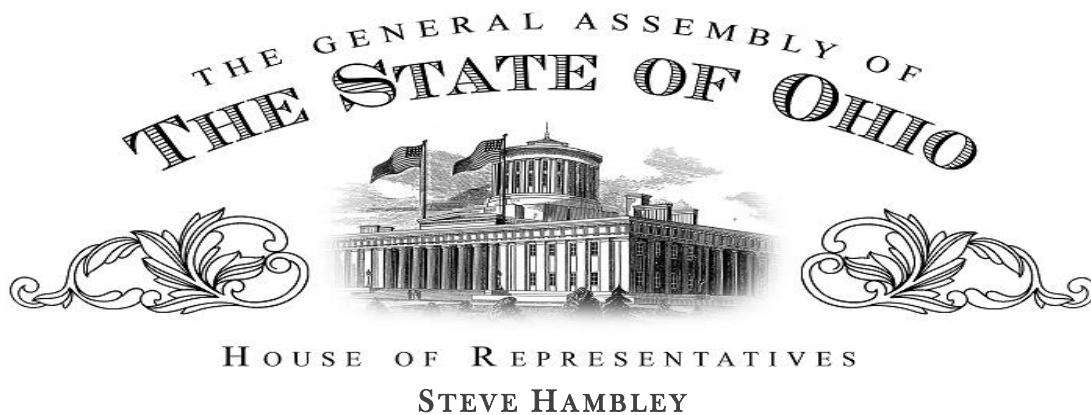
One of the most troubling concerns originating from the various complaints was the use of Non-Prosecution Agreements by the Humane Society under extra-legal powers exercised by the humane officer and the private prosecutor. Several of the residents mentioned these NPA's but stated that they were afraid to produce copies for fear that they would be formally prosecuted as retribution. One of them told me that they were warned by the Humane Officer that they would definitely be prosecuted if they publicly revealed the document. True or not, I believe that at the very least some of them felt intimidated by the potential of further prosecution by the Humane Society's private attorney. One complainant, however was willing to produce the document.

This resident signed a Non-Prosecution Agreement to avoid prosecution under Ohio Revised Code Chapter 959. Under this extra-legal agreement the animal owner was required to pay the local humane society \$20 per month. The Sheriff's report shows that the Humane Officer personally collected that \$20 per month from the owner in cash without a receipt which presumably was conveyed to the treasury of the humane society. I don't know of any public law enforcement official or county prosecutor that thinks this collection of cash as part of a Non-Prosecution Agreement is appropriate handling of what some might consider to be public funds.

Maybe this particular agreement was a fair settlement of the case against this owner. Maybe the cash fees imposed upon the owner covered the costs of veterinarian services that were required to euthanize the owner's dog, as the Humane Society's private attorney has claimed. But perhaps it wasn't. But I do know, the County Prosecutor, the County Probate Judge, the County Sheriff, the Board of County Commissioners, and the Municipal Court Judge were all unaware of this specific non-Prosecution Agreement at that time. Unfortunately, this does not appear to be an isolated incident. During testimony on HB 198 and HB 278 in the 131st General Assembly there references made several times to NPA's by Humane Societies elsewhere in the State of Ohio.

As a point of consensus, HB 147 is a compromise with individuals representing Humane Societies to retain authority to appointment a special prosecutor. We have had numerous meetings and discussion with various interested parties on the issue and have drafted an amendment before you that ensures public oversight and a more just process of non-prosecution agreements. I must point out that the reason we had not included the language of this amendment in the introduced version of the bill is that we had hopes of being able to work out a compromise agreeable to all interested parties prior to sponsor testimony. Unfortunately, there is still a divergence of opinion as to whom ought to review and approve these agreements.

What I have proposed is a starting point for additional discussion with the interested parties and hopefully any member of this committee that is willing to assist us in that process. Amendment 0241 subjects all non-prosecution agreements proposed by special prosecutors who are employed



by humane societies to approval by the Probate Judge. We chose the probate judge because this is the same entity that has the power to approve or revoke the appointment of a Humane Agent under House Bill 147. Because of this expressed power, we believe the Probate Judge's expertise and familiarity with the issues at hand will well equip them to approve or deny a non-prosecution agreement.

This bill goes further to offer a comprehensive clean-up of Humane Society law. House Bill 147 requires an individual to file proof of successful completion of humane society agent training with the county sheriff before being appointed as an agent by a county humane society. It is essential that humane agents have the proper training to ensure that they follow procedures and all evidence they collect will be admissible in court for the prosecution of animal abusers. Appointments will not be made final until this training has been filed with either a mayor or the probate judge, depending on the location of the Humane Society's enforcement activity. These agents will also have to track their enforcement activity and the humane societies that employ them be required to annually submit reports of that activity to the county sheriff.

I mentioned that humane agent appointments are subject to confirmation by the county probate judge. This legislation also provides a public process for the county probate judge to remove a humane society agent for just cause, either upon complaint filed with the judge or upon the judge's own motion. Current law provides no clear guidance for the role of the judge in the oversight of the activities of a humane agent. There have been disputes between county judges and individual societies whether once confirmed they can be removed at all by the judge. HB 147 provides a specific and public process for removal of a humane society enforcement agent that is exercising public enforcement authority.

Finally, House Bill 147 removes all references in code to "persons" so that humane societies and their agents only have authority over abuses towards animals. The current ORC 2931.18 gives authority to Humane Societies to hire their own publicly funded prosecutors for cases involving:

- cruelty to children
- abandonment, nonsupport, or ill-treatment of a child by their parent;
- employment of a child under 14 years of age in public exhibitions or vocations injurious to health, life, or morals or which cause or permit such child to suffer unnecessary physical or mental pain; and
- neglect or refusal of an adult to support destitute parent.

These are outdated references in the ORC and it is a necessary update to keep it current with enforcement and adjudication actions being taken by other public sector agents and agencies that have proper public oversight and accountability.



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Additionally, we are increasing the monthly pay for humane agents from 5 to 25 dollars for village agents, 20 to 125 dollars for city agents, and 25 to 150 dollars for county agents. These wages have not been increased since 1953 and deserve to be adjusted at least to match inflation over the last six decades. The legislation also specifies that these salary amounts will increase by 5 dollars every 5 years to ensure that this delay in pay raise does not happen again. House Bill 147 goes further to allow flexibilities to political subdivisions to pay Humane Society agents and special prosecutors out of the dog and kennel fund, if they so choose.

HB 147 makes long overdue changes and ensures due process and public accountability for humane societies and their actions. Thank you for your consideration. I will be happy to answer any questions you may have.