

AN ACT

To amend sections 959.99, 2151.421, 4741.22, and 4757.36 and to enact sections 959.07, 959.08, 959.09, 959.10, and 5101.93 of the Revised Code to establish animal abuse reporting requirements.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 959.99, 2151.421, 4741.22, and 4757.36 be amended and sections 959.07, 959.08, 959.09, 959.10, and 5101.93 of the Revised Code be enacted to read as follows:

Sec. 959.07. (A) As used in sections 959.07 to 959.10 of the Revised Code:

(1) "Companion animal" has the same meaning as in section 959.131 of the Revised Code.

(2) "Licensed veterinarian" has the same meaning as in section 4741.01 of the Revised Code.

(3) "Protective services" has the same meaning as in section 5101.60 of the Revised Code.

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

(5) "Social service professional" means an employee or agent of a public children services agency or an employee or agent of a county department of job and family services with responsibility for protective services.

(6) "Older adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement.

(7) "Violation involving a companion animal" means any violation of section 959.01, 959.02, 959.03, 959.13, 959.131, 959.15, 959.16, or 959.21 of the Revised Code involving a companion animal.

(B)(1) No person listed in division (B)(2) of this section shall fail to immediately report a violation involving a companion animal to an officer who is not a dog warden or deputy dog warden when that person has knowledge or reasonable cause to suspect that such a violation has occurred or is occurring.

(2) Division (B)(1) of this section applies to all of the following operating in an official or professional capacity:

(a) A licensed veterinarian;

(b) A social service professional;

(c) A person licensed under Chapter 4757. of the Revised Code.

Sec. 959.08. No officer, dog warden, or deputy dog warden operating in an official or professional capacity, shall fail to immediately report a violation involving a companion animal to an appropriate social service professional when all of the following apply:

(A) The officer, dog warden, or deputy dog warden has knowledge or reasonable cause to

suspect that a violation involving a companion animal has occurred or is occurring;

(B) 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 violator;

(C) The officer, dog warden, or deputy dog warden suspects that the violation involving a companion animal may have an impact on the child or older adult residing with the alleged violator.

Sec. 959.09. (A)(1) Except as otherwise provided in division (A)(2) of this section, a person required to make a report under section 959.07 or 959.08 of the Revised Code may do so orally or in writing and shall include all of the following in the report:

(a) If known, the name and description of the companion animal involved;

(b) The address and telephone number of the owner or other person responsible for care of the companion animal, if known;

(c) The nature and extent of the suspected abuse;

(d) Any other information that the person making the report believes may be useful in establishing the existence of the suspected violation involving a companion animal or the identity of the person causing the violation involving a companion animal.

(2) An officer, dog warden, or deputy dog warden required to make a report under section 959.08 of the Revised Code may exclude any information from the report that is confidential or that the officer, dog warden, or deputy dog warden reasonably believes could jeopardize a pending criminal investigation.

(B) A person required to make a report under section 959.07 or 959.08 of the Revised Code is immune from civil or criminal liability in connection with making that report if the person acted in good faith when making the report.

(C) No person required to make a report under section 959.07 or 959.08 of the Revised Code shall knowingly make a false report.

(D)(1) A court shall award reasonable attorney's fees and costs to the prevailing party in any civil or criminal action or proceeding in which it is alleged and proved that participation in the making of a report under section 959.07 or 959.08 of the Revised Code was not in good faith.

(2) A court may award reasonable attorney's 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 a report under section 959.07 or 959.08 of the Revised Code was not in good faith if the action or proceeding is voluntarily dismissed.

Sec. 959.10. The entity with responsibility for employment oversight of an officer, dog warden, or deputy dog warden shall issue that individual a confidential written warning if the entity discovers that the individual has violated section 959.08 of the Revised Code. The entity shall include in the warning an explanation of the violation and the reporting requirement.

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, division (C) of section 959.09, 959.12, or

959.17 or division (A) of section 959.15 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(D) Whoever violates division (A) of section 959.13 or section 959.21 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 division (C) of section 959.131 of the Revised Code is guilty of a felony of the fifth degree.

(3) Whoever violates section 959.01 of the Revised Code or division (D) 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.

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

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

(6)(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.

(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 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 guilty of a felony of the fourth degree for a first offense and a felony of the third degree on each subsequent offense.

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

Sec. 2151.421. (A)(1)(a) No person described in division (A)(1)(b) of this section who is acting in an official or professional capacity and knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under eighteen years of age, or a person under twenty-one years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child shall fail to immediately report that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as otherwise provided in this division or section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. If the person making the report is a peace officer, the officer shall make it to the public children services agency in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) Division (A)(1)(a) of this section applies to any person who is an attorney; health care professional; practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code; licensed school psychologist; independent marriage and family therapist or marriage and family therapist; coroner; administrator or employee of a child day-care center; administrator or employee of a residential camp, child day camp, or private, nonprofit therapeutic wilderness camp; administrator or employee of a certified child care agency or other public or private children services agency; school teacher; school employee; school authority; peace officer; agent of a county humane society; dog warden, deputy dog warden, or other person appointed to act as an animal control officer for a municipal corporation or township in accordance with state law, an ordinance, or a resolution; person, other than a cleric, rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion; employee of a county department of job and family services who is a professional and who works with children and families; superintendent or regional administrator employed by the department of youth services; superintendent, board member, or employee of a county board of developmental disabilities; investigative agent contracted with by a county board of developmental disabilities; employee of the department of developmental disabilities; employee of a facility or home that provides respite care in accordance with section 5123.171 of the Revised Code; employee of an entity that provides homemaker services; a person performing the duties of an assessor pursuant to Chapter 3107. or 5103. of the Revised Code; third party employed by a public children services agency to assist in providing child or family related services; court appointed special advocate; or guardian ad litem.

(c) If two or more health care professionals, after providing health care services to a child, determine or suspect that the child has been or is being abused or neglected, the health care professionals may designate one of the health care professionals to report the abuse or neglect. A single report made under this division shall meet the reporting requirements of division (A)(1) of this section.

(2) Except as provided in division (A)(3) of this section, an attorney or a physician is not

required to make a report pursuant to division (A)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding.

(3) The client or patient in an attorney-client or physician-patient relationship described in division (A)(2) of this section is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to any communication the attorney or physician receives from the client or patient in that attorney-client or physician-patient relationship, and the attorney or physician shall make a report pursuant to division (A)(1) of this section with respect to that communication, if all of the following apply:

(a) The client or patient, at the time of the communication, is a child under eighteen years of age or is a person under twenty-one years of age with a developmental disability or physical impairment.

(b) The attorney or physician knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar position to suspect that the client or patient has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(c) The abuse or neglect does not arise out of the client's or patient's attempt to have an abortion without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

(4)(a) No cleric and no person, other than a volunteer, designated by any church, religious society, or faith acting as a leader, official, or delegate on behalf of the church, religious society, or faith who is acting in an official or professional capacity, who knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, that a child under eighteen years of age, or a person under twenty-one years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, and who knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, that another cleric or another person, other than a volunteer, designated by a church, religious society, or faith acting as a leader, official, or delegate on behalf of the church, religious society, or faith caused, or poses the threat of causing, the wound, injury, disability, or condition that reasonably indicates abuse or neglect shall fail to immediately report that knowledge or reasonable cause to believe to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) Except as provided in division (A)(4)(c) of this section, a cleric is not required to make a report pursuant to division (A)(4)(a) of this section concerning any communication the cleric receives from a penitent in a cleric-penitent relationship, if, in accordance with division (C) of section

2317.02 of the Revised Code, the cleric could not testify with respect to that communication in a civil or criminal proceeding.

(c) The penitent in a cleric-penitent relationship described in division (A)(4)(b) of this section is deemed to have waived any testimonial privilege under division (C) of section 2317.02 of the Revised Code with respect to any communication the cleric receives from the penitent in that cleric-penitent relationship, and the cleric shall make a report pursuant to division (A)(4)(a) of this section with respect to that communication, if all of the following apply:

(i) The penitent, at the time of the communication, is a child under eighteen years of age or is a person under twenty-one years of age with a developmental disability or physical impairment.

(ii) The cleric knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, as a result of the communication or any observations made during that communication, the penitent has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the penitent.

(iii) The abuse or neglect does not arise out of the penitent's attempt to have an abortion performed upon a child under eighteen years of age or upon a person under twenty-one years of age with a developmental disability or physical impairment without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

(d) Divisions (A)(4)(a) and (c) of this section do not apply in a cleric-penitent relationship when the disclosure of any communication the cleric receives from the penitent is in violation of the sacred trust.

(e) As used in divisions (A)(1) and (4) of this section, "cleric" and "sacred trust" have the same meanings as in section 2317.02 of the Revised Code.

(B) Anyone who knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar circumstances to suspect, that a child under eighteen years of age, or a person under twenty-one years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or other condition of a nature that reasonably indicates abuse or neglect of the child may report or cause reports to be made of that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the public children services agency or to a peace officer. In the circumstances described in section 5120.173 of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the entity specified in that section.

(C) Any report made pursuant to division (A) or (B) of this section shall be made forthwith either by telephone or in person and shall be followed by a written report, if requested by the receiving agency or officer. The written report shall contain:

(1) The names and addresses of the child and the child's parents or the person or persons having custody of the child, if known;

(2) The child's age and the nature and extent of the child's injuries, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist, including

any evidence of previous injuries, abuse, or neglect;

(3) Any other information, including, but not limited to, results and reports of any medical examinations, tests, or procedures performed under division (D) of this section, that might be helpful in establishing the cause of the injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist.

(D)(1) Any person, who is required by division (A) of this section to report child abuse or child neglect that is known or reasonably suspected or believed to have occurred, may take or cause to be taken color photographs of areas of trauma visible on a child and, if medically necessary for the purpose of diagnosing or treating injuries that are suspected to have occurred as a result of child abuse or child neglect, perform or cause to be performed radiological examinations and any other medical examinations of, and tests or procedures on, the child.

(2) The results and any available reports of examinations, tests, or procedures made under division (D)(1) of this section shall be included in a report made pursuant to division (A) of this section. Any additional reports of examinations, tests, or procedures that become available shall be provided to the public children services agency, upon request.

(3) If a health care professional provides health care services in a hospital, children's advocacy center, or emergency medical facility to a child about whom a report has been made under division (A) of this section, the health care professional may take any steps that are reasonably necessary for the release or discharge of the child to an appropriate environment. Before the child's release or discharge, the health care professional may obtain information, or consider information obtained, from other entities or individuals that have knowledge about the child. Nothing in division (D)(3) of this section shall be construed to alter the responsibilities of any person under sections 2151.27 and 2151.31 of the Revised Code.

(4) A health care professional may conduct medical examinations, tests, or procedures on the siblings of a child about whom a report has been made under division (A) of this section and on other children who reside in the same home as the child, if the professional determines that the examinations, tests, or procedures are medically necessary to diagnose or treat the siblings or other children in order to determine whether reports under division (A) of this section are warranted with respect to such siblings or other children. The results of the examinations, tests, or procedures on the siblings and other children may be included in a report made pursuant to division (A) of this section.

(5) Medical examinations, tests, or procedures conducted under divisions (D)(1) and (4) of this section and decisions regarding the release or discharge of a child under division (D)(3) of this section do not constitute a law enforcement investigation or activity.

(E)(1) When a peace officer receives a report made pursuant to division (A) or (B) of this section, upon receipt of the report, the peace officer who receives the report shall refer the report to the appropriate public children services agency, unless an arrest is made at the time of the report that results in the appropriate public children services agency being contacted concerning the possible abuse or neglect of a child or the possible threat of abuse or neglect of a child.

(2) When a public children services agency receives a report pursuant to this division or division (A) or (B) of this section, upon receipt of the report, the public children services agency shall do both of the following:

(a) Comply with section 2151.422 of the Revised Code;

(b) If the county served by the agency is also served by a children's advocacy center and the report alleges sexual abuse of a child or another type of abuse of a child that is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, comply regarding the report with the protocol and procedures for referrals and investigations, with the coordinating activities, and with the authority or responsibility for performing or providing functions, activities, and services stipulated in the interagency agreement entered into under section 2151.428 of the Revised Code relative to that center.

(F) No peace officer shall remove a child about whom a report is made pursuant to this section from the child's parents, stepparents, or guardian or any other persons having custody of the child without consultation with the public children services agency, unless, in the judgment of the officer, and, if the report was made by physician, the physician, immediate removal is considered essential to protect the child from further abuse or neglect. The agency that must be consulted shall be the agency conducting the investigation of the report as determined pursuant to section 2151.422 of the Revised Code.

(G)(1) Except as provided in section 2151.422 of the Revised Code or in an interagency agreement entered into under section 2151.428 of the Revised Code that applies to the particular report, the public children services agency shall investigate, within twenty-four hours, each report of child abuse or child neglect that is known or reasonably suspected or believed to have occurred and of a threat of child abuse or child neglect that is known or reasonably suspected or believed to exist that is referred to it under this section to determine the circumstances surrounding the injuries, abuse, or neglect or the threat of injury, abuse, or neglect, the cause of the injuries, abuse, neglect, or threat, and the person or persons responsible. The investigation shall be made in cooperation with the law enforcement agency and in accordance with the memorandum of understanding prepared under division (K) of this section. A representative of the public children services agency shall, at the time of initial contact with the person subject to the investigation, inform the person of the specific complaints or allegations made against the person. The information shall be given in a manner that is consistent with division (I)(1) of this section and protects the rights of the person making the report under this section.

A failure to make the investigation in accordance with the memorandum is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from the report or the suppression of any evidence obtained as a result of the report and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person. The public children services agency shall report each case to the uniform statewide automated child welfare information system that the department of job and family services shall maintain in accordance with section 5101.13 of the Revised Code. The public children services agency shall submit a report of its investigation, in writing, to the law enforcement agency.

(2) The public children services agency shall make any recommendations to the county prosecuting attorney or city director of law that it considers necessary to protect any children that are brought to its attention.

(H)(1)(a) Except as provided in divisions (H)(1)(b) and (I)(3) of this section, any person, health care professional, hospital, institution, school, health department, or agency shall be immune

from any civil or criminal liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of any of the following:

(i) Participating in the making of reports pursuant to division (A) of this section or in the making of reports in good faith, pursuant to division (B) of this section;

(ii) Participating in medical examinations, tests, or procedures under division (D) of this section;

(iii) Providing information used in a report made pursuant to division (A) of this section or providing information in good faith used in a report made pursuant to division (B) of this section;

(iv) Participating in a judicial proceeding resulting from a report made pursuant to division (A) of this section or participating in good faith in a proceeding resulting from a report made pursuant to division (B) of this section.

(b) Immunity under division (H)(1)(a)(ii) of this section shall not apply when a health care provider has deviated from the standard of care applicable to the provider's profession.

(c) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding a child's injuries, abuse, or neglect, or the cause of the injuries, abuse, or neglect in any judicial proceeding resulting from a report submitted pursuant to this section.

(2) In any civil or criminal action or proceeding in which it is alleged and proved that participation in the making of a report under this section was not in good faith or participation in a judicial proceeding resulting from a report made under this section was not in good faith, the court shall award the prevailing party reasonable attorney's fees and costs and, if a civil action or proceeding is voluntarily dismissed, may award reasonable attorney's fees and costs to the party against whom the civil action or proceeding is brought.

(I)(1) Except as provided in divisions (I)(4) and (O) of this section, a report made under this section is confidential. The information provided in a report made pursuant to this section and the name of the person who made the report shall not be released for use, and shall not be used, as evidence in any civil action or proceeding brought against the person who made the report. Nothing in this division shall preclude the use of reports of other incidents of known or suspected abuse or neglect in a civil action or proceeding brought pursuant to division (N) of this section against a person who is alleged to have violated division (A)(1) of this section, provided that any information in a report that would identify the child who is the subject of the report or the maker of the report, if the maker of the report is not the defendant or an agent or employee of the defendant, has been redacted. In a criminal proceeding, the report is admissible in evidence in accordance with the Rules of Evidence and is subject to discovery in accordance with the Rules of Criminal Procedure.

(2)(a) Except as provided in division (I)(2)(b) of this section, no person shall permit or encourage the unauthorized dissemination of the contents of any report made under this section.

(b) A health care professional that obtains the same information contained in a report made under this section from a source other than the report may disseminate the information, if its dissemination is otherwise permitted by law.

(3) A person who knowingly makes or causes another person to make a false report under division (B) of this section that alleges that any person has committed an act or omission that resulted in a child being an abused child or a neglected child is guilty of a violation of section 2921.14 of the

Revised Code.

(4) If a report is made pursuant to division (A) or (B) of this section and the child who is the subject of the report dies for any reason at any time after the report is made, but before the child attains eighteen years of age, the public children services agency or peace officer to which the report was made or referred, on the request of the child fatality review board or the director of health pursuant to guidelines established under section 3701.70 of the Revised Code, shall submit a summary sheet of information providing a summary of the report to the review board of the county in which the deceased child resided at the time of death or to the director. On the request of the review board or director, the agency or peace officer may, at its discretion, make the report available to the review board or director. If the county served by the public children services agency is also served by a children's advocacy center and the report of alleged sexual abuse of a child or another type of abuse of a child is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, the agency or center shall perform the duties and functions specified in this division in accordance with the interagency agreement entered into under section 2151.428 of the Revised Code relative to that advocacy center.

(5) A public children services agency shall advise a person alleged to have inflicted abuse or neglect on a child who is the subject of a report made pursuant to this section, including a report alleging sexual abuse of a child or another type of abuse of a child referred to a children's advocacy center pursuant to an interagency agreement entered into under section 2151.428 of the Revised Code, in writing of the disposition of the investigation. The agency shall not provide to the person any information that identifies the person who made the report, statements of witnesses, or police or other investigative reports.

(J) Any report that is required by this section, other than a report that is made to the state highway patrol as described in section 5120.173 of the Revised Code, shall result in protective services and emergency supportive services being made available by the public children services agency on behalf of the children about whom the report is made, in an effort to prevent further neglect or abuse, to enhance their welfare, and, whenever possible, to preserve the family unit intact. The agency required to provide the services shall be the agency conducting the investigation of the report pursuant to section 2151.422 of the Revised Code.

(K)(1) Each public children services agency shall prepare a memorandum of understanding that is signed by all of the following:

(a) If there is only one juvenile judge in the county, the juvenile judge of the county or the juvenile judge's representative;

(b) If there is more than one juvenile judge in the county, a juvenile judge or the juvenile judges' representative selected by the juvenile judges or, if they are unable to do so for any reason, the juvenile judge who is senior in point of service or the senior juvenile judge's representative;

(c) The county peace officer;

(d) All chief municipal peace officers within the county;

(e) Other law enforcement officers handling child abuse and neglect cases in the county;

(f) The prosecuting attorney of the county;

(g) If the public children services agency is not the county department of job and family services, the county department of job and family services;

(h) The county humane society;

(i) If the public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, each participating member of the children's advocacy center established by the memorandum.

(2) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and division (C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of section 2919.23, and section 2919.24 of the Revised Code and shall have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made pursuant to division (A) or (B) of this section and, when feasible, providing for only one interview of a child who is the subject of any report made pursuant to division (A) or (B) of this section. A failure to follow the procedure set forth in the memorandum by the concerned officials is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from any reported case of abuse or neglect or the suppression of any evidence obtained as a result of any reported child abuse or child neglect and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person.

(3) A memorandum of understanding shall include all of the following:

(a) The roles and responsibilities for handling emergency and nonemergency cases of abuse and neglect;

(b) Standards and procedures to be used in handling and coordinating investigations of reported cases of child abuse and reported cases of child neglect, methods to be used in interviewing the child who is the subject of the report and who allegedly was abused or neglected, and standards and procedures addressing the categories of persons who may interview the child who is the subject of the report and who allegedly was abused or neglected.

(4) If a public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, the agency shall incorporate the contents of that memorandum in the memorandum prepared pursuant to this section.

(5) The clerk of the court of common pleas in the county may sign the memorandum of understanding prepared under division (K)(1) of this section. If the clerk signs the memorandum of understanding, the clerk shall execute all relevant responsibilities as required of officials specified in the memorandum.

(L)(1) Except as provided in division (L)(4) or (5) of this section, a person who is required to make a report pursuant to division (A) of this section may make a reasonable number of requests of the public children services agency that receives or is referred the report, or of the children's advocacy center that is referred the report if the report is referred to a children's advocacy center pursuant to an interagency agreement entered into under section 2151.428 of the Revised Code, to be provided with the following information:

(a) Whether the agency or center has initiated an investigation of the report;

(b) Whether the agency or center is continuing to investigate the report;

(c) Whether the agency or center is otherwise involved with the child who is the subject of the report;

(d) The general status of the health and safety of the child who is the subject of the report;

(e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.

(2) A person may request the information specified in division (L)(1) of this section only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report.

When a peace officer or employee of a public children services agency receives a report pursuant to division (A) or (B) of this section the recipient of the report shall inform the person of the right to request the information described in division (L)(1) of this section. The recipient of the report shall include in the initial child abuse or child neglect report that the person making the report was so informed and, if provided at the time of the making of the report, shall include the person's name, address, and telephone number in the report.

Each request is subject to verification of the identity of the person making the report. If that person's identity is verified, the agency shall provide the person with the information described in division (L)(1) of this section a reasonable number of times, except that the agency shall not disclose any confidential information regarding the child who is the subject of the report other than the information described in those divisions.

(3) A request made pursuant to division (L)(1) of this section is not a substitute for any report required to be made pursuant to division (A) of this section.

(4) If an agency other than the agency that received or was referred the report is conducting the investigation of the report pursuant to section 2151.422 of the Revised Code, the agency conducting the investigation shall comply with the requirements of division (L) of this section.

(5) A health care professional who made a report under division (A) of this section, or on whose behalf such a report was made as provided in division (A)(1)(c) of this section, may authorize a person to obtain the information described in division (L)(1) of this section if the person requesting the information is associated with or acting on behalf of the health care professional who provided health care services to the child about whom the report was made.

(M) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The department of job and family services may enter into a plan of cooperation with any other governmental entity to aid in ensuring that children are protected from abuse and neglect. The department shall make recommendations to the attorney general that the department determines are necessary to protect children from child abuse and child neglect.

(N) Whoever violates division (A) of this section is liable for compensatory and exemplary damages to the child who would have been the subject of the report that was not made. A person who brings a civil action or proceeding pursuant to this division against a person who is alleged to have violated division (A)(1) of this section may use in the action or proceeding reports of other incidents of known or suspected abuse or neglect, provided that any information in a report that would identify the child who is the subject of the report or the maker of the report, if the maker is not the defendant or an agent or employee of the defendant, has been redacted.

(O)(1) As used in this division:

(a) "Out-of-home care" includes a nonchartered nonpublic school if the alleged child abuse or

child neglect, or alleged threat of child abuse or child neglect, described in a report received by a public children services agency allegedly occurred in or involved the nonchartered nonpublic school and the alleged perpetrator named in the report holds a certificate, permit, or license issued by the state board of education under section 3301.071 or Chapter 3319. of the Revised Code.

(b) "Administrator, director, or other chief administrative officer" means the superintendent of the school district if the out-of-home care entity subject to a report made pursuant to this section is a school operated by the district.

(2) No later than the end of the day following the day on which a public children services agency receives a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall provide written notice of the allegations contained in and the person named as the alleged perpetrator in the report to the administrator, director, or other chief administrative officer of the out-of-home care entity that is the subject of the report unless the administrator, director, or other chief administrative officer is named as an alleged perpetrator in the report. If the administrator, director, or other chief administrative officer of an out-of-home care entity is named as an alleged perpetrator in a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved the out-of-home care entity, the agency shall provide the written notice to the owner or governing board of the out-of-home care entity that is the subject of the report. The agency shall not provide witness statements or police or other investigative reports.

(3) No later than three days after the day on which a public children services agency that conducted the investigation as determined pursuant to section 2151.422 of the Revised Code makes a disposition of an investigation involving a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall send written notice of the disposition of the investigation to the administrator, director, or other chief administrative officer and the owner or governing board of the out-of-home care entity. The agency shall not provide witness statements or police or other investigative reports.

(P) As used in this section:

(1) "Children's advocacy center" and "sexual abuse of a child" have the same meanings as in section 2151.425 of the Revised Code.

(2) "Health care professional" means an individual who provides health-related services including a physician, hospital intern or resident, dentist, podiatrist, registered nurse, licensed practical nurse, visiting nurse, licensed psychologist, speech pathologist, audiologist, person engaged in social work or the practice of professional counseling, and employee of a home health agency. "Health care professional" does not include a practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code, licensed school psychologist, independent marriage and family therapist or marriage and family therapist, or coroner.

(3) "Investigation" means the public children services agency's response to an accepted report of child abuse or neglect through either an alternative response or a traditional response.

(4) "Peace officer" means a sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, or a state highway patrol

trooper.

Sec. 4741.22. (A) The state veterinary medical licensing board may refuse to issue or renew a license, limited license, registration, or temporary permit to or of any applicant who, and may issue a reprimand to, suspend or revoke the license, limited license, registration, or the temporary permit of, or impose a civil penalty pursuant to this section upon any person holding a license, limited license, or temporary permit to practice veterinary medicine or any person registered as a registered veterinary technician who:

(1) In the conduct of the person's practice does not conform to the rules of the board or the standards of the profession governing proper, humane, sanitary, and hygienic methods to be used in the care and treatment of animals;

(2) Uses fraud, misrepresentation, or deception in any application or examination for licensure, or any other documentation created in the course of practicing veterinary medicine;

(3) Is found to be physically or psychologically addicted to alcohol or an illegal or controlled substance, as defined in section 3719.01 of the Revised Code, to such a degree as to render the person unfit to practice veterinary medicine;

(4) Directly or indirectly employs or lends the person's services to a solicitor for the purpose of obtaining patients;

(5) Obtains a fee on the assurance that an incurable disease can be cured;

(6) Advertises in a manner that violates section 4741.21 of the Revised Code;

(7) Divides fees or charges or has any arrangement to share fees or charges with any other person, except on the basis of services performed;

(8) Sells any biologic containing living, dead, or sensitized organisms or products of those organisms, except in a manner that the board by rule has prescribed;

(9) Is convicted of or pleads guilty to any felony or crime involving illegal or prescription drugs, or fails to report to the board within sixty days of the individual's conviction of, plea of guilty to, or treatment in lieu of conviction involving a felony, misdemeanor of the first degree, or offense involving illegal or prescription drugs;

(10) Is convicted of any violation of section 959.13 of the Revised Code;

(11) Swears falsely in any affidavit required to be made by the person in the course of the practice of veterinary medicine;

(12) Fails to report promptly to the proper official any known reportable disease;

(13) Fails to report promptly vaccinations or the results of tests when required to do so by law or rule;

(14) Has been adjudicated incompetent for the purpose of holding the license or permit by a court, as provided in Chapter 2111. of the Revised Code, and has not been restored to legal capacity for that purpose;

(15) Permits a person who is not a licensed veterinarian, a veterinary student, or a registered veterinary technician to engage in work or perform duties in violation of this chapter;

(16) Is guilty of gross incompetence or gross negligence;

(17) Has had a license to practice veterinary medicine or a license, registration, or certificate to engage in activities as a registered veterinary technician revoked, suspended, or acted against by disciplinary action by an agency similar to this board of another state, territory, or country or the

District of Columbia;

(18) Is or has practiced with a revoked, suspended, inactive, expired, or terminated license or registration;

(19) Represents self as a specialist unless certified as a specialist by the board;

(20) In the person's capacity as a veterinarian or registered veterinary technician makes or files a report, health certificate, vaccination certificate, or other document that the person knows is false or negligently or intentionally fails to file a report or record required by any applicable state or federal law;

(21) Fails to use reasonable care in the administration of drugs or acceptable scientific methods in the selection of those drugs or other modalities for treatment of a disease or in conduct of surgery;

(22) Makes available a dangerous drug, as defined in section 4729.01 of the Revised Code, to any person other than for the specific treatment of an animal patient;

(23) Refuses to permit a board investigator or the board's designee to inspect the person's business premises during regular business hours, except as provided in division (A) of section 4741.26 of the Revised Code;

(24) Violates any order of the board or fails to comply with a subpoena of the board;

(25) Fails to maintain medical records as required by rule of the board;

(26) Engages in cruelty to animals;

(27) Uses, prescribes, or sells any veterinary prescription drug or biologic, or prescribes any extra-label use of any over-the-counter drug or dangerous drug in the absence of a valid veterinary-client-patient relationship.

(B) Except as provided in division ~~(D)~~(E) of this section, before the board may revoke, deny, refuse to renew, or suspend a license, registration, or temporary permit or otherwise discipline the holder of a license, registration, or temporary permit, the executive director shall file written charges with the board. The board shall conduct a hearing on the charges as provided in Chapter 119. of the Revised Code.

~~(C)~~~~f~~(1) Except as otherwise provided in division (C)(2) of this section, if the board, after a hearing conducted pursuant to Chapter 119. of the Revised Code, revokes, refuses to renew, or suspends a license, registration, or temporary permit for a violation of this section, section 4741.23, division (C) or (D) of section 4741.19, or division (B), (C), or (D) of section 4741.21 of the Revised Code, the board may impose a civil penalty upon the holder of the license, permit, or registration of not less than one hundred dollars or more than one thousand dollars. ~~It~~

(2) Except as provided in division (D) of this section, the board shall impose a civil penalty for a violation of division (B)(1) of section 959.07 or division (C) of section 959.09 of the Revised Code by a licensed veterinarian as follows:

(a) One hundred dollars for a second violation of division (B)(1) of section 959.07 of the Revised Code or a first violation of division (C) of section 959.09 of the Revised Code;

(b) Five hundred dollars for any subsequent violation of division (B)(1) of section 959.07 or division (C) of section 959.09 of the Revised Code.

(3) In addition to the civil penalty and any other penalties imposed pursuant to this chapter, the board may assess any holder of a license, permit, or registration the costs of the hearing

conducted under this section if the board determines that the holder has violated any provision for which the board may impose a civil penalty under this section.

(D) For a first violation of division (B)(1) of section 959.07 of the Revised Code by a licensed veterinarian, the board shall issue a confidential written warning to the licensed veterinarian and shall not take any other disciplinary action under this section. The board shall include in the warning an explanation of the violation and the reporting requirement specified under section 959.07 of the Revised Code.

(E) The executive director may recommend that the board suspend an individual's certificate of license without a prior hearing if the executive director determines both of the following:

(1) There is clear and convincing evidence that division (A)(3), (9), (14), (22), or (26) of this section applies to the individual.

(2) The individual's continued practice presents a danger of immediate and serious harm to the public.

The executive director shall prepare written allegations for consideration by the board. The board, upon review of those allegations and by an affirmative vote of not fewer than four of its members, may suspend the certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If the individual subject to the suspension requests an adjudicatory hearing by the board, the date set for the hearing shall be not later than fifteen days, but not earlier than seven days after the individual requests the hearing unless otherwise agreed to by both the board and the individual.

A suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board under this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order not later than ninety days after completion of its hearing. Failure to issue the order within ninety days results in dissolution of the suspension order, but does not invalidate any subsequent, final adjudicative order.

~~(E)~~ (F) A license or registration issued to an individual under this chapter is automatically suspended upon that individual's conviction of or plea of guilty to or upon a judicial finding with regard to any of the following: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. The suspension shall remain in effect from the date of the conviction, plea, or finding until an adjudication is held under Chapter 119. of the Revised Code. If the board has knowledge that an automatic suspension has occurred, it shall notify the individual subject to the suspension. If the individual is notified and either fails to request an adjudication within the time periods established by Chapter 119. of the Revised Code or fails to participate in the adjudication, the board shall enter a final order permanently revoking the individual's license or registration.

Sec. 4757.36. (A) The appropriate professional standards committee of the counselor, social worker, and marriage and family therapist board may, in accordance with Chapter 119. of the Revised Code, take any action specified in division (B) of this section for any reason described in division (C) of this section against an individual who has applied for or holds a license issued under this chapter; a master's level counselor trainee, social worker trainee, or marriage and family therapist trainee; or

an individual or entity that is registered, or has applied for registration, in accordance with rules adopted under section 4757.33 of the Revised Code to provide continuing education programs approved by the board.

(B) In its imposition of sanctions against an individual or entity specified in division (A) of this section, the board may do any of the following:

- (1) Refuse to issue or refuse to renew a license or certificate of registration;
- (2) Suspend, revoke, or otherwise restrict a license or certificate of registration;
- (3) Reprimand an individual holding a license or certificate of registration;
- (4) ~~Impose~~ Except as otherwise provided in division (I) of this section, impose a fine in accordance with the graduated system of fines established by the board in rules adopted under section 4757.10 of the Revised Code;

(5) Require an individual holding a license or certificate of registration to take corrective action courses.

(C) The appropriate professional standards committee of the board may take an action specified in division (B) of this section for any of the following reasons:

- (1) Commission of an act that violates any provision of this chapter or rules adopted under it;
- (2) Knowingly making a false statement on an application for licensure or registration, or for renewal of a license or certificate of registration;
- (3) Accepting a commission or rebate for referring persons to any professionals licensed, certified, or registered by any court or board, commission, department, division, or other agency of the state, including, but not limited to, individuals practicing counseling, social work, or marriage and family therapy or practicing in fields related to counseling, social work, or marriage and family therapy;
- (4) A failure to comply with section 4757.13 of the Revised Code;
- (5) A conviction in this or any other state of a crime that is a felony in this state;
- (6) A failure to perform properly as a licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist, marriage and family therapist, social work assistant, social worker, or independent social worker due to the use of alcohol or other drugs or any other physical or mental condition;
- (7) A conviction in this state or in any other state of a misdemeanor committed in the course of practice as a licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist, marriage and family therapist, social work assistant, social worker, or independent social worker;
- (8) Practicing outside the scope of practice applicable to that person;
- (9) Practicing in violation of the supervision requirements specified under sections 4757.21 and 4757.26, and division (E) of section 4757.30, of the Revised Code;
- (10) A violation of the person's code of ethical practice adopted by rule of the board pursuant to section 4757.11 of the Revised Code;
- (11) Revocation or suspension of a license or certificate of registration, other disciplinary action against a license holder or registration, or the voluntary surrender of a license or certificate of registration in another state or jurisdiction for an offense that would be a violation of this chapter;
- (12) Commission of a second or subsequent violation of division (B)(1) of section 959.07 or

any violation of division (C) of section 959.09 of the Revised Code.

(D) A disciplinary action under division (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the appropriate professional standards committee may enter into a consent agreement with an individual or entity specified in division (A) of this section to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by the appropriate professional standards committee, constitutes the findings and order of the board with respect to the matter addressed in the agreement. If a committee refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement are of no force or effect.

(E) In any instance in which a professional standards committee of the board is required by Chapter 119. of the Revised Code to give notice of the opportunity for a hearing and the individual or entity subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the committee may adopt a final order that contains the board's findings. In that final order, the committee may order any of the sanctions identified in division (B) of this section.

(F) One year or more after the date of suspension or revocation of a license or certificate of registration under this section, application may be made to the appropriate professional standards committee for reinstatement. The committee may approve or deny an application for reinstatement. If a license has been suspended or revoked, the committee may require an examination for reinstatement.

(G) On request of the board, the attorney general shall bring and prosecute to judgment a civil action to collect any fine imposed under division (B)(4) of this section that remains unpaid.

(H) All fines collected under division (B)(4) of this section shall be deposited into the state treasury to the credit of the occupational licensing and regulatory fund.

(I) A board shall impose a fine under division (B)(4) of this section for a violation specified in division (C)(12) of this section as follows:

(1) One hundred dollars for a second violation of division (B)(1) of section 959.07 of the Revised Code or a first violation of division (C) of section 959.09 of the Revised Code;

(2) Five hundred dollars for any subsequent violation of division (B)(1) of section 959.07 or division (C) of section 959.09 of the Revised Code.

(J) Notwithstanding any provision of this section to the contrary, for a first violation of division (B)(1) of section 959.07 of the Revised Code, the board shall issue a confidential written warning and shall not take any other disciplinary action under this section. The board shall include in the warning an explanation of the violation and the reporting requirement specified under section 959.07 of the Revised Code.

Sec. 5101.93. (A) As used in this section, "social service professional" has the same meaning as in section 959.07 of the Revised Code.

(B) For a first or subsequent violation of division (B)(1) of section 959.07 of the Revised Code by a social service professional, the entity with responsibility for employment oversight of that social service professional, as applicable, shall at minimum issue a confidential written warning to the violator. The entity shall include in the warning an explanation of the violation and the reporting requirement specified in section 959.07 of the Revised Code.

SECTION 2. That existing sections 959.99, 2151.421, 4741.22, and 4757.36 of the Revised Code are hereby repealed.

SECTION 3. Section 959.99 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 60 and Sub. S.B. 331 of the 131st General Assembly. 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 composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____