



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Dan DeSantis

H.B. 147

132nd General Assembly
(As Introduced)

Reps. Hambley, Hill, Lipps, O'Brien

BILL SUMMARY

- Requires each county humane society, and the Ohio Humane Society, to submit an annual report of enforcement activities to the appropriate county sheriff.
- Specifies that generally the records of an enforcement activity by a humane society agent are public records under Ohio Public Records Law.
- Specifies procedures for the removal from office of a humane society agent.
- Specifies that a humane society agent is a "public servant" for the purposes of bribery law and is therefore subject to the criminal statute on bribery.
- Eliminates the residency requirement for county humane society agents.
- Specifies that the Ohio Humane Society or a county humane society may appoint, rather than employ, an attorney to prosecute certain violations of law.
- Increases the minimum monthly salary of humane society agents.
- Specifies that an appointment of an agent does not take effect unless approved by the applicable mayor or probate judge.
- Requires Ohio Humane Society agents to complete the same training that is required for county humane society agents, and requires all appointed agents to present proof of successful completion of training.
- Requires authorities to investigate complaints about an agent's failure to complete the required training.

- Authorizes the Director of Agriculture to designate an agent of the Ohio Humane Society to conduct inspections of premises at which a dangerous wild animal or restricted snake is confined.
- Removes the authority of humane society agents to arrest a person for a violation of law for the protection of persons, and removes a reference to the protection of children and the arrest of a person in relation to cruelty to persons under the Humane Society Law, and eliminates the authority in current law for humane society appointed prosecuting attorneys to prosecute certain violations of law related to cruelty to persons.
- Adds agents appointed by the Ohio Humane Society to the list of professionals, such as nurses and social workers, who have a duty to report child abuse.

CONTENT AND OPERATION

The bill makes various changes to the Humane Society Law, including making changes regarding enforcement activities, appointment and removal procedures, criminal law applicability, and salaries. Each change is explained in more detail below.

Reports and public records

The bill requires each county humane society to annually submit enforcement activity reports to the county sheriff. Similarly, the Ohio Humane Society must submit annual enforcement activity reports to the Franklin County Sheriff. The bill also specifies that records of a humane society agent enforcement activity are public records under Public Records Law, except that records that are confidential law enforcement investigatory records are not public records.¹

Humane society agent removal from office

Under the bill, the probate judge of the county in which a humane society agent operates may revoke the approval of an appointment for just cause, under the following procedure:

A movant may start the procedure by filing with the probate court a motion to revoke the appointment. The movant must describe in the motion, or in an accompanying memorandum, the conduct that constitutes just cause for the motion. The probate court clerk must serve the humane society agent with a summons and a copy of the motion and any accompanying memorandum in accordance with the Rules

¹ R.C. 149.43, not in the bill and R.C. 1717.16.



of Civil Procedure. The summons must state the time and place for a hearing on the motion. The humane society agent may waive the right to a hearing. If the humane society agent waives the right to a hearing, the probate judge must revoke the humane society agent's approval of appointment as requested in the motion. If the humane society agent does not waive the right to a hearing, the probate judge must conduct a hearing. The humane society agent is entitled to the assistance of counsel at the hearing. The Rules of Evidence apply for the hearing. At the hearing, the movant has the burden of proving, by a preponderance of the evidence, that just cause exists for the revocation of the humane society agent's appointment. If, after the hearing, the probate judge finds that the movant has not sustained the burden of proof, the probate judge must deny the motion. If, after the hearing, the probate judge finds that the movant has sustained the burden of proof, the probate judge must grant the motion and revoke the humane society agent's approval of appointment.²

Also, the bill requires humane society to notify the mayor, the probate judge, the county sheriff, and the board of county commissioners when an approved humane society agent has ceased to perform the duties of the appointment.³

Bribery law

The bill specifies that a humane society agent is a "public servant" for the purposes of bribery law. Under continuing bribery law that the bill applies to a humane society agent, no public servant may knowingly solicit or accept for self or another person any valuable thing or valuable benefit to corrupt or improperly influence the person or another public servant regarding the discharge of the public servant's duty. Bribery is a third degree felony.⁴

Residency requirement

The bill eliminates the residency requirement for humane society agents. Under current law, an agent must be a resident of the county or municipal corporation for which the agent's appointment is made. The bill makes no specifications regarding the residency of appointed humane society agents.⁵

² R.C. 1717.17.

³ R.C. 1717.04(B) and 1717.06(B).

⁴ R.C. 2921.02.

⁵ R.C. 1717.06.

Humane society appointment and pay of attorneys

The bill authorizes humane societies to appoint rather than employ attorneys to prosecute certain violations of law. Under the bill, a humane society may appoint an attorney and one or more assistant attorneys to prosecute violations of law relating to prevention of cruelty to animals, except for certain felony violations related to companion animals. The bill authorizes a county to pay humane society prosecuting attorneys from the general fund of the county or from the dog and kennel fund of the county.

Under current law, the Ohio Humane Society or a county humane society may employ an attorney to prosecute certain violations of law. These attorneys are paid out of the county treasury in an amount approved as just and reasonable by the board of county commissioners of that county.⁶

Humane society agent pay

The bill increases the minimum monthly salary of a humane society agent as follows: when a village approves the agent, from \$5 to \$25; when a city approves the agent, from \$20 to \$125; and when a county approves the agent, from \$25 to \$150. The bill allows a county to pay the agent from the dog and kennel fund, in addition to the county general fund, which is allowed under current law. And, the bill increases the minimum salary amount by \$5 on January 1, 2019, and each fifth year thereafter. Also, the bill clarifies that an Ohio Humane Society agent is entitled to the same pay under the same approval process as applies to county humane society agents.⁷

Approval of humane society agents

The bill specifies that an appointment of an agent does not take effect unless approved by the mayor of the municipal corporation for which it is made. If the society operates outside a municipal corporation, the appointment does not take effect until it is approved by the probate judge of the county for which it is made, or for an individual appointed as an at-large agent by the Ohio Humane Society, approved by the probate judge of the Franklin County Court of Common Pleas. Current law provides more narrowly that appointed at-large agents may not make arrests until having been approved by the mayor or probate judge.⁸

⁶ R.C. 2931.18.

⁷ R.C. 1717.07.

⁸ R.C. 1717.04 and 1717.06.



Proof of training

The bill requires an appointed agent to present proof of successful completion of training, that has been signed by the chief executive officer of the organization or entity that provided the training and by the chief officer of the humane society appointing the agent, to the current active approving authority for approval. Also, proof of successful completion of training must be signed by the appropriate approving authority and filed with the county sheriff. Current law requires that the proof of training be submitted only to the appropriate appointing authority.

The bill also requires individuals who are currently serving as a humane society agent to file the proof of training within six months after the bill's effective date. An individual who has not filed the proof of successful completion of training with the county sheriff, as required by this provision, is suspended as a humane society agent by operation of law until the individual files proof with the county sheriff.⁹

Complaint regarding failure to complete training

The bill requires the current acting authority, which is responsible for considering approval of agent appointments, to investigate a complaint submitted by an individual who suspects that a humane society agent has not successfully completed the required training or that an agent's proof of successful completion of training contains false or misleading information. If the authority finds that the complaint is true, the authority must rescind the approval of the appointment and order the applicable humane society to revoke the appointment. The humane society must file written notice of a revocation with the county sheriff.¹⁰

References in Humane Society Law – protection of persons

Generally, the bill narrows the humane society's authority to apply only to the protection of animals. In that regard, the bill removes the authority of humane society agents to arrest a person for a violation of law for the protection of persons.¹¹ And, the bill removes a reference to the protection of children and the arrest of a person in relation to cruelty to persons under the Humane Society Law.¹² Finally, the bill eliminates law that authorizes humane societies to employ attorneys to prosecute violations of law relating to the cruelty to persons. Specifically, the bill eliminates the

⁹ R.C. 1717.04, 1717.06, and 1717.061.

¹⁰ R.C. 1717.062.

¹¹ R.C. 1717.04(A) and 1717.06(A).

¹² R.C. 1717.02 and 1717.09.



authority for these attorneys to prosecute violations of law relating to: (1) cruelty to children, or the abandonment, nonsupport, or ill-treatment of a child by its parent, (2) 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 the child to suffer unnecessary physical or mental pain, and (3) neglect or refusal of an adult to support a destitute parent.¹³

Ohio Humane Society agent jurisdiction

The bill clarifies that the Ohio Humane Society may appoint agents to represent it within a specified jurisdiction of a county or of a municipal corporation where no active county humane society exists.¹⁴

Parity in law for agents of the Ohio Humane Society

The bill amends numerous provisions of law creating parity in the law between county humane society agents and agents of the Ohio Humane Society.

Training

The bill requires agents of the Ohio Humane Society to complete the same training that is required for agents of a county humane society. Under continuing law, agents of a county humane society must successfully complete a minimum of 20 hours of training on issues relating to the investigation and prosecution of cruelty to and neglect of animals. The training must comply with rules recommended by the Ohio Peace Officer Training Commission.¹⁵

Specific authority

The bill clarifies that an agent of the Ohio Humane Society only has the specific authority granted to the agent under law. Current law includes such a provision for agents of county humane societies. But no comparable provision currently exists for Ohio Humane Society agents.¹⁶

¹³ R.C. 2931.18.

¹⁴ R.C. 1717.04(A).

¹⁵ R.C. 109.73(A)(12) and (D) and 1717.061; R.C. 959.131 (conforming). The training requirements are recodified in the bill to appear in a newly enacted section, R.C. 1717.061.

¹⁶ R.C. 1717.04(C); see R.C. 1717.06.

Inspections for the Director of Agriculture

The bill authorizes the Director of Agriculture to designate an agent of the Ohio Humane Society to conduct inspections of a premises at which a dangerous wild animal or restricted snake is confined, and to investigate and order the quarantine or transfer of a dangerous wild animal or restricted snake. Under continuing law, the Director may designate agents of a county humane society to conduct these inspections and investigations.¹⁷

Duty to report child abuse

The bill adds agents of the Ohio Humane Society to the list of professionals, such as nurses and social workers, who have a duty to report child abuse. Current law includes an agent of a county humane society, but not those of the Ohio Humane Society. The "Duty to Report" Law requires the person to make a report either by telephone or in person to a public children services agency or to a peace officer. The bill repeals a provision of the Humane Society Law that specifically requires humane society agents, when deeming it in the best interest of a child to have the child removed from possession and control of the parents, to do so in accordance with the Duty to Report Law. It is not clear whether the repealed section of law was deemed to authorize the summary removal, by a humane society agent, of a child from the possession of the parents. But, under the bill, a humane society agent would clearly have a "duty to report" to facilitate the removal of the child.¹⁸

Children services agency memorandum of understanding

Current law requires that each public children services agency prepare a memorandum of understanding that is signed by specified law enforcement and judicial officers in the area of jurisdiction, including the county humane society. The bill specifies that the Ohio Humane Society or the county humane society must be a signatory.¹⁹

HISTORY

ACTION

DATE

Introduced

03-21-17

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¹⁷ R.C. 935.19(B)(5) and 935.20(I)(5).

¹⁸ R.C. 1717.14 (repealed); R.C. 2151.421.

¹⁹ R.C. 2151.421(K)(1)(h).

