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.

(5) "Wild animal" has the same meaning as in section 1531.01 of the Revised Code.


(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.

(8) "Boarding kennel" has and "animal rescue for dogs" have the same meanings as in section 956.01 of the Revised Code.

(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.

(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.

(11) "Captive white-tailed deer" has the same meaning as in section 1531.01 of the Revised Code.
(12) "Serious physical harm" means any of the following:

(a) Physical harm resulting from the unnecessary or unjustifiable cruel beating of a companion animal that causes prolonged or intractable pain or carries an unnecessary or unjustifiable risk of death;

(b) Physical harm that involves either partial or total permanent incapacity resulting from the unnecessary or unjustifiable mutilation or maiming of a companion animal that causes prolonged or intractable pain or carries a substantial  

(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 resulting from the poisoning of a companion animal that proximately causes the death of the companion animal.

(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.

(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.

(C)(1) No person shall knowingly cause serious physical harm to or needlessly kill a companion animal.

(2) No person shall knowingly organize, promote, aid, or abet in violating division (C)(1) of this section.

(D) No person who confines or who is the custodian or
caretaker of a companion animal shall recklessly deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water.

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

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

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

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

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

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

(2) Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the
confinement with sufficient quantities of good, wholesome food and water if it is can reasonably be expected that the companion animal would die or experience unnecessary or unjustifiable pain or suffering become sick or suffer in any other way as a result of or due to the deprivation or confinement;

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

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

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

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

(3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.
(C) (H) Divisions (B), (C), (D), (E), and (F), and (G) of this section do not apply to any of the following:

(1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;

(2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Chapter 4741. of the Revised Code;

(3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;

(4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;

(5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Chapter 4741. of the Revised Code.

(H) (I) Notwithstanding any section of the Revised Code that otherwise provides for the distribution of fine moneys, the clerk of court shall forward all fines the clerk collects that are so imposed for any violation of this section to the treasurer of the political subdivision or the state, whose county humane society or law enforcement agency is to be paid the fine money as determined under this division. The treasurer to whom the fines are forwarded shall pay the fine moneys to the county humane society or the county, township, municipal corporation, or state law enforcement agency in this state that
primarily was responsible for or involved in the investigation and prosecution of the violation. If a county humane society receives any fine moneys under this division, the county humane society shall use the fine moneys either to provide the training that is required for humane agents under section 1717.06 of the Revised Code or to provide additional training for humane agents.

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

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

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

(D) Whoever violates division (A) of section 959.13 or section 959.21 of the Revised Code is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition, including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this division, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.
(E)(1) Whoever violates division (B) or (D) of section 959.131 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense.

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

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

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

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

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

(a) A court may order a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code to forfeit to an impounding agency, as defined in section 959.132 of the Revised Code, any or all of the companion
animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.

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

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

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

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

(H) Whoever violates section 959.16 of the Revised Code is guilty of a felony of the fourth degree for a first offense and a felony of the third degree on each subsequent offense.
(I) Whoever violates division (B) or (C) of section 959.15 of the Revised Code is guilty of a felony and shall be fined not more than ten thousand dollars.

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

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

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

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

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

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

(7) Convictions of a felony of the first or second degree;

(8) Convictions under division (C)(1) of section 959.131
of the Revised Code;

(9) Bail forfeitures in a traffic case as defined in
Traffic Rule 2.

(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.

Section 2. That existing sections 959.131, 959.99, and
2953.36 of the Revised Code are hereby repealed.

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:

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.