



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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H.B. 352

132nd General Assembly
(As Introduced)

Reps. Rezabek, Huffman

BILL SUMMARY

Vicious dogs

- Revises the behaviors that lead to a designation of a dog as a vicious dog and the process for designation by doing all of the following:
 - Adding a dog that caused injury to a person after being designated a dangerous dog; and
 - Adding a dog that caused serious injury or death to another dog after being designated a dangerous dog.
- Requires a court, if a dog is finally determined to be a vicious dog and the dog has killed a person or another dog, to order the dog to be humanely destroyed.
- Allows a court, if a dog is finally determined to be a vicious dog and the dog has not killed another person or another dog, to order the dog to be humanely destroyed.
- Specifies that a farm dog under certain circumstances is not a vicious dog.

Dangerous dogs

- Revises the behaviors that lead to a designation of a dog as a dangerous dog by doing all of the following:
 - Adding a dog that caused injury, serious injury, or death to another dog;
 - Removing a dog that kills or causes serious injury to a person; and

-- Removing a dog that kills another dog.

- Specifies that both of the following are not a dangerous dog:

-- A dog that has caused injury, serious injury, or death 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 harborer (owner); and

-- A farm dog under certain circumstances.

Jurisdiction – designation of dogs

- Changes which court has territorial jurisdiction to conduct a hearing concerning the designation of a dog as a nuisance dog, dangerous dog, or vicious dog.

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.

Affirmative defenses – designation of dogs

- Alters the affirmative defenses to a designation of a dog as a nuisance, dangerous, or vicious dog so that the defenses are as follows:

-- The dog or the dog's offspring was willfully 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;

-- 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;

-- The dog was responding to its own pain or injury; or

-- The person toward whom the dog's behavior was directed was intervening between two or more animals engaged in aggressive behavior or fighting.



Criminal penalties for violation of confinement and restraint prohibition

- Revises the criminal penalties for violating the existing prohibition against failing to properly confine or restrain a dog.
- Establishes affirmative defenses to the prohibition that are identical to the affirmative defenses that may be asserted in a dog designation hearing (see above).

Liability insurance for a dangerous dog

- Adds to the eligible entities that may provide insurance to the owner of a dangerous dog.
- Specifies that insurance coverage must be at least \$100,000.

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 (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

Overview

The bill revises and reorganizes the law governing dogs in three major ways – revising the dog designation hearing process; revising the criminal penalties that apply to an owner of a dog that causes harm to a person or another dog; and establishing a notification process for complaints of alleged violations of the law.

Designation hearing process

Under current law, a dog that harms or threatens a person or another dog may be designated as either a vicious, dangerous, or nuisance dog. Current law establishes a process for designating a dog into one of those three categories depending on the dog's behavior. Before a dog is designated, the owner, keeper, or harbinger ("owner") of the dog may object to the designation through a hearing process. The bill revises the behaviors that lead to a designation of a dog as a vicious dog or dangerous dog and the process for designation. Notably, the bill broadens the types of behaviors that result in a dog being designated a vicious dog. It also alters the behaviors that result in a dangerous dog designation. It generally retains the provisions of law governing the designation of a nuisance dog.

Criminal penalties for a dog owner whose dog injures or kills

Not only does the bill revise the process for designating a dog as vicious or dangerous, but also revises the criminal penalties that apply to the owner of *any* dog that is not kept, confined, and restrained properly and that causes injury or death to a person or another dog. In current law, the penalties only apply *after* a dog is designated a vicious dog. The bill effectively allows a court to order a dog that killed a person or another dog to be humanely destroyed without holding a designation hearing.

Other provisions

The bill establishes a notification process by which a dog warden or other law enforcement agent must investigate a complaint involving a dog and the process for notifying the dog owner of that complaint. The dog owner must then acknowledge receipt of the notice within a specified time period.

Finally, the bill addresses other provisions of law regarding dogs, including ownership of a dangerous dog by a felon, dog warden training, and the sale and transfer of dogs.



Vicious dogs

As indicated above, the bill revises the behaviors that result in a dog being designated a vicious dog as follows:¹

Current law	H.B. 352
A dog that, without provocation, has done any of the following: (1) Killed a person; (2) Caused serious injury to a person. No provision.	A dog that has done any of the following (removes "without provocation"): Same. Same. Adds the following: <ul style="list-style-type: none">• Caused injury to a person after being designated a dangerous dog; or• Caused serious injury or death to another dog after being designated a dangerous dog, including death by euthanasia when recommended by a veterinarian, registered veterinary technician, or county dog warden after evaluation of the dog's injuries.

The bill retains in part, with modifications, the existing exclusions from the definition of vicious dog. Thus, a police dog that has caused injury, serious injury, or death to any person or dog while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties is not a vicious dog. Further, a dog that has injured, seriously injured, or killed any person or dog while a person was committing or attempting to commit a trespass or other criminal offense on the property of the dog owner is not a vicious dog.

In addition, the bill excludes a dog that is kept or harbored on a farm that has injured, seriously injured, or killed another dog that has either come onto the property of the farm or disrupted the duties of the farm dog.²

Ramifications of vicious dog designation

If a dog is finally determined to be a vicious dog and the dog killed a person or another dog during the incident that gave rise to that determination, a court *must* order the dog to be humanely destroyed by a licensed veterinarian, the county dog warden,

¹ R.C. 955.11(A)(1).

² R.C. 955.11(A)(2).



or the county humane society at the owner's expense (humanely destroyed).³ However, if the dog is finally determined to be a vicious dog, and the dog did not kill a person or another dog during the incident that gave rise to that determination, the court *may, but is not required to*, order the dog to be humanely destroyed.⁴

The bill also retains, in part, current law that requires a court to apply to the owner of a dog determined to be a vicious dog (if the vicious dog is not ordered to be humanely destroyed) specified requirements governing dangerous dogs. Those requirements include restrictive confinement and restraint and the obligation to obtain liability insurance.⁵ Current law only requires a vicious dog to be humanely destroyed after a second attack.

Dangerous dogs

The bill revises the behaviors that result in a dog being designated a dangerous dog as follows:⁶

Current law	H.B. 352
<p>A dog that, without provocation, has done any of the following:</p> <p>(1) Caused injury, other than killing or serious injury, to a person;</p> <p>(2) Killed another dog;</p> <p>(3) Been the subject of a third or subsequent violation of the current law provision governing properly restraining a dog.</p>	<p>A dog that has done any of the following (removes "without provocation"):</p> <p>(1) Caused injury to any person;</p> <p>(2) Caused injury, serious injury, or death to another dog, including death by euthanasia when recommended by a veterinarian, registered veterinary technician, or county dog warden after evaluation of the dog's injuries; and</p> <p>(3) Same.</p>

The bill retains in part, with modifications, the existing exclusion from the definition of dangerous dog of a police dog that has caused injury, serious injury, or death to any person or dog while the police dog is being used to assist one or more law

³ R.C. 955.222(F)(2).

⁴ R.C. 955.222(F)(1).

⁵ R.C. 955.222(F)(3) and 955.99(H)(2).

⁶ R.C. 955.11(B)(1).



enforcement officers in the performance of their official duties. It adds that a dangerous dog also does not include either of the following:

(1) A dog that has caused 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; or

(2) A dog that is kept or harbored on a farm that has injured, seriously injured, or killed another dog that has either come onto the property of the farm or disrupted the duties of the farm dog.⁷

Dangerous dog registration

The bill requires a county dog warden, instead of a county auditor, to issue dangerous dog registrations and administer the law governing dangerous dog registration certificates.⁸

The bill also revises a provision of law regarding notification requirements that apply when the owner of a dangerous dog relocates. Under current law, if a dangerous dog owner relocates to a new address, the owner must provide specified written notice to the appropriate county auditor. Under the bill, however, that notification requirement applies only if the dangerous dog also relocates with the owner. In addition, the bill requires the notification to be given to the appropriate county dog warden instead of the county auditor.⁹

Nuisance dogs

The bill generally retains the behaviors specified in current law that result in a dog being designated a nuisance dog, but shifts the burden to prove, during the hearing, that the dog was not provoked from the dog warden or other law enforcement agents who so designates the dog to the dog owner (see **Affirmative defenses – designation of dogs**, below).¹⁰

Jurisdiction – designation of dogs

The bill changes which court has territorial jurisdiction to conduct a hearing concerning the designation of a dog as a nuisance dog, dangerous dog, or vicious dog.

⁷ R.C. 955.11(B)(2).

⁸ R.C. 955.223(B) and 955.224.

⁹ R.C. 955.224(C) and (D).

¹⁰ R.C. 955.11(C).

Under current law, the municipal court or county court that has territorial jurisdiction over the residence of the owner of a dog conducts the hearing. The bill, instead, specifies that the municipal court or county court that has territorial jurisdiction over the location where the alleged incident occurred that gave rise to the designation hearing must conduct the hearing.¹¹

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, 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.¹²

Affirmative defenses – designation of dogs

The bill establishes an affirmative defense to the designation of a dog as a nuisance dog, dangerous dog, or vicious dog if any of the following apply:

(1) The dog or the dog's offspring was willfully 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;

(3) The dog was responding to its own pain or injury;

(4) The person toward whom the dog's behavior was directed was intervening between two or more animals engaged in aggressive behavior or fighting; or

(5) 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 owner of the dog.¹³

¹¹ R.C. 955.222.

¹² R.C. 955.222(B).

¹³ R.C. 955.222(E).

Current law instead specifies that a nuisance dog, dangerous dog, or vicious dog is, by definition, a dog that demonstrated specified behaviors and was not provoked — meaning the dog was not teased, tormented, or abused by a person, or the dog was not coming to the aid or the 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.¹⁴

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.¹⁵

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

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

¹⁴ R.C. 955.11(A)(7).

¹⁵ R.C. 955.22(B).



(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 another dog and the person in violation has previously been sentenced under (1) or (3) above. Additionally, if the dog kills another dog, the court must order that the dog be humanely destroyed. If the dog causes injury to a person or injury or serious injury to another dog, the court may order that the dog be humanely destroyed.¹⁶

If the court does not order a dog to be humanely destroyed when authorized to do so, the court must issue an order requiring the dog owner to comply with the requirements governing dangerous dogs. Those requirements include restrictive confinement and restraint and the obligation to obtain liability insurance.¹⁷

The bill establishes affirmative defenses to the above prohibition that are identical to the affirmative defenses that may be asserted in a dog designation hearing (see above).¹⁸

Under current law, a violation of the above prohibition and the associated penalties apply only with regard to a vicious dog. Current law specifies that whoever violates the prohibition 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.¹⁹

Liability insurance

The bill retains the current law requirement that the owner of a dangerous dog must obtain liability insurance with an insurer authorized to write liability insurance in Ohio providing coverage in each occurrence because of damage or bodily injury to or death of a person caused by the dangerous dog if so ordered by a court. However, the bill adds that an approved or otherwise eligible insurer may provide the coverage and specifies that the coverage must be at least \$100,000.²⁰

¹⁶ R.C. 955.99(H)(1)(a) to (d).

¹⁷ R.C. 955.99(H)(2).

¹⁸ R.C. 955.22(C).

¹⁹ R.C. 955.99(H)(1).

²⁰ R.C. 955.223(B)(1).

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 endangerment²¹ 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:

- (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.

The prohibition applies 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.

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.²²

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;

²¹ R.C. 2919.22, not in the bill.

²² R.C. 955.54.



(2) Contact information for the investigator; and

(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.²³

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 (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,

²³ R.C. 955.60.

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.

(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.²⁴

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.²⁵

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.²⁶ 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 that include 42 hours of initial training and 10 hours of continuing education within a time period established by the Commission.²⁷

Reorganization of the Dogs Law

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

-- Provisions governing the transfer of ownership of any dog (but revises the provisions governing dangerous dog registration, see above);²⁸

²⁴ R.C. 955.13.

²⁵ R.C. 955.99(A).

²⁶ R.C. 955.12(E).

²⁷ R.C. 109.73(A)(13).

²⁸ R.C. 955.11(A) to (D) and 955.13.



- The confinement and restraint requirements for all dogs;²⁹
 - The confinement and restraint requirement for dangerous dogs;³⁰
 - Requirements regarding ownership of a dangerous dog;³¹ and
 - Provisions prohibiting debarking and silencing dangerous dogs.³²
- The bill also makes conforming technical changes.³³

HISTORY

ACTION	DATE
Introduced	09-20-17

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²⁹ R.C. 955.22(A).

³⁰ R.C. 955.22(D) and 955.223(A).

³¹ R.C. 955.22(E) and 955.223(B).

³² R.C. 955.22(F) to (H) and 955.225.

³³ R.C. 955.11(G) and 955.44.

