



# Ohio Legislative Service Commission

## Bill Analysis

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(As Passed by the House)

**Reps.** Sears, Winburn, Garland, Bubb, Duffey, Gardner, Lundy, Szollosi, Wachtmann, Batchelder

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## BILL SUMMARY

- Defines a "nuisance dog" as a dog that without provocation and while off the premises of its owner, keeper, or harborer has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person.
- Defines a "dangerous dog" as a dog that, without provocation, has caused injury, other than killing or serious injury, to any person; has killed another dog; or has been the subject of a third violation of a prohibition regarding general confinement and control of dogs.
- Defines a "vicious dog" as a dog that, without provocation, has killed or caused serious injury to any person.
- Specifies that "nuisance dog," "dangerous dog," and "vicious dog" do not include a police dog that engages in specified behavior and that "vicious dog" does not include a dog that engages in specified behavior against a trespasser.
- Specifies that an owner, keeper, or harborer of a dog who was required to comply with the requirements pertaining to a "vicious dog" prior to the effective date of the bill will be required to comply with the requirements pertaining to a "dangerous dog" on or after the effective date of the bill.
- Repeals the statement that the ownership, keeping, or harboring of a pit bull dog is *prima facie* evidence of the ownership, keeping, or harboring of a vicious dog.
- Eliminates from the special confinement and control requirements that apply for a "dangerous dog" the option for a dangerous dog to be tied with a leash or tether so

that the dog is adequately restrained while that dog is on the premises of the owner, keeper, or harbinger, eliminates all penalties for a violation of those special dangerous dog confinement and control requirements, and eliminates all special confinement and control requirements for a vicious dog.

- Amends the penalties for violations of the requirements governing general confinement and control of dogs (R.C. 955.22(C)) if the dog is a nuisance dog, dangerous dog, or vicious dog and requires that a dog that is subject to this violation as a dangerous dog or vicious dog be confined or restrained in accordance with the provisions describing confinement of dangerous dogs or at the county dog pound at the owner's expense until the court makes a final determination and during the pendency of any appeal of the violation.
- Requires a person who has been convicted of or pleaded guilty to three violations of R.C. 955.22(C) involving the same dog and the owner, keeper, or harbinger of a dangerous dog to obtain liability insurance with an insurer authorized to write liability insurance in this state 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.
- Requires a person required to have the liability insurance described in the preceding dot point to provide proof of the liability insurance upon request to any law enforcement officer, county dog warden, or public health official, and specifies that failure to do so is a minor misdemeanor.
- Eliminates a current requirement for an owner, keeper, or harbinger of a vicious dog to obtain liability insurance.
- Requires a person who has been convicted of or pleaded guilty to three violations of R.C. 955.22(C) involving the same dog and the owner, keeper, or harbinger of a "dangerous dog" to do the following:
  - (1) Notify the local dog warden immediately if the dog is loose or unconfined, the dog bites a person (unless the dog is on the dog owner's property, and the person who is bitten is unlawfully trespassing or committing a criminal act within the boundaries of that property), or the dog attacks another animal while the dog is off the dog owner's property.
  - (2) Notify the county auditor of the sale, transfer, or death of the dog.
- The requirements discussed in the prior three dot points do not apply to persons convicted of three violations involving the same vicious dog.

- Requires a person who has been convicted of or pleaded guilty to three violations of R.C. 955.22(C) involving the same dog and the owner, keeper, or harbinger of a dangerous dog to obtain a dangerous dog registration certificate from the county auditor, affix a tag that identifies the dog as a dangerous dog to the dog's collar, and ensure that the dog wears the collar and tag at all times, and specifies that failure to do so is a fourth degree misdemeanor.
- Requires the county auditor to issue a dangerous dog registration certificate and a dangerous dog tag to a person who is the owner of a dog, who is 18 years of age or older, and who provides a fee of \$50 and certain specified information.
- Requires the owner of a dangerous dog to renew the dog's registration certificate annually for the same fee and in the same manner as the initial certificate was obtained, and sets up notification procedures for owners who move to new addresses.
- Requires the owner of a dangerous dog to present the dangerous dog registration certificate upon being requested to do so by any law enforcement officer, dog warden, or public health official, and specifies that failure to do so is a minor misdemeanor.
- Eliminates the application to transfers of vicious dogs of certain requirements that currently require special information to be provided when ownership or possession of a dangerous dog or vicious dog is transferred.
- Prohibits a person who has been convicted of or pleaded guilty to a felony offense of violence or a felony violation of any provision of R.C. Chapter 959. (offenses relating to domestic animals), 2923. (conspiracy, attempt, and complicity; weapons control; corrupt activity), or 2925. (drug offenses) from knowingly owning, possessing, having custody of, or residing in a residence with an unspayed or unneutered dog older than 12 weeks of age, or any dog that has been determined to be a "dangerous dog" for a period of ten years commencing upon the date of release of the person from any period of incarceration imposed for the conviction, and specifies that a violation of this prohibition is a first degree misdemeanor.
- Requires a person described in the preceding dot point to microchip for permanent identification any dog owned, possessed by, or in the custody of the person, and specifies that failure to do so is a first degree misdemeanor.
- Eliminates the application to vicious dogs of current prohibitions regarding surgical silencing and debarking of vicious dogs, instead makes the prohibitions apply to dangerous dogs, and requires that a dog that is subject to the prohibitions be

confined or restrained in accordance with the provisions describing confinement of dangerous dogs or at the county dog pound at the owner's expense until the court makes a final determination and during the pendency of any appeal of any of those prohibitions.

- Requires the owner of a dog that has been confined at the county dog pound as a result of being the subject of a court determination on whether the dog has committed a violation of R.C. 955.22(C) involving a dangerous dog or a vicious dog, or certain violations involving a dog that has been debarked or surgically silenced provide a security of \$100 to the county dog warden to secure payment of all reasonable expenses incurred in keeping the dog during the pendency of the proceedings or appeal, and specifies that failure to provide this security will result in forfeiture of the dog.
- Specifies that, at the end of the confinement period of a dog described in the preceding dot point and upon the release of the dog to the owner, if applicable, the dog warden must provide the owner with the actual cost of the confinement of the dog; if the actual cost is more than \$100, the owner must provide the difference to the dog warden, and if the actual cost is less than \$100, the dog warden must provide the difference to the owner.
- Requires a person who is authorized to enforce Ohio's dog laws and who has reasonable cause to believe that a dog in the person's jurisdiction is a nuisance dog, dangerous dog, or vicious dog to notify the owner, keeper, or harbinger of that dog, by certified mail or in person, that the person has designated the dog a nuisance dog, dangerous dog, or vicious dog, as applicable, and that the owner, keeper, or harbinger of the dog may request a hearing regarding the designation.
- Specifies that the municipal court or county court that has territorial jurisdiction over the residence of the owner, keeper, or harbinger of a dog must conduct any hearing concerning the designation of the dog as a nuisance dog, dangerous dog, or vicious dog.
- Grants the owner, keeper, or harbinger of a dog that has been designated a nuisance dog, dangerous dog, or vicious dog a right to a hearing on the determination and provides procedures for requesting the hearing and appealing a decision made at it.
- Permits a court, upon motion of an owner, keeper, or harbinger or an attorney representing the owner, keeper, or harbinger, to order that the dog designated as a nuisance dog, dangerous dog, or vicious dog be held in the possession of the owner, keeper, or harbinger until the court makes a final determination or during the pendency of an appeal, as applicable.

- Increases the fee for replacement of a lost metal dog tag from 25¢ to \$5 and eliminates the option of paying an alternate fee for a duplicate tag set by the board of county commissioners.
- Increases the fee for recording a transfer of ownership certificate for a dog with the county auditor from 25¢ to \$5.
- Requires fees collected by the county auditor for dangerous dog registration certificates to be deposited in the dog and kennel fund of the county.

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## CONTENT AND OPERATION

### Background

Existing law provides rules that govern the keeping, confinement, and transfer of dangerous dogs and vicious dogs. The bill modifies some of those rules and the definitions of those two categories of dogs, provides new penalties for violations of certain other rules that govern the general confinement of dogs when the dog in question is a nuisance dog and defines that category of dog, and makes other changes regarding the keeping, confinement, and transfer of dogs.

### Definitions of "nuisance dog," "dangerous dog," "vicious dog," and "serious injury"

#### Definitions

The bill creates definitions for a "nuisance dog" and "serious injury" and alters the definitions for "dangerous dog" and "vicious dog." Under the bill, these terms are defined as the following:

(1) "Nuisance dog" means a dog that "without provocation" and while off the premises of its owner, keeper, or harbinger has chased or approached a person in either a "menacing fashion" or an apparent attitude of attack or has attempted to bite or otherwise endanger any person. It does not include a "police dog" that while being used to assist one or more law enforcement officers in the performance of official duties has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person<sup>1</sup> (see below for definitions of the terms in quotation marks).

(2) "Dangerous dog" means a dog that, without provocation, has caused injury, other than killing or "serious injury" (see (4), below), to any person; has killed another dog; or has been the subject of a third violation of R.C. 955.22(C) (see "**General confinement of dogs**," below). However, it does not include a police dog that has caused injury, other than killing or serious injury, to any person or has killed another dog while the police dog is being used to assist one or more law enforcement officers in the performance of official duties.<sup>2</sup>

(3) "Vicious dog" means a dog that, without provocation, has killed or caused serious injury to any person. It does not include (1) a police dog that has killed or

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<sup>1</sup> R.C. 955.11(A)(3).

<sup>2</sup> R.C. 955.11(A)(1).

caused serious injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of official duties or (2) a dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, or harbinger of the dog.<sup>3</sup>

(4) "Serious injury" means any physical harm that carries a substantial risk of death; any physical harm that involves a permanent incapacity, whether partial or total, or a temporary, substantial incapacity; any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement; or any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain.<sup>4</sup>

The new definition of "nuisance dog" is essentially the same as the current definition of "dangerous dog." The new definition of "dangerous dog" is the same as one part of the current definition of "vicious dog." It does not include the part of that definition that relates to having killed or caused serious injury to any person, which is the definition under the bill of a "vicious dog." It also does not include the part of that definition that defines as a "vicious dog" a dog belonging to a breed commonly known as a pit bull dog. In many locations where the term "vicious dog" currently appears, the term has been either removed or replaced with "dangerous dog."<sup>5</sup>

Current law, unchanged by the bill, defines the following terms that are used in the definitions set forth above:<sup>6</sup> (1) "menacing fashion" means that a dog would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person, (2) "police dog" means a dog that has been trained, and may be used, to assist one or more law enforcement officers in the performance of their official duties, and (3) "without provocation" means that a dog was not teased, tormented, or abused by a person, or that 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 such activity.

### ***Prima facie* evidence rule – pit bulls**

Existing law provides in the existing definition of pit bull that the ownership, keeping, or harboring of a breed of dog commonly known as a pit bull dog is *prima facie*

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<sup>3</sup> R.C. 955.11(A)(6).

<sup>4</sup> R.C. 955.11(A)(5).

<sup>5</sup> R.C. 955.11(D), 955.22(A), (D), (E), (F), (G), and (H), and 955.99(L).

<sup>6</sup> R.C. 955.11(A).

evidence of the ownership, keeping, or harboring of a vicious dog. Under that provision, a person who owns, keeps, or harbors a pit bull dog is considered to own, keep, or harbor a vicious dog without the need for additional evidence and solely because of the breed of the pit bull dog that the person owns, keeps, or harbors (contradictory evidence may be presented, though). The bill repeals this *prima facie* evidence rule. Therefore, under the bill a person cannot be found to own, keep, or harbor a vicious dog unless evidence is presented to prove that the dog, without provocation and subject to the "police dog" and "trespasser" exceptions specified within the definition of vicious dog, has killed or caused serious injury to any person.<sup>7</sup>

## **General confinement of dogs**

Existing law, unchanged by the bill, requires the owner, keeper, or harbinger of any dog, subject to one exception to keep the dog physically confined or restrained upon the premises of the owner, keeper, or harbinger by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape or to keep the dog under the reasonable control of some person. An exception to this requirement is a dog that is lawfully engaged in hunting and accompanied by the owner, keeper, harbinger, or handler of the dog.<sup>8</sup>

A person who violates this requirement must be fined not less than \$25 or more than \$100 on a first offense and not less than \$75 or more than \$250 on each subsequent offense and may be imprisoned for not more than 30 days. In addition, the court may order the offender to personally supervise the dog that the offender owns, keeps, or harbors, or cause that dog to complete dog obedience training, or to do both.<sup>9</sup> The bill does not modify this penalty provision but adds new penalty language that applies to a person who violates this requirement when the dog involved is a nuisance dog, a dangerous dog, or a vicious dog. This new penalty language is described below in "**Penalties – general confinement.**" Although the bill is somewhat ambiguous, it appears that the existing penalty provision will apply when the dog involved is not a nuisance dog, a dangerous dog, or a vicious dog.

## **Confinement of dangerous dogs**

Existing law requires the owner, keeper, or harbinger of a dangerous or vicious dog to confine and control the dog in any of several specified manners, except when the dog is lawfully engaged in hunting or training for the purpose of hunting and is

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<sup>7</sup> R.C. 955.11(A)(6).

<sup>8</sup> R.C. 955.22(C).

<sup>9</sup> R.C. 955.99(E).



accompanied by the owner, keeper, harborer, or handler. The bill eliminates the application of the requirements to vicious dogs and alters the requirements for the confinement of a dangerous dog by eliminating the option for a dangerous dog to be tied with a leash or tether so that the dog is adequately restrained while that dog is on the premises of the owner, keeper, or harborer. Therefore, under the bill, except when a dangerous dog is lawfully engaged in hunting or training for the purpose of hunting and is accompanied by the owner, keeper, harborer, or handler of the dog, the owner, keeper, or harborer of a dangerous dog must do either of the following:<sup>10</sup>

(1) While that dog is on the premises of the owner, keeper, or harborer, securely confine it at all times in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top;

(2) While that dog is off the premises of the owner, keeper, or harborer, keep that dog on a chain-link leash or tether that is not more than six feet in length and additionally do at least one of the following:

(a) Keep that dog in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top;

(b) Have the leash or tether controlled by a person who is of suitable age and discretion or securely attach, tie, or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station such a person in close enough proximity to that dog so as to prevent it from causing injury to any person;

(c) Muzzle that dog.

The bill eliminates all penalties for a violation of the special confinement and control requirements described above as they apply under the bill to a dangerous dog.<sup>11</sup> Currently, a violation of any of those requirements that involves a dangerous dog is a fourth degree misdemeanor on a first offense and a third degree misdemeanor on each subsequent offense. Additionally, the court currently may order the offender to personally supervise the dangerous dog that the offender owns, keeps, or harbors, to cause that dog to complete dog obedience training, or to do both, and the court may order the offender to obtain liability insurance. The court, in the alternative, currently may order the dangerous dog to be humanely destroyed by a licensed veterinarian, the

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<sup>10</sup> R.C. 955.22(D).

<sup>11</sup> R.C. 955.99.

county dog warden, or the county humane society.<sup>12</sup> Because the bill eliminates the application of the requirements to vicious dogs, it also eliminates the penalties related to vicious dogs.

## **Penalties – general confinement and control**

The bill specifies that a violation of R.C. 955.22(C) (see "**General confinement of dogs**," above) involving a nuisance dog is a minor misdemeanor on the first offense and a fourth degree misdemeanor on each subsequent offense involving the same dog. Upon a person being convicted of or pleading guilty to a third violation involving the same dog, the court must require the offender to register the involved dog as a dangerous dog. Additionally, the court may order the offender to personally supervise the nuisance dog that the offender owns, keeps, or harbors, to cause that dog to complete dog obedience training, or to do both.<sup>13</sup>

A violation of R.C. 955.22(C) (see "**General confinement of dogs**," above) involving a dangerous dog is a fourth degree misdemeanor on the first offense and a third degree misdemeanor on each subsequent offense. Additionally, the court may order the offender to personally supervise the dangerous dog that the offender owns, keeps, or harbors, to cause that dog to complete obedience training, or to do both, and the court may order the offender to obtain liability insurance pursuant to the provision described above under "**Liability insurance**" (that provision, by its terms, expressly applies only to a person with convictions of three violations of R.C. 925.22(C)). In the alternative, the court may order the dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society, at the owner's expense. Until the court makes a final determination and during the pendency of any appeal of the violation and at the discretion of the dog warden, the dog must be confined or restrained in accordance with the provisions described above under "**Confinement of dangerous dogs**" or at the county dog pound at the owner's expense.<sup>14</sup>

A violation of R.C. 955.22(C) (see "**General confinement of dogs**," above) involving a vicious dog is a fourth degree felony if the dog kills a person. The court must order that the vicious dog be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society at the owner's expense. A violation of R.C. 955.22(C) (see "**General confinement of dogs**," above) involving a "vicious dog" is a first degree misdemeanor if the dog causes serious injury to a person.

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<sup>12</sup> Current R.C. 959.99(F).

<sup>13</sup> R.C. 955.99(F).

<sup>14</sup> R.C. 955.99(G).

Additionally, the court may order the dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society, at the owner's expense.<sup>15</sup>

If the court does not order a dog involved in a violation described in the preceding paragraph to be euthanized, the court must declare the dog to be a dangerous dog, and the owner must comply with the requirements described above under "**Liability insurance**," "**Notice to local dog warden and county auditor**," and "**Dangerous dog registration certificates**." Additionally, the court must order the offender to obtain the liability insurance described above under "**Liability insurance**," subject to a limit, exclusive of interest and costs, of not less than \$100,000. Until the court makes a final determination and during the pendency of any appeal of the violation and at the discretion of the dog warden, the dog must be confined or restrained in accordance with the provisions described above under "**Confinement of dangerous dogs**" or at the county dog pound at the owner's expense.<sup>16</sup>

It appears that the intent of the bill is that an existing penalty provision that specifies that it applies to any person who violates R.C. 955.22(C) and that is unchanged by the bill will apply in the future only when the dog involved is not a nuisance dog, a dangerous dog, or a vicious dog. The bill does not expressly state this, but any other outcome would result in multiple, inconsistent penalties for violations of R.C. 955.22(C) when the dog involved is a nuisance dog, a dangerous dog, or a vicious dog.

The definitions of "nuisance dog," "dangerous dog," and "vicious dog" described above in "**Definitions**" are not expressly made applicable to the penalty provisions described above, and those terms are not otherwise defined for purposes of those penalty provisions.

## **Insurance, notice, and registration requirements**

### **Liability insurance**

The bill requires a person who has been convicted of or pleaded guilty to three violations of R.C. 955.22(C) (see "**General confinement of dogs**," above) involving the same dog and the owner, keeper, or harbinger of a dangerous dog to obtain liability insurance with an insurer authorized to write liability insurance in this state 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. Additionally, the bill requires the person to provide proof of that liability insurance upon request to any law enforcement

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<sup>15</sup> R.C. 955.99(H)(1)(a) and (b).

<sup>16</sup> R.C. 955.99(H)(2).

officer, county dog warden, or public health official charged with enforcing that requirement or any other provision of R.C. 955.22. Failure to present proof of liability insurance upon proper request is a minor misdemeanor.<sup>17</sup>

The bill eliminates a current requirement for an owner, keeper, or harbinger of a vicious dog to obtain liability insurance, a violation of which is a first degree misdemeanor under existing law.<sup>18</sup> However, if a violation of R.C. 955.22(C) involves a vicious dog and the sentencing court does not order the dog to be euthanized, the court must declare the dog to be a dangerous dog, and the liability insurance provision described above applies "subject to a limit, exclusive of interest and costs, of not less than \$100,000"<sup>19</sup> (see "**Penalties – general confinement**," below).

### **Notice to local dog warden and county auditor**

The bill requires a person who has been convicted of or pleaded guilty to three violations of R.C. 955.22(C) involving the same dog and the owner, keeper, or harbinger of a dangerous dog (1) to notify the local dog warden immediately if the dog is loose or unconfined, the dog bites a person (unless the dog is on the dog owner's property, and the person who is bitten is unlawfully trespassing or committing a criminal act within the boundaries of that property), or the dog attacks another animal while the dog is off the dog owner's property and (2) to notify the county auditor of the sale, transfer, or death of the dog, within ten days of the sale, transfer, or death. Whoever violates this requirement is guilty of a minor misdemeanor.<sup>20</sup>

This requirement does not apply to vicious dogs.<sup>21</sup> However, if a violation of R.C. 955.22(C) involves a vicious dog and the sentencing court does not order the dog to be euthanized, the court must declare the dog to be a dangerous dog, in which case this requirement will apply to the dangerous dog<sup>22</sup> (see "**Penalties – general confinement**," below).

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<sup>17</sup> R.C. 955.22(E)(1) and 955.99(M).

<sup>18</sup> R.C. 955.22(E)(1).

<sup>19</sup> R.C. 955.99(H)(2).

<sup>20</sup> R.C. 955.22(E)(3) and (4) and 955.99(M).

<sup>21</sup> *Id.*

<sup>22</sup> R.C. 955.99(H)(2).

## **Dangerous dog registration**

### **Dangerous dog registration certificates**

The bill requires a person who has been convicted of or pleaded guilty to three violations of R.C. 955.22(C) involving the same dog and the owner, keeper, or harbinger of a dangerous dog to obtain a dangerous dog registration certificate from the county auditor, affix a tag that identifies the dog as a dangerous dog to the dog's collar, and ensure that the dog wears the collar and tag at all times. Whoever violates this requirement is guilty of a misdemeanor of the fourth degree.<sup>23</sup>

The county auditor must issue a dangerous dog registration certificate to a person who is the owner of a dog, who is 18 years of age or older, and who provides the following to the auditor:<sup>24</sup>

- (1) A fee of \$50;
- (2) The person's address, phone number, and any other appropriate means for the local dog warden or county auditor to contact the person;
- (3) With respect to the person and the dog for which the registration is sought, satisfactory evidence of the dog's current rabies vaccination, if applicable; of the fact that the dog has been neutered or spayed; of the fact that the person has posted and will continue to post clearly visible signs at the person's residence warning both minors and adults of the presence of a dangerous dog on the property; and of the fact that the dog has been permanently identified by means of a microchip and the dog's microchip number.

### **Dangerous dog tags**

The bill requires the county auditor, upon the issuance of a dangerous dog registration certificate to the owner of a dangerous dog, to provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner must affix the tag to the dog's collar and ensure that the dog wears the collar and tag at all times.<sup>25</sup>

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<sup>23</sup> R.C. 955.22(E)(2) and 955.99(J).

<sup>24</sup> R.C. 955.22(I)(1).

<sup>25</sup> R.C. 955.22(E)(2) and (I)(2).

## **Renewal of dangerous dog registration certificates**

The owner of a dangerous dog must renew the dog's registration certificate annually for the same fee and in the same manner as the initial certificate was obtained. If the owner of a dangerous dog for whom a certificate has been obtained relocates to a new address within the same county, the owner must provide notice of the new address to the county auditor within ten days of relocating to the new address. If a certificate holder relocates to a new address within another county, the certificate holder must provide written notice of the new address and a copy of the original dangerous dog registration certificate to the county auditor of the new county and provide written notice of the new address to the county auditor of the county where the owner previously resided within ten days of relocating to the new address. Upon the expiration of the certificate issued in the original county, the person must renew the certificate in the new county.<sup>26</sup>

## **Failure to present dangerous dog registration certificate upon proper request**

The owner of a dangerous dog must present the dangerous dog registration certificate upon being requested to do so by any law enforcement officer, dog warden, or public health official. Failure to present this certificate upon proper request is a minor misdemeanor.<sup>27</sup>

## **Transfer of ownership of a dangerous dog**

Under existing law, unchanged by the bill, upon the transfer of ownership of any dog, the seller must give the buyer a transfer of ownership certificate and, upon request of the transferee, must provide the transferee with information regarding the dog's behavior and propensities. A violation of the first requirement is a minor misdemeanor and a violation of the second requirement is a minor misdemeanor on a first offense and a fourth degree misdemeanor on each subsequent offense.<sup>28</sup>

Existing law also provides that, within ten days after the transfer of ownership or possession of any dog, if the transferor has knowledge that the dog is a dangerous or vicious dog, the transferor must give to the transferee, the board of health for the district in which the transferee resides, and the dog warden of the county in which the transferee resides a completed copy of a written form on which the transferee furnishes the transferee's name and address and the dog's age, sex, color, breed, and current registration number and specifically indicates whether the dog ever has chased or

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<sup>26</sup> R.C. 955.22(I)(2) and (3).

<sup>27</sup> R.C. 955.22(I)(4) and 955.99(N).

<sup>28</sup> R.C. 955.11(B) and (C) and 955.99(A).

attempted to attack or bite a person, has bitten a person, or has seriously injured or killed a person (if the transferor indicates that any of those behaviors has occurred, the transferor must describe the incident or incidents in which the behavior occurred). A violation of this requirement is a minor misdemeanor on a first offense and a fourth degree misdemeanor on each subsequent offense. The bill eliminates the application of the requirements described in this paragraph to transfers of vicious dogs.<sup>29</sup>

### **Possession of dogs by felons**

The bill prohibits a person who has been convicted of or pleaded guilty to a felony "offense of violence" (defined in R.C. 2901.01) or a felony violation of any provision of R.C. Chapter 959. (offenses relating to domestic animals), 2923. (conspiracy, attempt, and complicity; weapons control; corrupt activity), or 2925. (drug offenses) from knowingly owning, possessing, having custody of, or residing in a residence with an unspayed or unneutered dog older than 12 weeks of age or any dog that has been determined to be a dangerous dog. The prohibition applies for a period of ten years commencing upon the date of release of the person from any period of incarceration imposed for the conviction.<sup>30</sup> A violation of this prohibition is a first degree misdemeanor.<sup>31</sup>

A person described in the preceding paragraph must microchip for permanent identification any dog owned, possessed by, or in the custody of the person.<sup>32</sup> Failure to microchip the dog is a first degree misdemeanor.<sup>33</sup>

### **Debarking or surgically silencing a dangerous dog**

Existing law prohibits a person from debarking or surgically silencing a dog that the person knows or has reason to believe is a vicious dog, possessing a vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced, or falsely attesting on a waiver form provided by a veterinarian under a specified waiver provision that the person's dog is not a vicious dog or otherwise provide false information on that written waiver form. A violation of the prohibition is a fourth degree felony, and the court must order that the dog be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society.

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<sup>29</sup> R.C. 955.11(D) and 955.99(A)(2).

<sup>30</sup> R.C. 955.54(A).

<sup>31</sup> R.C. 955.99(O).

<sup>32</sup> R.C. 955.54(B).

<sup>33</sup> R.C. 955.99(O).

Existing law provides a waiver form that a veterinarian may use as a basis for debarking or surgically silencing a dog and an affirmative defense for a veterinarian that relates to the waiver form. The bill eliminates the application of the prohibitions and the related provisions to vicious dogs and instead makes them apply to dangerous dogs.<sup>34</sup>

Under the bill, if a person debarks or surgically silences a dog that the person knows or has reason to believe is a dangerous dog, possesses a dangerous dog and the person knows or has reason to believe that the dog has been debarked or surgically silenced, or falsely attests on a waiver form provided by a veterinarian that the person's dog is not a dangerous dog or otherwise provides false information on that written waiver form, the person is guilty of a fourth degree felony. The court must order that the dangerous dog be humanely destroyed as under current law. Additionally, the bill provides that until the court makes a final determination and during the pendency of any appeal of the violation and at the discretion of the dog warden, the dog must be confined or restrained in accordance with the provisions described above under "**Confinement of dangerous dogs**" or at the county dog pound at the owner's expense.<sup>35</sup>

## **Notice of confinement and security due**

### **Notice and assessment**

Under the bill, if a dog is confined at the county dog pound while a court determines whether the owner has committed a violation of R.C. 955.22(C) involving a dangerous dog or a vicious dog, or a violation involving a person who has debarked or surgically silenced a dog that the person knew or had reason to believe is a dangerous dog, possessed a dangerous dog and the person knew or had reason to believe that the dog had been debarked or surgically silenced, or falsely attested on a waiver form provided by a veterinarian that the person's dog is not a dangerous dog or otherwise provided false information on that written waiver form, the county dog warden must give written notice of the confinement to the owner of the dog. If the county dog warden is unable to give the notice to the owner of the dog, the warden must post the notice on the door of the residence of the owner of the dog or in another conspicuous place on the premises at which the dog was seized. The notice must include a statement that a security in the amount of \$100 is due to the county dog warden within ten days to secure payment of all reasonable expenses, including medical care and boarding of the dog for 60 days, expected to be incurred by the county dog pound in caring for the dog

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<sup>34</sup> R.C. 955.22(F).

<sup>35</sup> R.C. 955.99(L).



pending the determination. The county dog warden may draw from the security any actual costs incurred in caring for the dog.<sup>36</sup>

### **Failure of owner to pay security**

If the person ordered to post security under the preceding paragraph does not do so within ten days of the confinement of the animal, the dog is forfeited, and the county dog warden may determine the disposition of the dog unless the court issues an order that specifies otherwise.<sup>37</sup>

### **Actual cost of confinement**

Not more than ten days after the court makes a final determination of whether an owner has committed a violation described above in "**Notice and assessment**," the county dog warden must provide the owner of the dog with the actual cost of the confinement of the dog. If the county dog warden finds that the security provided by the owner is less than the actual cost of confinement of the dog, the owner must remit the difference between the security provided and the actual cost to the warden within 30 days after the court's determination. If the county dog warden finds that the security provided by the owner is greater than that actual cost, the warden must remit the difference between the security provided and the actual cost to the owner within 30 days after the court's determination.<sup>38</sup>

### **Dogs considered vicious dogs prior to effective date of the bill**

The bill specifies that an owner, keeper, or harbinger of a dog who was required to comply with the requirements pertaining to a vicious dog prior to the effective date of the bill will be required to comply with the requirements pertaining to a "dangerous dog" on or after that effective date.<sup>39</sup>

### **Due process for designation of nuisance dogs, dangerous dogs, and vicious dogs**

#### **Notice to dog owner**

Under the bill, if a person who is authorized to enforce R.C. Chapter 955. (dogs) has reasonable cause to believe that a dog in the person's jurisdiction is a nuisance dog,

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<sup>36</sup> R.C. 955.99(P)(1).

<sup>37</sup> R.C. 955.99(P)(2).

<sup>38</sup> R.C. 955.99(P)(3).

<sup>39</sup> Section 3.

dangerous dog, or vicious dog, the person must notify the owner, keeper, or harbinger of that dog, by certified mail or in person, that the person has designated the dog a nuisance dog, dangerous dog, or vicious dog, as applicable, and that the owner, keeper, or harbinger of the dog may request a hearing regarding the designation. The notice must include instructions for filing a request for a hearing in the county in which the dog's owner, keeper, or harbinger resides.<sup>40</sup>

## Hearings

The bill specifies that the municipal court or county court that has territorial jurisdiction over the residence of the owner, keeper, or harbinger of a dog must conduct any hearing concerning the designation of the dog as a nuisance dog, dangerous dog, or vicious dog.<sup>41</sup>

If the owner, keeper, or harbinger of the dog refutes its designation as a nuisance dog, dangerous dog, or vicious dog, as applicable, the owner, keeper, or harbinger, not later than ten days after receiving notification of the designation, may request a hearing regarding the determination. The request for a hearing must be in writing and must be filed with the municipal court or county court that has territorial jurisdiction over the residence of the dog's owner, keeper, or harbinger. The owner, keeper, or harbinger of the dog or the person who designated the dog as a nuisance, dangerous, or vicious dog may appeal the court's final determination as in any other case filed in that court.<sup>42</sup>

## **Confinement of nuisance dog, dangerous dog, or vicious dog prior to hearing and during pendency of appeal**

A court, upon motion of an owner, keeper, or harbinger or an attorney representing the owner, keeper, or harbinger, may order that the dog designated as a nuisance dog, dangerous dog, or vicious dog be held in the possession of the owner, keeper, or harbinger until the court makes a final determination or during the pendency of an appeal, as applicable. Until the court makes a final determination and during the pendency of any appeal, the dog must be confined or restrained in accordance with the provisions described above under "**Confinement of dangerous dogs**," regardless of whether the dog has been designated as a vicious dog or a nuisance dog rather than a dangerous dog. The owner, keeper, or harbinger of the dog cannot be required to comply with any other Revised Code requirements that concern a nuisance dog,

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<sup>40</sup> R.C. 955.222(B) and (E).

<sup>41</sup> R.C. 955.222(A)(2) and (E), 1901.18(A)(13), and 1907.031(A)(7).

<sup>42</sup> R.C. 955.222(C) and (E).

dangerous dog, or vicious dog, as applicable, until the court makes a final determination and during the pendency of any appeal.<sup>43</sup>

## **Fees**

### **Replacement of metal tags issued to dogs registered with the county auditor**

The bill increases the fee for replacement of a lost metal dog tag from 25¢ to \$5 and eliminates the option of paying an alternate fee for a duplicate tag set by the board of county commissioners.<sup>44</sup>

### **Transfer of ownership certificate**

The bill increases the fee for recording a transfer of ownership certificate for a dog with the county auditor from 25¢ to \$5.<sup>45</sup>

### **Dangerous dog registration certificate fees**

Fees collected by the county auditor for dangerous dog registration certificates must be deposited in the dog and kennel fund of the county.<sup>46</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	01-11-11
Reported, H. Criminal Justice	06-15-11
Passed House (69-29)	06-28-11

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<sup>43</sup> R.C. 955.222(D) and (E).

<sup>44</sup> R.C. 955.08.

<sup>45</sup> R.C. 955.11(B).

<sup>46</sup> R.C. 955.22(I)(5).