

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**S. B. No. 205**

**Senators Hottinger, O'Brien**

**Cosponsors: Senators Obhof, Kunze, Rulli, Yuko**

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**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. 18  
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- (5) "Wild animal" has the same meaning as in section 1531.01 of the Revised Code. 20  
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- (6) "Federal animal welfare act" means the "Laboratory Animal Act of 1966," Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970," Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976," Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985," Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended. 22  
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- (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. 30  
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- (8) "Boarding kennel" ~~has and~~ "animal rescue for dogs" ~~have~~ the same ~~meaning meanings~~ as in section 956.01 of the Revised Code. 33  
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- (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. 36  
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- (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. 39  
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- (11) "Captive white-tailed deer" has the same meaning as in section 1531.01 of the Revised Code. 44  
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(12) "Serious physical ~~harm~~injury" means any of the 46  
following: 47

(a) Physical ~~harm~~injury resulting from the unnecessary or 48  
unjustifiable cruel beating of a companion animal that causes 49  
prolonged or intractable pain or carries an unnecessary or 50  
~~unjustifiable~~a substantial risk of death; 51

(b) Physical ~~harm that involves either partial or total~~ 52  
~~permanent incapacity~~injury resulting from the unnecessary or 53  
unjustifiable mutilation or maiming of a companion animal that 54  
causes prolonged or intractable pain or carries a substantial 55  
risk of death; 56

(c) Physical ~~harm that involves acute pain of a duration~~ 57  
~~that results in substantial suffering or that involves any~~ 58  
~~degree of prolonged or intractable pain ;~~injury resulting from 59  
the poisoning of a companion animal that proximately causes the 60  
death of the companion animal 61

~~(d) Physical harm that results from a person who confines~~ 62  
~~or who is the custodian or caretaker of a companion animal~~ 63  
~~depriving the companion animal of good, wholesome food and water~~ 64  
~~that proximately causes the death of the companion animal.~~ 65

(B) No person shall knowingly torture, torment, ~~needlessly~~ 66  
~~mutilate or maim, cruelly beat, poison, needlessly kill, or~~ 67  
commit an act of cruelty against a companion animal. 68

(C) ~~(1)~~ No person shall knowingly cause serious physical 69  
~~harm~~injury to or needlessly kill a companion animal. 70

(2) No person shall knowingly organize, promote, aid, or 71  
abet in violating division (C) (1) of this section. 72

(D) No person who confines or who is the custodian or 73

caretaker of a companion animal shall recklessly deprive the 74  
companion animal of necessary sustenance or confine the 75  
companion animal without supplying it during the confinement 76  
with sufficient quantities of good, wholesome food and water. 77

(E) No person who confines or who is the custodian or 78  
caretaker of a companion animal shall negligently do any of the 79  
following: 80

(1) Torture, torment, or commit an act of cruelty against 81  
the companion animal; 82

(2) Deprive the companion animal of necessary sustenance 83  
or confine the companion animal without supplying it during the 84  
confinement with sufficient quantities of good, wholesome food 85  
and water if it can reasonably be expected that the companion 86  
animal would become sick or suffer in any other way as a result 87  
of or due to the deprivation or confinement; 88

(3) Impound or confine the companion animal without 89  
affording it, during the impoundment or confinement, with access 90  
to shelter from heat, cold, wind, rain, snow, or excessive 91  
direct sunlight if it can reasonably be expected that the 92  
companion animal would become sick or suffer in any other way as 93  
a result of or due to the lack of adequate shelter. 94

~~(E)~~ (F) No owner, manager, or employee of a dog kennel who 95  
confines or is the custodian or caretaker of a companion animal 96  
shall knowingly do any of the following: 97

(1) Torture, torment, needlessly mutilate or maim, cruelly 98  
beat, poison, needlessly kill, or commit an act of cruelty 99  
against the companion animal; 100

(2) Deprive the companion animal of necessary sustenance 101  
or confine the companion animal without supplying it during the 102

confinement with sufficient quantities of good, wholesome food 103  
and water if it ~~is~~ can reasonably be expected that the companion 104  
animal would ~~die or experience unnecessary or unjustifiable pain~~ 105  
~~or suffering~~ become sick or suffer in any other way as a result 106  
of or due to the deprivation or confinement; 107

(3) Impound or confine the companion animal without 108  
affording it, during the impoundment or confinement, with access 109  
to shelter from heat, cold, wind, rain, snow, or excessive 110  
direct sunlight if it ~~is~~ can reasonably expected that the 111  
companion animal would ~~die or experience unnecessary or~~ 112  
~~unjustifiable pain or suffering~~ become sick or suffer in any 113  
other way as a result of or due to the lack of adequate shelter. 114

~~(F)~~ (G) No owner, manager, or employee of a dog kennel who 115  
confines or is the custodian or caretaker of a companion animal 116  
shall negligently do any of the following: 117

(1) Torture, torment, or commit an act of cruelty against 118  
the companion animal; 119

(2) Deprive the companion animal of necessary sustenance 120  
or confine the companion animal without supplying it during the 121  
confinement with sufficient quantities of good, wholesome food 122  
and water if it can reasonably be expected that the companion 123  
animal would become sick or suffer in any other way as a result 124  
of or due to the deprivation or confinement; 125

(3) Impound or confine the companion animal without 126  
affording it, during the impoundment or confinement, with access 127  
to shelter from heat, cold, wind, rain, snow, or excessive 128  
direct sunlight if it can reasonably be expected that the 129  
companion animal would become sick or suffer in any other way as 130  
a result of or due to the lack of adequate shelter. 131

<del>(G)</del> <u>(H)</u> Divisions (B), (C), (D), (E), <del>and (F)</del> , <u>and (G)</u> of	132
this section do not apply to any of the following:	133
(1) A companion animal used in scientific research	134
conducted by an institution in accordance with the federal	135
animal welfare act and related regulations;	136
(2) The lawful practice of veterinary medicine by a person	137
who has been issued a license, temporary permit, or registration	138
certificate to do so under Chapter 4741. of the Revised Code;	139
(3) Dogs being used or intended for use for hunting or	140
field trial purposes, provided that the dogs are being treated	141
in accordance with usual and commonly accepted practices for the	142
care of hunting dogs;	143
(4) The use of common training devices, if the companion	144
animal is being treated in accordance with usual and commonly	145
accepted practices for the training of animals;	146
(5) The administering of medicine to a companion animal	147
that was properly prescribed by a person who has been issued a	148
license, temporary permit, or registration certificate under	149
Chapter 4741. of the Revised Code.	150
<del>(H)</del> <u>(I)</u> Notwithstanding any section of the Revised Code	151
that otherwise provides for the distribution of fine moneys, the	152
clerk of court shall forward all fines the clerk collects that	153
are so imposed for any violation of this section to the	154
treasurer of the political subdivision or the state, whose	155
county humane society or law enforcement agency is to be paid	156
the fine money as determined under this division. The treasurer	157
to whom the fines are forwarded shall pay the fine moneys to the	158
county humane society or the county, township, municipal	159
corporation, or state law enforcement agency in this state that	160

primarily was responsible for or involved in the investigation 161  
and prosecution of the violation. If a county humane society 162  
receives any fine moneys under this division, the county humane 163  
society shall use the fine moneys either to provide the training 164  
that is required for humane agents under section 1717.06 of the 165  
Revised Code or to provide additional training for humane 166  
agents. 167

**Sec. 959.99.** (A) Whoever violates section 959.18 or 959.19 168  
of the Revised Code is guilty of a minor misdemeanor. 169

(B) Except as otherwise provided in this division, whoever 170  
violates section 959.02 of the Revised Code is guilty of a 171  
misdemeanor of the second degree. If the value of the animal 172  
killed or the injury done amounts to three hundred dollars or 173  
more, whoever violates section 959.02 of the Revised Code is 174  
guilty of a misdemeanor of the first degree. 175

(C) Whoever violates section 959.03, 959.06, 959.12, or 176  
959.17 or division (A) of section 959.15 of the Revised Code is 177  
guilty of a misdemeanor of the fourth degree. 178

(D) Whoever violates division (A) of section 959.13 or 179  
section 959.21 of the Revised Code is guilty of a misdemeanor of 180  
the second degree. In addition, the court may order the offender 181  
to forfeit the animal or livestock and may provide for its 182  
disposition, including, but not limited to, the sale of the 183  
animal or livestock. If an animal or livestock is forfeited and 184  
sold pursuant to this division, the proceeds from the sale first 185  
shall be applied to pay the expenses incurred with regard to the 186  
care of the animal from the time it was taken from the custody 187  
of the former owner. The balance of the proceeds from the sale, 188  
if any, shall be paid to the former owner of the animal. 189

(E) (1) Whoever violates division (B) or (D) of section 190  
959.131 of the Revised Code is guilty of a misdemeanor of the 191  
first degree on a first offense and a felony of the fifth degree 192  
on each subsequent offense. 193

(2) Whoever violates division (C) (1) of section 959.131 of 194  
the Revised Code is guilty of a felony of the ~~fifth~~third 195  
degree. 196

(3) Conduct of the type described in division (C) (2) of 197  
section 959.131 of the Revised Code shall not be prosecuted 198  
under section 2923.03 of the Revised Code, but rather shall be 199  
prosecuted as a violation of division (C) (2) of section 959.131 200  
of the Revised Code. Whoever violates division (C) (2) of section 201  
959.131 of the Revised Code is guilty of a felony of the fourth 202  
degree. 203

~~(3)~~(4) Whoever violates section 959.01 of the Revised 204  
Code or division ~~(D)~~(E) of section 959.131 of the Revised Code 205  
is guilty of a misdemeanor of the second degree on a first 206  
offense and a misdemeanor of the first degree on each subsequent 207  
offense. 208

~~(4)~~(5) Whoever violates division ~~(E)~~(F) of section 209  
959.131 of the Revised Code is guilty of a felony of the fifth 210  
degree. 211

~~(5)~~(6) Whoever violates division ~~(F)~~(G) of section 212  
959.131 of the Revised Code is guilty of a misdemeanor of the 213  
first degree. 214

~~(6)~~(7) (a) A court may order a person who is convicted of 215  
or pleads guilty to a violation of section 959.131 of the 216  
Revised Code to forfeit to an impounding agency, as defined in 217  
section 959.132 of the Revised Code, any or all of the companion 218

animals in that person's ownership or care. The court also may 219  
prohibit or place limitations on the person's ability to own or 220  
care for any companion animals for a specified or indefinite 221  
period of time. 222

(b) A court may order a person who is convicted of or 223  
pleads guilty to a violation of section 959.131 of the Revised 224  
Code to reimburse an impounding agency for the reasonably 225  
necessary costs incurred by the agency for the care of a 226  
companion animal that the agency impounded as a result of the 227  
investigation or prosecution of the violation, provided that the 228  
costs were not otherwise paid under section 959.132 of the 229  
Revised Code. 230

~~(7)~~ (8) If a court has reason to believe that a person who 231  
is convicted of or pleads guilty to a violation of section 232  
959.131 or 959.21 of the Revised Code suffers from a mental or 233  
emotional disorder that contributed to the violation, the court 234  
may impose as a community control sanction or as a condition of 235  
probation a requirement that the offender undergo psychological 236  
evaluation or counseling. The court shall order the offender to 237  
pay the costs of the evaluation or counseling. 238

(F) Whoever violates section 959.14 of the Revised Code is 239  
guilty of a misdemeanor of the second degree on a first offense 240  
and a misdemeanor of the first degree on each subsequent 241  
offense. 242

(G) Whoever violates section 959.05 or 959.20 of the 243  
Revised Code is guilty of a misdemeanor of the first degree. 244

(H) Whoever violates section 959.16 of the Revised Code is 245  
guilty of a felony of the fourth degree for a first offense and 246  
a felony of the third degree on each subsequent offense. 247

(I) Whoever violates division (B) or (C) of section 959.15 248  
of the Revised Code is guilty of a felony and shall be fined not 249  
more than ten thousand dollars. 250

**Sec. 2953.36.** (A) Except as otherwise provided in division 251  
(B) of this section, sections 2953.31 to 2953.35 of the Revised 252  
Code do not apply to any of the following: 253

(1) Convictions when the offender is subject to a 254  
mandatory prison term; 255

(2) Convictions under section 2907.02, 2907.03, 2907.04, 256  
2907.05, 2907.06, 2907.321, 2907.322, or 2907.323, former 257  
section 2907.12, or Chapter 4506., 4507., 4510., 4511., or 4549. 258  
of the Revised Code, or a conviction for a violation of a 259  
municipal ordinance that is substantially similar to any section 260  
contained in any of those chapters, except as otherwise provided 261  
in section 2953.61 of the Revised Code; 262

(3) Convictions of an offense of violence when the offense 263  
is a misdemeanor of the first degree or a felony and when the 264  
offense is not a violation of section 2917.03 of the Revised 265  
Code and is not a violation of section 2903.13, 2917.01, or 266  
2917.31 of the Revised Code that is a misdemeanor of the first 267  
degree; 268

(4) Convictions on or after October 10, 2007, under 269  
section 2907.07 of the Revised Code or a conviction on or after 270  
October 10, 2007, for a violation of a municipal ordinance that 271  
is substantially similar to that section; 272

(5) Convictions on or after October 10, 2007, under 273  
section 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.31, 274  
2907.311, 2907.32, or 2907.33 of the Revised Code when the 275  
victim of the offense was under eighteen years of age; 276

(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;	277 278 279 280 281
(7) Convictions of a felony of the first or second degree;	282
(8) <u>Convictions under division (C)(1) of section 959.131 of the Revised Code;</u>	283 284
<u>(9) Bail forfeitures in a traffic case as defined in Traffic Rule 2.</u>	285 286
(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.	287 288 289 290 291 292
<b>Section 2.</b> That existing sections 959.131, 959.99, and 2953.36 of the Revised Code are hereby repealed.	293 294
<b>Section 3.</b> 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:	295 296 297 298 299 300 301 302
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.	303 304

Section 2953.36 of the Revised Code as amended by Sub.	305
H.B. 53, Sub. H.B. 56, and Am. Sub. H.B. 164, all of the 131st	306
General Assembly.	307