

As Reported by the House Criminal Justice Committee

133rd General Assembly

Regular Session

2019-2020

Am. H. B. No. 350

Representative Hoops

**Cosponsors: Representatives Lang, Riedel, Romanchuk, Lipps, Carruthers,
Keller, Leland, Rogers**

A BILL

To amend sections 959.15, 959.21, 959.99, and 1717.06 of the Revised Code to re-enact provisions of law governing animal fighting, bestiality, and residency requirements for humane society agents.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 959.15, 959.21, 959.99, and 1717.06 of the Revised Code be amended to read as follows:

Sec. 959.15. (A) No person shall knowingly ~~do either of the following:~~

~~(1) Engage do either of the following:~~

(1) Engage in cockfighting, bearbaiting, or pitting an animal against another;

~~(2) Use~~ (2) Use, train, or possess any animal for seizing, detaining, or mistreating a domestic animal.

~~(B) No person shall knowingly do either of the following:~~

~~(1) Be employed at cockfighting, bearbaiting, or pitting~~

~~an animal against another;~~ 17

~~(2) Do any of the following regarding an event involving~~ 18
~~cockfighting, bearbaiting, or pitting an animal against another:~~ 19

~~(a) Wager money or anything else of value on the results~~ 20
~~of the event;~~ 21

~~(b) Pay money or give anything else of value in exchange~~ 22
~~for admission to or being present at the event;~~ 23

~~(c) Receive money or anything else of value in exchange~~ 24
~~for the admission of another person to the event or for another~~ 25
~~person to be present at the event;~~ 26

~~(d) Use, possess, or permit or cause to be present at the~~ 27
~~event any device or substance intended to enhance an animal's~~ 28
~~ability to fight or to inflict injury on another animal;~~ 29

~~(e) Permit or cause a minor to be present at the event if~~ 30
~~any person present at or involved with the event is conducting~~ 31
~~any of the activities described in division (B) (1) or (B) (2) (a),~~ 32
~~(b), (c), or (d) of this section.~~ 33

~~(C) A person who knowingly witnesses cockfighting,~~ 34
~~bearbaiting, or an event in which one animal is pitted against~~ 35
~~another when a violation of division (B) of this section is~~ 36
~~occurring at the cockfighting, bearbaiting, or event is an aider~~ 37
~~and abettor and has committed a violation of this division.~~ 38
(B) 38

No person shall knowingly do either of the following: 39

(1) Be employed at cockfighting, bearbaiting, or pitting 40
an animal against another; 41

(2) Do any of the following regarding an event involving 42
cockfighting, bearbaiting, or pitting an animal against another: 43

<u>(a) Wager money or anything else of value on the results</u>	44
<u>of the event;</u>	45
<u>(b) Pay money or give anything else of value in exchange</u>	46
<u>for admission to or being present at the event;</u>	47
<u>(c) Receive money or anything else of value in exchange</u>	48
<u>for the admission of another person to the event or for another</u>	49
<u>person to be present at the event;</u>	50
<u>(d) Use, possess, or permit or cause to be present at the</u>	51
<u>event any device or substance intended to enhance an animal's</u>	52
<u>ability to fight or to inflict injury on another animal;</u>	53
<u>(e) Permit or cause a minor to be present at the event if</u>	54
<u>any person present at or involved with the event is conducting</u>	55
<u>any of the activities described in division (B)(1) or (B)(2)(a),</u>	56
<u>(b), (c), or (d) of this section.</u>	57
<u>(C) A person who knowingly witnesses cockfighting,</u>	58
<u>bearbaiting, or an event in which one animal is pitted against</u>	59
<u>another when a violation of division (B) of this section is</u>	60
<u>occurring at the cockfighting, bearbaiting, or event is an aider</u>	61
<u>and abettor and has committed a violation of this division.</u>	62
Sec. 959.21. (A) As used in this section:	63
(1) "Animal" means a nonhuman mammal, bird, reptile, or	64
amphibian, either dead or alive.	65
(2) "Offense" means a violation of this section or an	66
attempt, in violation of section 2923.02 of the Revised Code, to	67
violate this section.	68
(3) "Officer" has the same meaning as in section 959.132	69
of the Revised Code.	70

~~(4) "Sexual conduct" means either of the following
committed for the purpose of sexual gratification:~~ 71
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~~(a) Any act done between a person and animal that involves
contact of the penis of one and the vulva of the other, the
penis of one and the penis of the other, the penis of one and
the anus of the other, the mouth of one and the penis of the
other, the mouth of one and the anus of the other, the vulva of
one and the vulva of the other, the mouth of one and the vulva
of the other, any other contact between a reproductive organ of
one and a reproductive organ of the other, or any other
insertion of a reproductive organ of one into an orifice of the
other;~~ 73
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~~(b) Without a bona fide veterinary or animal husbandry
purpose to do so, the insertion, however slight, of any part of
a person's body or any instrument, apparatus, or other object
into the vaginal, anal, or reproductive opening of an animal.~~ 83
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~~(B) No person shall knowingly engage in sexual conduct
with an animal or knowingly possess, sell, or purchase an animal
with the intent that it be subjected to sexual conduct.~~ 87
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~~(C) No person shall knowingly organize, promote, aid, or
abet in the conduct of an act involving any sexual conduct with
an animal.~~ 90
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~~(D) An officer may seize and cause to be impounded at an
impounding agency an animal that the officer has probable cause
to believe is the subject of an offense. With respect to an
animal so seized and impounded, all procedures and requirements
that are established in section 959.132 of the Revised Code, and
all other provisions of that section, apply to the seizure,
impoundment, and disposition of the animal. References in~~ 93
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~~section 959.132 of the Revised Code to "section 959.131 of the Revised Code," "companion animal," and "offense" shall be construed, respectively, as being references to "section 959.21 of the Revised Code" and to "animal" and "offense" as defined in this section, for purposes of application under this section only.~~(A) As used in this section:

(1) "Animal" means a nonhuman mammal, bird, reptile, or amphibian, either dead or alive.

(2) "Offense" means a violation of this section or an attempt, in violation of section 2923.02 of the Revised Code, to violate this section.

(3) "Officer" has the same meaning as in section 959.132 of the Revised Code.

(4) "Sexual conduct" means either of the following committed for the purpose of sexual gratification:

(a) Any act done between a person and animal that involves contact of the penis of one and the vulva of the other, the penis of one and the penis of the other, the penis of one and the anus of the other, the mouth of one and the penis of the other, the mouth of one and the anus of the other, the vulva of one and the vulva of the other, the mouth of one and the vulva of the other, any other contact between a reproductive organ of one and a reproductive organ of the other, or any other insertion of a reproductive organ of one into an orifice of the other;

(b) Without a bona fide veterinary or animal husbandry purpose to do so, the insertion, however slight, of any part of a person's body or any instrument, apparatus, or other object into the vaginal, anal, or reproductive opening of an animal.

(B) No person shall knowingly engage in sexual conduct 129
with an animal or knowingly possess, sell, or purchase an animal 130
with the intent that it be subjected to sexual conduct. 131

(C) No person shall knowingly organize, promote, aid, or 132
abet in the conduct of an act involving any sexual conduct with 133
an animal. 134

(D) An officer may seize and cause to be impounded at an 135
impounding agency an animal that the officer has probable cause 136
to believe is the subject of an offense. With respect to an 137
animal so seized and impounded, all procedures and requirements 138
that are established in section 959.132 of the Revised Code, and 139
all other provisions of that section, apply to the seizure, 140
impoundment, and disposition of the animal. References in 141
section 959.132 of the Revised Code to "section 959.131 of the 142
Revised Code," "companion animal," and "offense" shall be 143
construed, respectively, as being references to "section 959.21 144
of the Revised Code" and to "animal" and "offense" as defined in 145
this section, for purposes of application under this section 146
only. 147

Sec. 959.99. (A) Whoever violates section 959.18 or 959.19 148
of the Revised Code is guilty of a minor misdemeanor. 149

(B) Except as otherwise provided in this division, whoever 150
violates section 959.02 of the Revised Code is guilty of a 151
misdemeanor of the second degree. If the value of the animal 152
killed or the injury done amounts to three hundred dollars or 153
more, whoever violates section 959.02 of the Revised Code is 154
guilty of a misdemeanor of the first degree. 155

(C) Whoever violates section 959.03, 959.06, 959.12, or 156
959.17 ~~or division (A) of section 959.15~~ or division (A) of 157

section 959.15 of the Revised Code is guilty of a misdemeanor of 158
the fourth degree. 159

(D) Whoever violates division (A) of section 959.13 ~~or~~ 160
~~section 959.21~~ or section 959.21 of the Revised Code is guilty 161
of a misdemeanor of the second degree. In addition, the court 162
may order the offender to forfeit the animal or livestock and 163
may provide for its disposition, including, but not limited to, 164
the sale of the animal or livestock. If an animal or livestock 165
is forfeited and sold pursuant to this division, the proceeds 166
from the sale first shall be applied to pay the expenses 167
incurred with regard to the care of the animal from the time it 168
was taken from the custody of the former owner. The balance of 169
the proceeds from the sale, if any, shall be paid to the former 170
owner of the animal. 171

(E) (1) Whoever violates division (B) of section 959.131 of 172
the Revised Code is guilty of a misdemeanor of the first degree 173
on a first offense and a felony of the fifth degree on each 174
subsequent offense. 175

(2) Whoever violates division (C) of section 959.131 of 176
the Revised Code is guilty of a felony of the fifth degree. 177

(3) Whoever violates section 959.01 of the Revised Code or 178
division (D) of section 959.131 of the Revised Code is guilty of 179
a misdemeanor of the second degree on a first offense and a 180
misdemeanor of the first degree on each subsequent offense. 181

(4) Whoever violates division (E) of section 959.131 of 182
the Revised Code is guilty of a felony of the fifth degree. 183

(5) Whoever violates division (F) of section 959.131 of 184
the Revised Code is guilty of a misdemeanor of the first degree. 185

(6) (a) A court may order a person who is convicted of or 186

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.

(7) 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~~ 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 216
guilty of a felony of the fourth degree for a first offense and 217
a felony of the third degree on each subsequent offense. 218

~~(I) Whoever violates division (B) or (C) of section 959.15~~ 219
~~of the Revised Code is guilty of a felony and shall be fined not~~ 220
~~more than ten thousand dollars.~~ (I) Whoever violates division 221
(B) or (C) of section 959.15 of the Revised Code is guilty of a 222
felony and shall be fined not more than ten thousand dollars. 223

Sec. 1717.06. A county humane society organized under 224
section 1717.05 of the Revised Code may appoint agents, ~~who are~~ 225
~~residents of the county or municipal corporation for which the~~ 226
~~appointment is made,~~ for the purpose of prosecuting any person 227
guilty of an act of cruelty to persons or animals. Such agents 228
may arrest any person found violating this chapter or any other 229
law for protecting persons or animals or preventing acts of 230
cruelty thereto. Upon making an arrest the agent forthwith shall 231
convey the person arrested before some court or magistrate 232
having jurisdiction of the offense, and there make complaint 233
against the person on oath or affirmation of the offense. 234

All appointments of agents under this section shall be 235
approved by the mayor of the municipal corporation for which 236
they are made. If the society exists outside a municipal 237
corporation, such appointments shall be approved by the probate 238
judge of the county for which they are made. The mayor or 239
probate judge shall keep a record of such appointments. 240

In order to qualify for appointment as a humane agent 241
under this section, a person first shall successfully complete a 242
minimum of twenty hours of training on issues relating to the 243
investigation and prosecution of cruelty to and neglect of 244
animals. The training shall comply with rules recommended by the 245

peace officer training commission under section 109.73 of the 246
Revised Code and shall include, without limitation, instruction 247
regarding animal husbandry practices as described in division 248
(A) (12) of that section. A person who has been appointed as a 249
humane agent under this section prior to ~~the effective date of~~ 250
~~this amendment April 9, 2003~~ may continue to act as a humane 251
agent for a period of time on and after ~~the effective date of~~ 252
~~this amendment April 9, 2003~~ without completing the training. 253
However, on or before December 31, 2004, a person who has been 254
appointed as a humane agent under this section prior to ~~the~~ 255
~~effective date of this amendment April 9, 2003~~ shall 256
successfully complete the training described in this paragraph 257
and submit proof of its successful completion to the appropriate 258
appointing mayor or probate judge in order to continue to act as 259
a humane agent after December 31, 2004. 260

An agent of a county humane society only has the specific 261
authority granted to the agent under this section and section 262
1717.08 of the Revised Code. 263

Section 2. That existing sections 959.15, 959.21, 959.99, 264
and 1717.06 of the Revised Code are hereby repealed. 265

Section 3. Section 959.99 of the Revised Code is presented 266
in this act as a composite of the section as amended by both 267
Sub. H.B. 60 and Sub. S.B. 331 of the 131st General Assembly. 268
The General Assembly, applying the principle stated in division 269
(B) of section 1.52 of the Revised Code that amendments are to 270
be harmonized if reasonably capable of simultaneous operation, 271
finds that the composite is the resulting version of the section 272
in effect prior to the effective date of the section as 273
presented in this act. 274

Section 4. The amendments to sections 959.15, 959.21, 275

959.99, and 1717.06 of the Revised Code by this act are intended 276
to re-enact the amendments to those sections made by Sub. S.B. 277
331 of the 131st General Assembly that were severed by the Sixth 278
District Court of Appeals of Ohio in *Toledo v. Ohio*, 2018-Ohio- 279
4534; 2018 Ohio App. LEXIS 4854 (6th Dist.) due to the 280
determination that those provisions violated the one subject 281
rule established under Article II, Section 15(D) of the Ohio 282
Constitution. 283