

# OHIO ANIMAL CRUELTY LAWS

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## INTRODUCTION

Ohio has general and specific criminal animal cruelty statutes. The general statutes are Ohio Rev. Code Ann. § 959.13, Cruelty to Animals, and § 959.131, Cruelty against Companion Animals. There are statutes that address more narrowly defined crimes, such as poisoning animals, although these are rarely used. Nearly all of Ohio's animal cruelty statutes can be located in Title IX. Agriculture—Animals—Fences. The statutes and relevant case law cited throughout this document pertain specifically to domestic animals, wild animals, and livestock animals in accordance with the language of a given statute.

## Overview of Statutory Provisions

1. **Cruelty to Animals: OHIO REV. CODE ANN. §§ 959.02, 959.03, 959.13, 959.131**
2. **Abandonment: OHIO REV. CODE ANN. § 959.01**
3. **Competition Animals: OHIO REV. CODE ANN. § 959.05**
4. **Animal Fighting: OHIO REV. CODE ANN. §§ 959.15, 959.16**
5. **Wild Animals: OHIO REV. CODE ANN. §§ 959.17, 1533.07**
6. **Livestock: OHIO REV. CODE ANN. § 945.01**
7. **Penalties: OHIO REV. CODE ANN. § 959.99**

## 1. CRUELTY TO ANIMALS

### OHIO REV. CODE ANN. § 959.02. INJURING ANIMALS

No person shall maliciously, or willfully, and without the consent of the owner, kill or injure a horse, mare, foal, filly, jack, mule, sheep, goat, cow, steer, bull, heifer, ass, ox, swine, dog, cat, or other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity.

### Applicable Case law

#### ***State v. Powers*, 596 N.E.2d 1121 (Ohio Ct. App. 1991).**

The defendant is guilty of injuring an animal, as a result of shooting a neighbor's dog on his property. The defendant attempts to use the defense created by § 959.04, which states that a landowner may injure an animal while driving it out of the landowner's enclosure. However, a fence or similar structure (creating an enclosure) is necessary to invoke this defense, and there was no fence around the defendant's land.

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**OHIO REV. CODE ANN. § 959.03 POISONING ANIMALS**

No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to a horse, mare, foal, filly, jack, mule, sheep, goat, cow, steer, bull, heifer, ass, ox, swine, dog, cat, poultry, or any other domestic animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by any of such animals, either upon his own lands or the lands of another.

No Applicable Case Law.

**OHIO REV. CODE ANN. § 959.13. CRUELTY TO ANIMALS**

(A) No person shall:

(1) Torture an animal<sup>2</sup>, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;

(2) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. Division (A)(2) of this section does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, shelter means a man-made enclosure, windbreak, sunshade, or natural windbreak or sunshade that is developed from the earth's contour, tree development, or vegetation.

(3) Carry or convey an animal in a cruel or inhuman manner;

(4) Keep animals other than cattle, poultry or fowl, swine, sheep, or goats in an enclosure without wholesome exercise and change of air, nor or [sic.] feed cows on food that produces impure or unwholesome milk;

(5) Detain livestock in railroad cars or compartments longer than twenty-eight hours after they are so placed without supplying them with necessary food, water, and attention, nor permit such stock to be so crowded as to overlie, crush, wound, or kill each other.

(B) Upon the written request of the owner or person in custody of any particular shipment of livestock, which written request shall be separate and apart from any printed bill of lading or other railroad form, the length of time in which such livestock may be detained in any cars or compartments without food, water, and attention, may be extended to thirty-six hours without penalty therefor. This section does not prevent the dehorning of cattle.

(C) All fines collected for violations of this section shall be paid to the society or association for the prevention of cruelty to animals, if there be such in the county, township, or municipal corporation where such violation occurred.

**Applicable Case Law:**

***State v. Jones*, No. 2010-P-0051-P-0055, 2011 WL 4553117 (Ohio Ct. App. 2011).**

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<sup>2</sup> Pursuant to OHIO REV. CODE ANN. § 941.01, “animal” is defined as “any animal that is a bird, reptile, amphibian, fish or mammal, other than humans.

The defendant was found guilty of cruelty to animals in violation of § 959.13(A)(3), for carrying an animal in an inhumane manner, after picking up his dog by the collar and shaking it for 10-20 seconds.

The defendant was sentenced to 90 days of incarceration, 87 of which were suspended, 40 hours of community service, 12 months of probation, a fine of \$750, and a prohibition on owning animals.

***State v. Ham*, No.16-09-01, 2009 WL 2370908 (Ohio Ct. App. 2009).**

A humane society may not be compensated for caring for a defendant's animals under § 2929.28(A)(1), but may be compensated under § 959.13(C).

The defendant was fined \$100, ordered to pay court costs, sentenced to 90 days of incarceration, three years of probation, and 20 hours of community service, with the incarceration time suspended.

***State v. Hoffman*, No. 07AP886, 2008 WL 5235365 (Ohio Ct. App. 2008).**

The defendant was found guilty of four counts of cruelty to animals, under § 959.13(A)(1). The defendant did not provide adequate food and water for his cows, causing them to become malnourished. Also, the defendant did nothing to divert the cows from a very muddy path used to access food, causing some to sink into the mud to their chests. The defendant was sentenced to five years of probation, as well as fines of \$750 for each count.

Recklessness is a sufficient mens rea to sustain a conviction.

***State v. Anello*, No. 2006CA00340, 2007 WL 2713802 (Ohio Ct. App. 2007).**

The defendant was charged with two counts of cruelty to animals for keeping 42 dogs in bad conditions in a barn. She was sentenced to an aggregate term of 90 days in jail, 70 of which were suspended.

The search of the barn in which dogs were held was reasonable, because it was in plain view (and "plain smell"), and because of exigent circumstances. There were numerous complaints about barking dogs, and a noxious odor coming from the barn.

***State v. Dixon*, No. H-05-021, 2006 WL 1120688 (Ohio Ct. App. April 28, 2006).**

The defendant was found guilty of cruelty to animals, under § 959.13(A)(1), for neglect of a horse. The horse was malnourished, to the point that the veterinarian involved felt the need to euthanize it. The floor of its stall was covered in a large amount of fecal matter. The defendant claimed that the horse was not neglected, but rather lost weight rapidly due to an illness. The fact that the horse hadn't responded to various medications before being euthanized contradicted this statement.

The defendant was sentenced to 90 days in jail, and fined \$300. The sentence was suspended, on the condition that she pay \$461 in restitution, refrained from owning horses, and refrained from committing other crimes for 5 years.

***Ohio v. Davidson*, No. 2005-P-0038, 2006 WL 763082 (Ohio Ct. App. March 24, 2006).**

The defendant was convicted of 10 counts of cruelty to animals, out of 12 charges, under § 959.13(A)(1). The defendant kept dogs in unsanitary cages without food or water for an extended period of time. Deceased dogs and a horse were found in the barn with the cages.

The fact that the original charges were mistakenly filed under § 959.131(1) does not invalidate that court's jurisdiction, according to Crim.R. 7(B).

***State v. Hale*, No. 04MO14, 2005 WL 3642690 (Ohio Ct. App. 2005).**

The defendant was convicted of 12 counts of animal cruelty, under § 959.13(A)(4), for keeping about 100 dogs in crowded kennels. The dogs' body conditions indicated they were not regularly exercised. He received a suspended sentence of 30 days in jail, and two years of probation. Also, his kennel license was revoked, and he was prohibited from owning more than 4 dogs.

§ 959.13(A)(4) is not unconstitutionally vague.

***State v. Hafle*, 367 N.E. 2d 1226 (Ohio Ct. App. 1977).**

Defendant was convicted of cruelty to animals and argued, *inter alia*, the statute was unconstitutionally vague.

Defendant's conviction was affirmed. The statute was not unconstitutionally vague because his conduct was not ignorantly passive, but an act of neglect committed with knowledge.

***Ohio v. Oshodin*, No. L-03-1169, 2004 WL 486239 (Ohio Ct. App. March 12, 2004).**

A defendant could not successfully argue for a reversal of a conviction for cruelty to animals under § 959.13(A)(1) by arguing that he did not have the required mental state because he was performing a ritual sacrifice.

***In re Definbaugh*, No. 2003AP03-0021, 2003 WL 22717957 (Ohio Ct. App. Nov. 13, 2003).**

A trial court's exclusion of evidence of a juvenile's good character and love of animals was a harmless error.

***State v. Howell*, 739 N.E.2d 1219 (Ohio Ct. App. 2000).**

The defendant was convicted of animal torture, under § 959.13(A)(1), for throwing his injured dog into the bed of his truck, and improper conveyance, under § 959.13(A)(3), for dragging his dog, which was tied to the back of his car.

Separate convictions under § 959.13(A)(3) and § 959.13(A)(1) were not allied offenses, in that the elements underlying them were different enough that two separate crimes could be sustained by the set of facts.

Because the trial court erred in not allowing a jury instruction about accident being a defense to § 959.13(A)(3), this conviction was overturned.

***Ohio v. Covey*, No. L-98-1173, 2000 WL 638951 (Ohio Ct. App. May 19, 2000).**

The defendant was convicted of 14 counts of cruelty to animals, and sentenced to 90 days of incarceration, suspended, five years of probation, a fine of \$50, and payment for court costs. The probation was conditioned upon, among other things, a payment of \$8,359.12 in restitution to the humane society to cover the cost of treatment.

The order to pay restitution to the human society was reversed, because the trial court only has the authority to order restitution for property damage.

***Studer v. Seneca County Humane Society*, No. 13-99-59, 2000 WL 566738 (Ohio Ct. App. 2000).**

The defendant was found guilty of 14 counts of cruelty to animals, under § 959.13, for keeping 78 dogs and 81 cats in outbuildings without adequate fresh air, food and water. The animals were malnourished and diseased. The defendant was sentenced to 5 years of probation, conditioned upon an agreement not to own more than one animal, and 90 days in jail, 85 of which were suspended.

***State v. Bybee*, 731 N.E.2d 232 (Ohio Ct. App. 1999).**

Case was remanded after the Court of Appeals found that a municipal trial court did not have the authority to order a defendant to pay restitution to the local Humane Society, and that the amount, \$117,625 violated the 8<sup>th</sup> Amendment's Excessive Fines Clause.

***Ohio v. Studer*, No. 13-98-46, 1999 WL 253521 (Ohio Ct. App. March 26, 1999).**

The defendant was convicted under § 959.13(A)(1) and § 959.13(A)(4) for keeping one dog confined without sufficient food, water, exercise, or fresh air. He was sentenced to 90 days in jail, 85 of which were suspended, a fine of \$10, an order to pay court costs, and 5 years of probation.

***Ohio v. Hurst*, No. 98CA08, 1999 WL 152262 (Ohio Ct. App. March 12, 1999).**

The appellant was convicted under § 959.13 for shooting and killing his neighbor's dog. The Court of Appeals rejected the appellant's motion to dismiss after the trial court overruled his motion to dismiss under § 955.28, because he did not meet his burden of proof in demonstrating that the dog threatened him.

***Ohio v. Donnelly*, No. 98 COA 01272, 1999 WL 172772 (Ohio Ct. App. Feb. 22, 1999).**

Appellant was convicted under § 959.13(A)(1) and § 959.13(A)(4) for four counts of cruelty to animals. The court overruled appellant's objection that the trial court erred by convicting her in the absence of proof that she had a reckless state of mind, because the statute does not require a certain mens rea.

***State v. Barker*, 714 N.E.2d 447 (Ohio Ct. App. 1998).**

The appellant was convicted of six counts of cruelty to animals, under § 959.13. He kept mother dogs and their litters stacked in kennels in a closed closet, and other dogs outdoors with no food, water, or access to shelter. Many of the dogs were underweight, had worms, and had matted fur. The dog owners ran a breeding business.

The Court of Appeals rejected the appellant's argument that the trial court convictions conflicted with the manifest weight of the evidence. The manifest weight of the evidence standard requires more evidence to favor a defendant's conviction than not.

***State v. Kilburn*, No. CA96-12-130, 1998 WL 142412 (Ohio Ct. App. 1998).**

The defendant was convicted of 33 counts of animal cruelty, under § 959.13(A)(1), for providing inadequate food for dozens of emaciated farm animals. Officers found the animals when they entered the property to free a horse stuck in the mud, after the appellant did not answer the door.

The Court of Appeals found that the search of the appellant's property and seizure of his animals did not violate the 4<sup>th</sup> Amendment, because the need to rescue the horse constituted an emergency situation.

***State v. Sheets*, 112 Ohio App.3d 1 (Ohio Ct. App. 1996)**

Defendant was convicted of cruelty to animals and appealed, arguing that he had a legitimate expectation of privacy to a pasture behind his home where the horses were kept.

Conviction affirmed: the pasture was not near Defendant's home and could be observed through a fence so no warrant was needed.

***State v. Dresbach*, 122 Ohio App.3d 647 (Ohio Ct. App. 1997).**

Defendant was convicted under the torture provision of § 959.13 for failure to adequately treat his roommate's dog, for whom he had been responsible after his roommate had been arrested.

Defendant's conviction was affirmed: evidence Defendant caused the dog to suffer unnecessary pain by not seeking timely treatment was sufficient to fit under "torture."

***State v. Lapping*, 75 Ohio App.3d 354 (Ohio. Ct. App. 1991).**

Defendant appealed his conviction on the basis of the court's instructing the jury that animal cruelty was a strict liability crime.

Conviction reversed and remanded: cruelty to animals is not a strict liability crime; requisite *mens rea* to sustain conviction is recklessness.

**OHIO REV. CODE ANN. § 959.131. CRUELTY AGAINST COMPANION ANIMALS**

(A) "Animal" means any animal other than a human being and includes fowl, birds, fish, and reptiles, wild or domestic, living or dead.

(B) The "practice of veterinary medicine" means the practice of any person who performs any of the following actions:

(1) Diagnoses, prevents, or treats any disease, illness, pain, deformity, defect, injury, or other physical, mental, or dental condition of any animal;

(2) Administers to or performs any medical or surgical technique on any animal that has any disease, illness, pain, deformity, defect, injury, or other physical, mental, or dental condition or performs a surgical procedure on any animal;

(3) Prescribes, applies, or dispenses any drug, medicine, biologic, anesthetic, or other therapeutic or diagnostic substance, or applies any apparatus for any disease, illness, pain, deformity, defect, injury, or other physical, mental, or dental condition of any animal;

(4) Uses complementary, alternative, and integrative therapies on animals;

(5) Renders professional advice or recommendation by any means, including telephonic or other electronic communication with regard to any activity described in divisions (B)(1) to (4) of this section;

(6) Represents the person's self, directly or indirectly, publicly or privately, as having the ability and willingness to perform an act described in divisions (B)(1) to (4) of this section;

(7) Uses any words, letters, abbreviations, or titles in such connection and under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine.

(C) “Specialist” means a licensed veterinarian who is certified by a veterinary specialty board of a professional veterinary association recognized by rule of the state veterinary medical licensing board.

(D) “Veterinary supervision” means instruction and directions by a licensed veterinarian on the premises or by a licensed veterinarian who is readily available to communicate with a person requiring supervision.

(E) “Veterinary student” means a student enrolled in a college of veterinary medicine or a veterinary technology college approved by the board and who is working with a licensed veterinarian.

(F) “Registered veterinary technician” means a person who is a graduate of a veterinary technology college approved by the state veterinary medical licensing board, has successfully passed an examination approved by the board, and maintains registration eligibility status in accordance with rules adopted by the board.

(G) “Animal aide” means a person who is employed by a licensed veterinarian and supervised by a licensed veterinarian or a registered veterinary technician to perform duties such as record keeping, animal restraint, and such other duties that the board, by rule, establishes. In adopting the rules, the board shall include rules regarding the degree of supervision required for each duty. The rules shall be consistent with generally accepted standards of veterinary medical practice.

(H) “Advertising” means any manner, method, means, or activity by which a practicing veterinarian, a practicing veterinarian's partners, or associates, or any information in reference to veterinary science, is made known to the public through any use of motion pictures, newspapers, magazines, books, radio, television announcements, or any other manner, method, means, or activity which commercially publicizes the professional image of the veterinarian.

(I) “Embryo transfer” means the removal of an embryo ovum from the reproductive tract of an animal and its transfer to the reproductive tract of another animal for the purpose of gestation and birth.

(J) “Veterinary consultant” means a veterinarian who is not licensed in this state and who provides advice and counsel to a requesting veterinarian licensed in this state in regard to the treatment, diagnosis, or health care of an animal or animals in a specific case.

(K) “Direct veterinary supervision” means a licensed veterinarian is in the immediate area and within audible range, visual range, or both, of a patient and the person administering to the patient.

(L) “Allied medical support” means a licensed dentist, physician, chiropractor, or physical therapist who is in good standing as determined under Chapter 4715., 4731., 4734., or 4755. of the Revised Code, as applicable.

(M) “Veterinary-client-patient-relationship” means a relationship that meets the requirements of [section 4741.04 of the Revised Code](#).

(N) “Licensed veterinarian” means a person licensed by the board to practice veterinary medicine.

(O) “Client” means the patient's owner, owner's agent, or other person responsible for the patient.

(P) “Veterinary technology” means the science and art of providing professional support to veterinarians.

(Q) “Patient” means an animal that is examined or treated by a licensed veterinarian.

### **Applicable Case Law**

***State v. Angus, No. 05AP-1054, 2006 WL 2474512 (Ohio Ct. App. 2006).***

The Court of Appeals upholds the conviction and most aspects of the sentencing for cruelty to a companion animal, under § 959.131(C)(2). The appellant was charged with two counts, after failing to feed his two dogs an adequate amount of food. They were 25-35% underweight when officers found them.

Appellant argues that the trial court erred, because (1) it allowed hearsay testimony from a veterinarian about how the appellant did not make the appointment he was asked to make by the Humane Society officer before she pursued the case further, (2) the conviction went against the manifest weight of the evidence, and the evidence was insufficient to support a conviction, (3) it prohibited the appellant from allowing animals to live in his home during his probation period, (4) it required the appellant to pay \$3,000 to the Humane Society, (5) it imposed two consecutive terms for the two counts of animal cruelty.

First, the veterinarian's testimony was acceptable, because it was used not to establish the appellant's guilt, but rather the justification for the Humane Officer's wish to obtain a search warrant. The trial court did not abuse its discretion in allowing it.

Second, the conviction did not go against the manifest weight of the evidence, as it was within the trial court's discretion to believe a veterinarian's testimony over that of the defendant.

Third, disallowing the appellant from keeping animals in his home during his probation period was reasonably related to his rehabilitation for animal cruelty, and therefore it is an acceptable condition of probation.

Fourth, the Court of Appeals reverses the portion of the sentence that required appellant to reimburse the Humane Society for the \$3,000 they spent caring for the dogs. The relevant statute, § 2929.28(A) only authorizes fines for paying restitution to the victim and compensating the government for implementing community control or confining a prisoner.

Fifth, it is acceptable for the court to impose consecutive sentences for the two counts of animals cruelty. Consecutive sentences may be imposed when there are multiple victims, and the dogs in this case were victims.

***State v. Fry, No. 2006-CA-14 (Ohio Ct. App. 2006).***

Defendants wished to suppress evidence of animal cruelty obtained by a search warrant. The evidence giving rise to the search warrant did not provide direct evidence of a violation of § 959.131(C)(2), and therefore could not justify a search warrant. The affidavit was based on the testimony of a person who saw one puppy in poor health in the home business of a dog breeder, and who also later found out that another puppy, which she purchased, was ill, as reported by a veterinarian. Because this witness was unable to see the conditions in which the puppies were kept, the search warrant was invalid.

However, because an average officer executing the search warrant would not know the warrant was invalid, the evidence was acceptable under the good faith exception to this rule.

***State v. Hendrickson, No. 05-COA-023, 2006 WL 242559 (Ohio Ct. App. 2006).***

The Court of Appeals upheld the previous decision of the municipal court to require the appellant to forfeit her cats, after her probation following a conviction for cruelty to a companion animal was revoked. She was initially convicted under § 959.131(C) for neglecting multiple cats and one dog in her home. Her noncompliance took the form of not cooperating in court-ordered



psychological treatment, and apparently failure to maintain an adequately clean and sanitary home. The evidence was an uncontested set of pictures of her home.

***State v. Ray*, No. 2005AP060040, 2005 WL 3047524 (Ohio Ct. App.2005).**

The Court of Appeals upheld the conviction and sentencing of the appellant, who was convicted for four counts of cruelty against companion animals. Appellant argued that (1) it was unreasonable of the trial court to order him to reduce the number of dogs in his home from 20 to 10 in 30 days, and (2) the trial court erred in convicting him, after his no contest plea, when no evidence was presented by the state.

First, the order to reduce the appellant's number of dogs was reasonably related to his rehabilitation, and therefore did not violate § 2929.21 or § 2929.22.

Second, the trial court did not err in finding the appellant guilty. Because the defendant did not raise an objection to the lack of evidence in a timely manner, the verdict is evaluated according to the plain error standard. Under the plain error standard, the defendant must demonstrate that the outcome of the trial would obviously have been different if not for the error. Given that the trial court reviewed the magistrate's work and found that he had applied the law properly, the appellant's argument fails.

## **2. ABANDONMENT**

### **OHIO REV. CODE ANN. § 959.01. ABANDONING ANIMALS**

No owner or keeper of a dog, cat, or other domestic animal, shall abandon such animal.

#### **No Applicable Case Law**

## **3. COMPETITION ANIMALS**

### **OHIO REV. CODE ANN. § 959.05. DRUGGING ANIMALS ENTERED IN COMPETITION PROHIBITED**

No person shall administer to any animal within forty-eight hours prior to the time that the animal competes at a fair or exhibition conducted by a county or independent agricultural society authorized under Chapter 1711. of the Revised Code or by the Ohio expositions commission any drug or medicament not specifically permitted under rules of the state racing commission promulgated pursuant to Chapter 3769. of the Revised Code or under rules of the society, in respect to a county or independent agricultural society, or of the Ohio expositions commission, in respect to the Ohio state fair. This section does not apply to any horse racing meeting conducted under a permit issued pursuant to Chapter 3769. of the Revised Code.

#### **No Applicable Case Law.**

#### **4. ANIMAL FIGHTING**

##### **OHIO REV. CODE ANN. § 959.15. ANIMAL FIGHTS**

No person shall knowingly engage in or be employed at cockfighting, bearbaiting, or pitting an animal against another; no person shall receive money for the admission of another to a place kept for such purpose; no person shall use, train, or possess any animal for seizing, detaining, or mistreating a domestic animal. Any person who knowingly purchases a ticket of admission to such place, or is present thereat, or witnesses such spectacle, is an aider and abettor.

##### **Applicable Case Law**

*State v. Bryson*, 78 Ohio App.3d 702, (Ohio Ct. App. 1992).

Defendants argued the animal fighting is unconstitutionally vague and that is further unconstitutional because it criminalizes mere presence at an animal fight without a requisite *mens rea*.

The Court of Appeals ruled the defendants sentences were constitutional. While the phrase “present thereat” in the statute is unconstitutionally vague, it does not contaminate the balance of the statute because it is not essentially and inseparably connected in substance with the rest of the statute.

##### **OHIO REV. CODE ANN. § 959.16. DOGFIGHTING**

##### **Applicable Case Law**

*State v. Gaines*, 64 Ohio App.3d 230 (Ohio Ct. App. 1990).

Defendant appealed after pleading guilty to two charges of dogfighting on grounds that statute was void for vagueness by failing to adequately define “dogfighting.”

The court found the term is not unconstitutionally vague when read in the context of the statute in its entirety.

#### **5. WILD ANIMALS**

##### **OHIO REV. CODE ANN. § 959.17. TRAPSHOOTING**

Live birds or fowl shall not be used as targets in trapshooting.

##### **No applicable case law.**

##### **OHIO REV. CODE ANN. § 1533.07. PROTECTION AFFORDED NONGAME BIRDS**

No person shall catch, kill, injure, pursue, or have in the person's possession, either dead or alive, or purchase, expose for sale, transport, or ship to a point within or without the state, or receive or deliver for transportation any bird other than a game bird, or have in the person's possession any

part of the plumage, skin, or body of any bird other than a game bird, except as permitted in Chapter 1531. and this chapter of the Revised Code, or disturb or destroy the eggs, nest, or young of such a bird.

This section does not prohibit the lawful taking, killing, pursuing, or possession of any game bird during the open season for the bird. Bald or golden eagles and ospreys shall not be killed or possessed at any time, except that eagles or ospreys may be possessed for educational purposes by governmental or municipal zoological parks, museums, and scientific or educational institutions. European starlings, English sparrows, and common pigeons, other than homing pigeons, may be killed at any time and their nests or eggs may be destroyed at any time. Blackbirds may be killed at any time when doing damage to grain or other property or when they become a nuisance.

Each bird or any part thereof taken or had in possession contrary to this section constitutes a separate offense.

### **No Applicable Case Law**<sup>3</sup>

## **6. LIVESTOCK**

### **OHIO REV. CODE ANN. § 945.01. HUMANE SLAUGHTERING AND HANDLING OF LIVESTOCK.**

After July 1, 1967, no method of slaughtering livestock or handling in connection with the commercial slaughtering of livestock shall be utilized unless it is humane. Without limiting other methods as may be prescribed by the secretary of agriculture of the United States, pursuant to “Act of August 27, 1958,” 72 Stat. 862, 7 U.S.C.A. 1902, the following methods are deemed humane:

- (A) In the case of cattle, calves, horses, mules, sheep, swine, and other livestock, all animals are rendered insensible to pain by a single blow or gunshot or an electrical, chemical, or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut;
- (B) By slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous severance of the carotid arteries with a sharp instrument.

### **No applicable case law.**

## **7. PENALTIES**

### **OHIO REV. CODE ANN. § 959.99. PENALTIES; FORFEITURE OF ANIMALS OR LIVESTOCK; FORFEITURE OF COMPANION ANIMALS.**

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<sup>3</sup> Lower courts have consistently held that property owners may kill nongame birds when a reasonable belief exists to suggest the birds may otherwise destroy their property (i.e., live animals).

- (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. 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 of the first degree on a first offense and a felony of the fifth 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) Whoever violates division (D) of section 959.131 of the Revised Code is guilty of a felony of the fifth degree.
- (4) Whoever violates division (E) of section 959.131 of the Revised Code is guilty of a misdemeanor of the first degree.
- (5)(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 under section 959.132 of the Revised Code.
- (6) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of section 959.131 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.

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

**No applicable case law.**