

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 22

Representative Williams, B.

**Cosponsors: Representatives Domenick, Yuko, Ujvagi, DeGeeter, Luckie,
Otterman, Fende, Sayre, Skindell, Strahorn, Koziura, Chandler, Stewart, D.**

—

A B I L L

To amend sections 959.99 and 2152.19 of the Revised Code to increase certain penalties for cruelty to animals and to require a child under fifteen years of age who commits cruelty against a companion animal to undergo psychological counseling.

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

Section 1. That sections 959.99 and 2152.19 of the Revised Code be amended to read as follows:

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, 959.15, or 959.17 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(D) Whoever violates division (A) of section 959.13 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a felony of the fifth degree on each subsequent offense. 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) of section 959.131 of the Revised Code is guilty of a ~~misdemeanor~~ felony of the ~~first~~ fifth degree on a first offense and a felony of the ~~fifth~~ third degree on each subsequent offense.

(2) Whoever violates section 959.01 of the Revised Code or division (C) 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.

(3)(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 51
under section 959.132 of the Revised Code. 52

~~(4) If~~ (a) Except as otherwise provided in division (E)(4)(b) 53
of this section, if a court has reason to believe that a person 54
who is convicted of or pleads guilty to a violation of section 55
959.131 of the Revised Code suffers from a mental or emotional 56
disorder that contributed to the violation, the court may impose 57
as a community control sanction or as a condition of probation a 58
requirement that the offender undergo psychological evaluation or 59
counseling. The court shall order the offender to pay the costs of 60
the evaluation or counseling. 61

(b) The court shall require a child under fifteen years of 62
age who is adjudicated a delinquent child under Chapter 2152. of 63
the Revised Code for a violation of division (B) of section 64
959.131 of the Revised Code to undergo psychological evaluation 65
and counseling in accordance with division (F) of section 2152.19 66
of the Revised Code. 67

(F) Whoever violates section 959.14 of the Revised Code is 68
guilty of a misdemeanor of the second degree on a first offense 69
and a misdemeanor of the first degree on each subsequent offense. 70

(G) Whoever violates section 959.05 or 959.20 of the Revised 71
Code is guilty of a misdemeanor of the first degree. 72

(H) Whoever violates section 959.16 of the Revised Code is 73
guilty of a felony of the fourth degree ~~for~~ on a first offense and 74
a felony of the third degree on each subsequent offense. 75

Sec. 2152.19. (A) If a child is adjudicated a delinquent 76
child, the court may make any of the following orders of 77
disposition, in addition to any other disposition authorized or 78
required by this chapter: 79

(1) Any order that is authorized by section 2151.353 of the 80

Revised Code for the care and protection of an abused, neglected,
or dependent child;

(2) Commit the child to the temporary custody of any school,
camp, institution, or other facility operated for the care of
delinquent children by the county, by a district organized under
section 2152.41 or 2151.65 of the Revised Code, or by a private
agency or organization, within or without the state, that is
authorized and qualified to provide the care, treatment, or
placement required, including, but not limited to, a school, camp,
or facility operated under section 2151.65 of the Revised Code;

(3) Place the child in a detention facility or district
detention facility operated under section 2152.41 of the Revised
Code, for up to ninety days;

(4) Place the child on community control under any sanctions,
services, and conditions that the court prescribes. As a condition
of community control in every case and in addition to any other
condition that it imposes upon the child, the court shall require
the child to abide by the law during the period of community
control. As referred to in this division, community control
includes, but is not limited to, the following sanctions and
conditions:

(a) A period of basic probation supervision in which the
child is required to maintain contact with a person appointed to
supervise the child in accordance with sanctions imposed by the
court;

(b) A period of intensive probation supervision in which the
child is required to maintain frequent contact with a person
appointed by the court to supervise the child while the child is
seeking or maintaining employment and participating in training,
education, and treatment programs as the order of disposition;

(c) A period of day reporting in which the child is required

each day to report to and leave a center or another approved 112
reporting location at specified times in order to participate in 113
work, education or training, treatment, and other approved 114
programs at the center or outside the center; 115

(d) A period of community service of up to five hundred hours 116
for an act that would be a felony or a misdemeanor of the first 117
degree if committed by an adult, up to two hundred hours for an 118
act that would be a misdemeanor of the second, third, or fourth 119
degree if committed by an adult, or up to thirty hours for an act 120
that would be a minor misdemeanor if committed by an adult; 121

(e) A requirement that the child obtain a high school 122
diploma, a certificate of high school equivalence, vocational 123
training, or employment; 124

(f) A period of drug and alcohol use monitoring; 125

(g) A requirement of alcohol or drug assessment or 126
counseling, or a period in an alcohol or drug treatment program 127
with a level of security for the child as determined necessary by 128
the court; 129

(h) A period in which the court orders the child to observe a 130
curfew that may involve daytime or evening hours; 131

(i) A requirement that the child serve monitored time; 132

(j) A period of house arrest without electronic monitoring or 133
continuous alcohol monitoring; 134

(k) A period of electronic monitoring or continuous alcohol 135
monitoring without house arrest, or house arrest with electronic 136
monitoring or continuous alcohol monitoring or both electronic 137
monitoring and continuous alcohol monitoring, that does not exceed 138
the maximum sentence of imprisonment that could be imposed upon an 139
adult who commits the same act. 140

A period of house arrest with electronic monitoring or 141

continuous alcohol monitoring or both electronic monitoring and 142
continuous alcohol monitoring, imposed under this division shall 143
not extend beyond the child's twenty-first birthday. If a court 144
imposes a period of house arrest with electronic monitoring or 145
continuous alcohol monitoring or both electronic monitoring and 146
continuous alcohol monitoring, upon a child under this division, 147
it shall require the child: to remain in the child's home or other 148
specified premises for the entire period of house arrest with 149
electronic monitoring or continuous alcohol monitoring or both 150
except when the court permits the child to leave those premises to 151
go to school or to other specified premises. Regarding electronic 152
monitoring, the court also shall require the child to be monitored 153
by a central system that can determine the child's location at 154
designated times; to report periodically to a person designated by 155
the court; and to enter into a written contract with the court 156
agreeing to comply with all requirements imposed by the court, 157
agreeing to pay any fee imposed by the court for the costs of the 158
house arrest with electronic monitoring, and agreeing to waive the 159
right to receive credit for any time served on house arrest with 160
electronic monitoring toward the period of any other dispositional 161
order imposed upon the child if the child violates any of the 162
requirements of the dispositional order of house arrest with 163
electronic monitoring. The court also may impose other reasonable 164
requirements upon the child. 165

Unless ordered by the court, a child shall not receive credit 166
for any time served on house arrest with electronic monitoring or 167
continuous alcohol monitoring or both toward any other 168
dispositional order imposed upon the child for the act for which 169
was imposed the dispositional order of house arrest with 170
electronic monitoring or continuous alcohol monitoring. As used in 171
this division and division (A)(4)~~(l)~~(k) of this section, 172
"continuous alcohol monitoring" has the same meaning as in section 173
2929.01 of the Revised Code. 174

(1) A suspension of the driver's license, probationary driver's license, or temporary instruction permit issued to the child for a period of time prescribed by the court, or a suspension of the registration of all motor vehicles registered in the name of the child for a period of time prescribed by the court. A child whose license or permit is so suspended is ineligible for issuance of a license or permit during the period of suspension. At the end of the period of suspension, the child shall not be reissued a license or permit until the child has paid any applicable reinstatement fee and complied with all requirements governing license reinstatement.

(5) Commit the child to the custody of the court;

(6) Require the child to not be absent without legitimate excuse from the public school the child is supposed to attend for five or more consecutive days, seven or more school days in one school month, or twelve or more school days in a school year;

(7)(a) If a child is adjudicated a delinquent child for being a chronic truant or a habitual truant who previously has been adjudicated an unruly child for being a habitual truant, do either or both of the following:

(i) Require the child to participate in a truancy prevention mediation program;

(ii) Make any order of disposition as authorized by this section, except that the court shall not commit the child to a facility described in division (A)(2) or (3) of this section unless the court determines that the child violated a lawful court order made pursuant to division (C)(1)(e) of section 2151.354 of the Revised Code or division (A)(6) of this section.

(b) If a child is adjudicated a delinquent child for being a chronic truant or a habitual truant who previously has been adjudicated an unruly child for being a habitual truant and the

court determines that the parent, guardian, or other person having care of the child has failed to cause the child's attendance at school in violation of section 3321.38 of the Revised Code, do either or both of the following:

(i) Require the parent, guardian, or other person having care of the child to participate in a truancy prevention mediation program;

(ii) Require the parent, guardian, or other person having care of the child to participate in any community service program, preferably a community service program that requires the involvement of the parent, guardian, or other person having care of the child in the school attended by the child.

(8) Make any further disposition that the court finds proper, except that the child shall not be placed in any of the following:

(a) A state correctional institution, a county, multicounty, or municipal jail or workhouse, or another place in which an adult convicted of a crime, under arrest, or charged with a crime is held;

(b) A community corrections facility, if the child would be covered by the definition of public safety beds for purposes of sections 5139.41 to 5139.43 of the Revised Code if the court exercised its authority to commit the child to the legal custody of the department of youth services for institutionalization or institutionalization in a secure facility pursuant to this chapter.

(B) If a child is adjudicated a delinquent child, in addition to any order of disposition made under division (A) of this section, the court, in the following situations and for the specified periods of time, shall suspend the child's temporary instruction permit, restricted license, probationary driver's license, or nonresident operating privilege, or suspend the

child's ability to obtain such a permit:	237
(1) If the child is adjudicated a delinquent child for	238
violating section 2923.122 of the Revised Code, impose a class	239
four suspension of the child's license, permit, or privilege from	240
the range specified in division (A)(4) of section 4510.02 of the	241
Revised Code or deny the child the issuance of a license or permit	242
in accordance with division (F)(1) of section 2923.122 of the	243
Revised Code.	244
(2) If the child is adjudicated a delinquent child for	245
committing an act that if committed by an adult would be a drug	246
abuse offense or for violating division (B) of section 2917.11 of	247
the Revised Code, suspend the child's license, permit, or	248
privilege for a period of time prescribed by the court. The court,	249
in its discretion, may terminate the suspension if the child	250
attends and satisfactorily completes a drug abuse or alcohol abuse	251
education, intervention, or treatment program specified by the	252
court. During the time the child is attending a program described	253
in this division, the court shall retain the child's temporary	254
instruction permit, probationary driver's license, or driver's	255
license, and the court shall return the permit or license if it	256
terminates the suspension as described in this division.	257
(C) The court may establish a victim-offender mediation	258
program in which victims and their offenders meet to discuss the	259
offense and suggest possible restitution. If the court obtains the	260
assent of the victim of the delinquent act committed by the child,	261
the court may require the child to participate in the program.	262
(D)(1) If a child is adjudicated a delinquent child for	263
committing an act that would be a felony if committed by an adult	264
and if the child caused, attempted to cause, threatened to cause,	265
or created a risk of physical harm to the victim of the act, the	266
court, prior to issuing an order of disposition under this	267
section, shall order the preparation of a victim impact statement	268

by the probation department of the county in which the victim of 269
the act resides, by the court's own probation department, or by a 270
victim assistance program that is operated by the state, a county, 271
a municipal corporation, or another governmental entity. The court 272
shall consider the victim impact statement in determining the 273
order of disposition to issue for the child. 274

(2) Each victim impact statement shall identify the victim of 275
the act for which the child was adjudicated a delinquent child, 276
itemize any economic loss suffered by the victim as a result of 277
the act, identify any physical injury suffered by the victim as a 278
result of the act and the seriousness and permanence of the 279
injury, identify any change in the victim's personal welfare or 280
familial relationships as a result of the act and any 281
psychological impact experienced by the victim or the victim's 282
family as a result of the act, and contain any other information 283
related to the impact of the act upon the victim that the court 284
requires. 285

(3) A victim impact statement shall be kept confidential and 286
is not a public record. However, the court may furnish copies of 287
the statement to the department of youth services if the 288
delinquent child is committed to the department or to both the 289
adjudicated delinquent child or the adjudicated delinquent child's 290
counsel and the prosecuting attorney. The copy of a victim impact 291
statement furnished by the court to the department pursuant to 292
this section shall be kept confidential and is not a public 293
record. If an officer is preparing pursuant to section 2947.06 or 294
2951.03 of the Revised Code or Criminal Rule 32.2 a presentence 295
investigation report pertaining to a person, the court shall make 296
available to the officer, for use in preparing the report, a copy 297
of any victim impact statement regarding that person. The copies 298
of a victim impact statement that are made available to the 299
adjudicated delinquent child or the adjudicated delinquent child's 300

counsel and the prosecuting attorney pursuant to this division 301
shall be returned to the court by the person to whom they were 302
made available immediately following the imposition of an order of 303
disposition for the child under this chapter. 304

The copy of a victim impact statement that is made available 305
pursuant to this division to an officer preparing a criminal 306
presentence investigation report shall be returned to the court by 307
the officer immediately following its use in preparing the report. 308

(4) The department of youth services shall work with local 309
probation departments and victim assistance programs to develop a 310
standard victim impact statement. 311

(E) If a child is adjudicated a delinquent child for being a 312
chronic truant or a habitual truant who previously has been 313
adjudicated an unruly child for being a habitual truant and the 314
court determines that the parent, guardian, or other person having 315
care of the child has failed to cause the child's attendance at 316
school in violation of section 3321.38 of the Revised Code, in 317
addition to any order of disposition it makes under this section, 318
the court shall warn the parent, guardian, or other person having 319
care of the child that any subsequent adjudication of the child as 320
an unruly or delinquent child for being a habitual or chronic 321
truant may result in a criminal charge against the parent, 322
guardian, or other person having care of the child for a violation 323
of division (C) of section 2919.21 or section 2919.24 of the 324
Revised Code. 325

(F) If a child under fifteen years of age is adjudicated a 326
delinquent child for a violation of division (B) of section 327
959.131 of the Revised Code, the court, in addition to any other 328
disposition that it makes under this section, shall require the 329
child to undergo psychological evaluation and individual or family 330
counseling for a period of not less than six months. The court may 331
order the parent, guardian, or other person having care of the 332

child to pay the costs of the evaluation, the counseling, or both. 333

(G)(1) During the period of a delinquent child's community 334
control granted under this section, authorized probation officers 335
who are engaged within the scope of their supervisory duties or 336
responsibilities may search, with or without a warrant, the person 337
of the delinquent child, the place of residence of the delinquent 338
child, and a motor vehicle, another item of tangible or intangible 339
personal property, or other real property in which the delinquent 340
child has a right, title, or interest or for which the delinquent 341
child has the express or implied permission of a person with a 342
right, title, or interest to use, occupy, or possess if the 343
probation officers have reasonable grounds to believe that the 344
delinquent child is not abiding by the law or otherwise is not 345
complying with the conditions of the delinquent child's community 346
control. The court that places a delinquent child on community 347
control under this section shall provide the delinquent child with 348
a written notice that informs the delinquent child that authorized 349
probation officers who are engaged within the scope of their 350
supervisory duties or responsibilities may conduct those types of 351
searches during the period of community control if they have 352
reasonable grounds to believe that the delinquent child is not 353
abiding by the law or otherwise is not complying with the 354
conditions of the delinquent child's community control. The court 355
also shall provide the written notice described in division 356
~~(E)~~(G)(2) of this section to each parent, guardian, or custodian 357
of the delinquent child who is described in that division. 358

(2) The court that places a child on community control under 359
this section shall provide the child's parent, guardian, or other 360
custodian with a written notice that informs them that authorized 361
probation officers may conduct searches pursuant to division 362
~~(E)~~(G)(1) of this section. The notice shall specifically state 363
that a permissible search might extend to a motor vehicle, another 364

item of tangible or intangible personal property, or a place of 365
residence or other real property in which a notified parent, 366
guardian, or custodian has a right, title, or interest and that 367
the parent, guardian, or custodian expressly or impliedly permits 368
the child to use, occupy, or possess. 369

~~(G)~~(H) If a juvenile court commits a delinquent child to the 370
custody of any person, organization, or entity pursuant to this 371
section and if the delinquent act for which the child is so 372
committed is a sexually oriented offense that is not a 373
registration-exempt sexually oriented offense or is a child-victim 374
oriented offense, the court in the order of disposition shall do 375
one of the following: 376

(1) Require that the child be provided treatment as described 377
in division (A)(2) of section 5139.13 of the Revised Code; 378

(2) Inform the person, organization, or entity that it is the 379
preferred course of action in this state that the child be 380
provided treatment as described in division (A)(2) of section 381
5139.13 of the Revised Code and encourage the person, 382
organization, or entity to provide that treatment. 383

Section 2. That existing sections 959.99 and 2152.19 of the 384
Revised Code are hereby repealed. 385