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H.B. 33
133rd General Assembly

Bill Analysis

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Version: As Reported by House Criminal Justice

Primary Sponsors: Reps. Lanese and Carruthers

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SUMMARY

Child abuse reporting

- Adds a dog warden, deputy dog warden, or other person appointed to act as an animal control officer for a municipal corporation or township to the list of professionals who must immediately report child abuse to a public children services agency (PCSA) or peace officer.

Animal abuse reporting

- Generally prohibits a veterinarian and specified social service or counseling professionals from failing to report abuse of a companion animal (e.g., a dog or cat).
- Requires the report to be made to a law enforcement officer, humane society agent, or animal control-type professional.
- Similarly prohibits a law enforcement officer, humane society agent, animal control-type professional, dog warden, or deputy dog warden from failing to report abuse of a companion animal to an appropriate social service professional under specified circumstances.
- Sets forth the information that must be included in a report, including a description of the animal (if known) and the nature and extent of the suspected abuse, but provides an exemption for information that is confidential or that could jeopardize a pending criminal investigation.
- Specifies that a person required to make an animal abuse report is immune from civil or criminal liability in connection with making the report when the report is made in good faith.
- Prohibits individuals required to report animal abuse from knowingly making a false report, and specifies that a violation of the prohibition is a fourth degree misdemeanor.

- Requires the appropriate licensing board or the entity with employment oversight to issue a confidential written warning and explanation of reporting requirements to a person who fails to make a report when required.
- Imposes civil penalties on licensed veterinarians, counselors, social workers, and marriage and family therapists for knowingly making a false report and for the second or subsequent violation of failing to report when required.
- Requires that all civil penalties collected to be deposited into the Occupational Licensing and Regulatory Fund.

DETAILED ANALYSIS

Child abuse reporting

The bill adds a dog warden, deputy dog warden, or other person appointed to act as an animal control officer for a municipal corporation or township to the list of professionals who must immediately report child abuse (when acting in an official or professional capacity). These individuals must report the abuse to the public children services agency (PCSA) or municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred.¹ A violation of the prohibition is generally a fourth degree misdemeanor.²

Animal abuse reporting

The bill establishes two prohibitions that require certain public officials to report animal abuse-type offenses involving a companion animal (any animal that is kept inside a residential dwelling, other than a wild animal, and any dog or cat regardless of where it is kept). The specific offenses for which reporting is required include animal cruelty, abandoning an animal, poisoning an animal, dog fighting, and sexual conduct with an animal.³

The first prohibition applies to a licensed veterinarian, social service professional, and any other person licensed as a counselor, social worker, or marriage and family therapist (when acting in an official or professional capacity). Such persons are prohibited from failing to immediately report abuse of a companion animal to an officer when that person has knowledge or reasonable cause to suspect that the abuse has occurred or is occurring. An officer is any law enforcement officer, agent of a county humane society, or other person appointed to act as an animal control officer for a municipal corporation or township. A social service professional is an employee of a private or public children services agency or an employee of a county department of job and family services with responsibility for protective services.⁴

¹ R.C. 2151.421(A)(1)(b).

² R.C. 2151.99(A), not in the bill.

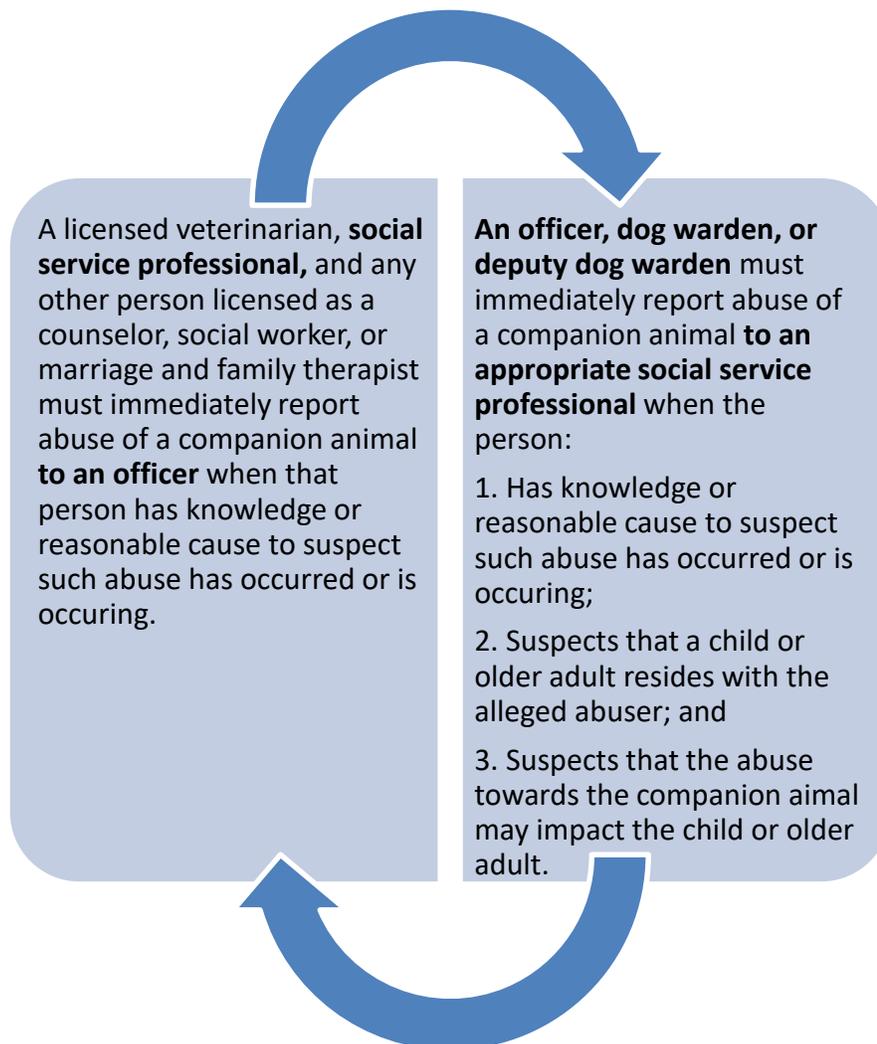
³ R.C. 959.07 and 959.08. See R.C. Chapter 959 of the Revised Code for complete descriptions of the animal abuse offenses for which reporting is required.

⁴ R.C. 959.07.

Secondly, the bill prohibits an officer, a dog warden, or a deputy dog warden (operating in an official or professional capacity) from failing to immediately report abuse of a companion animal to an appropriate social service professional when all of the following apply:

1. The officer, dog warden, or deputy dog warden has knowledge or reasonable cause to suspect that the abuse has occurred or is occurring;
2. The officer, dog warden, or deputy dog warden has knowledge or reasonable cause to suspect that a child or older adult resides with the alleged abuser; and
3. The officer, dog warden, or deputy dog warden suspects that the abuse towards the companion animal may impact the child or older adult.⁵

The bill therefore establishes a “cross reporting” relationship as shown below:



⁵ R.C. 959.08.

Contents of a report

Under the bill, a person required to make a report may do so orally or in writing and must include all of the following in the report:

1. A description of the animal involved and the animal's name, if known;
2. The address and telephone number of the owner or other person responsible for the care of the animal, if known;
3. The nature and extent of the suspected abuse; and
4. Any other information that the person making the report believes may be useful in establishing the existence of the suspected violation or the identity of the violator.⁶

An officer, dog warden, or deputy dog warden may exclude any information from the report that is confidential or that the person reasonably believes could jeopardize a pending criminal investigation.⁷

Civil immunity and false reporting

The bill prohibits a person required to report animal abuse from knowingly making a false report. A violation of this prohibition is a fourth degree misdemeanor. However, a person required to make a report under the bill is immune from civil or criminal liability in connection with making the report if the person acted in good faith when making it.⁸

A court must award reasonable attorney's fees and costs to the prevailing party in a civil or criminal action or judicial proceeding if it is proved that participation in making the report was not in good faith. In addition, a court may award those fees and costs to the party against whom a civil action or proceeding is brought in which it is alleged that participation in the making of the report was not in good faith when the action or proceeding is voluntarily dismissed.⁹

Civil penalties and professional enforcement

The bill creates a separate enforcement scheme for each type of professional required to make a report as follows:

Officers, dog wardens, and deputy dog wardens

The entity with responsibility for employment oversight of an officer, dog warden, or deputy dog warden must issue a confidential written warning and explanation of the bill's reporting requirements to an officer, dog warden, or deputy dog warden who fails to make a

⁶ R.C. 959.09(A)(1).

⁷ R.C. 959.08(C).

⁸ R.C. 959.09(B) and (C) and 959.99(C).

⁹ R.C. 959.09(D).

report when required. The bill does not impose any civil penalties on a violating officer, dog warden, or deputy dog warden.¹⁰

Social service professionals

The entity with responsibility for employment oversight of the social service professional must issue, at minimum, a confidential written warning and explanation of the bill's reporting requirements to the social service professional who fails to make a report when required. Any additional penalties are left to the discretion of that employing entity.¹¹

Licensed veterinarians

For a first violation, the Veterinary Medical Licensing Board must issue a confidential written warning and explanation of the bill's reporting requirements to a licensed veterinarian who fails to make a report when required. For a second violation of the reporting requirement, the Board must impose a \$100 civil penalty. For any subsequent violation of the reporting requirement, the Board must impose a \$500 civil penalty. If a licensed veterinarian makes a false report in bad faith, the Board must impose a \$100 civil penalty for a first violation and a \$500 civil penalty for a second or subsequent violation. In addition to any civil penalty, the Board may assess the costs of the administrative hearing regarding the violation to the licensed veterinarian.¹²

Counselors, social workers, and marriage and family therapists

The appropriate professional standards committee of the applicable licensing board is the entity responsible for enforcing the bill's reporting requirements for a counselor, social worker, or marriage and family therapist. For a first violation, the licensing board must issue a confidential written warning and explanation of the bill's reporting requirements to the licensed professional who fails to make a report when required. For a second violation of the reporting requirement, the board must impose a \$100 fine. For any subsequent violation of the reporting requirement, the board must impose a \$500 fine. If a licensed professional makes a false report in bad faith, the board must impose a \$100 fine for a first violation and a \$500 fine for a second or subsequent violation.¹³ The board also has the discretion to suspend or revoke the individual's license for a second or subsequent violation of the reporting requirement or for any violation of the prohibition against making a false report in bad faith.¹⁴

¹⁰ R.C. 959.10.

¹¹ R.C. 5101.93.

¹² R.C. 4741.22(C)(2) and (3) and (D).

¹³ R.C. 4757.36(I) and (J).

¹⁴ R.C. 4757.36(B) and (C)(12).

Occupational Licensing and Regulatory Fund

The bill requires that all civil penalties and fines collected by the Veterinary Medical Licensing Board or by the other applicable licensing boards to be deposited into the state treasury to the credit of the Occupational Licensing and Regulatory Fund.¹⁵

HISTORY

Action	Date
Introduced	02-12-19
Reported, H. Criminal Justice	11-26-19

H0033-RH-133/ar

¹⁵ R.C. 4741.25, not in the bill and 4757.36(H).