

§3952-A. Keeping a dangerous dog or a nuisance dog

A person who owns or keeps a dog determined by a court of competent jurisdiction to be a dangerous dog or a nuisance dog commits a civil violation for which the court shall adjudge a fine of not less than \$250 and not more than \$5,000, plus costs, none of which may be suspended. All fines, other than costs, must be paid to the municipality where the dog resides pursuant to section 3910-A and be placed in the municipality's animal welfare account established in accordance with section 3945. [PL 2017, c. 404, §12 (NEW).]

1. Procedure. A person who is assaulted or threatened with bodily injury by a dog or a person witnessing such an assault or threatened assault against a person or domesticated animal or a person with knowledge of such an assault or threatened assault against a minor, or a person whose property or crops have been damaged by a dog, within 30 days of the incident, may make written complaint to the sheriff, local law enforcement officer or animal control officer that the dog is a dangerous dog or a nuisance dog. For the purposes of this chapter, "domesticated animal" includes, but is not limited to, livestock as defined in section 3907, subsection 18-A.

A representative of the sheriff's department, a local law enforcement officer or an animal control officer appointed by the municipality shall investigate and document the complaint. Upon completion of the investigation of the complaint, the investigator may issue a civil violation summons for keeping a dangerous dog or a nuisance dog.

All records of the outcome of the investigation must be kept by the municipality for the life of the dog, plus 2 years.

[PL 2017, c. 404, §12 (NEW).]

2. Dangerous dog finding. If, upon hearing, the court finds that a dog is a dangerous dog, the court shall impose a fine and may order any one or more of the following that the court determines is appropriate:

A. Order the dog to be euthanized if the court finds that the dog:

(1) Has killed, maimed or inflicted serious bodily injury upon a person or has a history of a prior assault or a prior finding by the court of being a dangerous dog; and

(2) Presents a clear threat to public safety; [PL 2017, c. 404, §12 (NEW).]

B. Order that the owner or keeper of the dog, if that person has previously been adjudicated of having violated this section, may not own, possess or have on that person's premises any dogs for a period of time, which may be permanent; [PL 2017, c. 404, §12 (NEW).]

C. Order the owner or keeper of the dog, if the owner or keeper is allowed to keep the dog, or any other person keeping the dog, to post dangerous dog signs, visible from all directions and provided by the department, around the entrance of the premises where the dog resides and to notify in writing any service provider that has a reasonable expectation to be on the property that the dog has been determined to be a dangerous dog. The owner or keeper is responsible for the cost of the signs; [PL 2017, c. 404, §12 (NEW).]

D. Order the dog confined in a secure enclosure. For the purposes of this paragraph, "secure enclosure" means a fence or structure of at least 6 feet in height forming or making an enclosure suitable to prevent the entry of young children and suitable to confine a dangerous dog in conjunction with other measures that may be taken by the owner or keeper. The secure enclosure must be locked, be designed with secure sides and be designed to prevent the animal from escaping from the enclosure. The enclosure may also be designed with a secure top and bottom if determined necessary by the court. The court shall specify the length of the period of confinement and may order permanent confinement; [PL 2017, c. 404, §12 (NEW).]

E. Order that the owner or keeper of a dog confined to a secure enclosure pursuant to paragraph D may not allow the dog outside of the secure enclosure unless:

- (1) It is necessary to obtain veterinary care for the dog or to comply with orders of the court; and
- (2) The dog is securely muzzled with a basket-style muzzle, restrained by a leash not more than 3 feet in length with a minimum tensile strength of 300 pounds and under the direct control of the dog owner or keeper; [PL 2017, c. 404, §12 (NEW).]

F. Order the dog to be securely muzzled with a basket-style muzzle, restrained by a leash not more than 3 feet in length with a minimum tensile strength of 300 pounds and under the direct control of the dog owner or keeper whenever the dog is off the owner's or keeper's premises; [PL 2017, c. 404, §12 (NEW).]

G. Order the dog to be spayed or neutered; [PL 2017, c. 404, §12 (NEW).]

H. Order the dog to be microchipped within 60 days of the court order; [PL 2017, c. 404, §12 (NEW).]

I. Order the owner or keeper of the dog to obtain a minimum of \$100,000 in liability insurance for the life of the dog; [PL 2017, c. 404, §12 (NEW).]

J. Order the owner or keeper of the dog to have the dog evaluated by a certified canine behaviorist or certified dog trainer and to attend dog training classes; and [PL 2017, c. 404, §12 (NEW).]

K. Order the owner or keeper of the dog to immediately notify the sheriff, a local law enforcement officer or an animal control officer if the dog escapes. [PL 2017, c. 404, §12 (NEW).]

The court may order restitution in accordance with Title 17-A, chapter 69 for any damages inflicted upon a person or a person's property by a dog determined to be a dangerous dog under this subsection. [PL 2019, c. 113, Pt. C, §2 (AMD).]

3. Nuisance dog finding. If, upon hearing, the court finds that a dog is a nuisance dog, the court shall impose a fine and may impose any of the penalties set forth in subsection 2, paragraphs F to K. A dog may be determined by a court to be a nuisance dog only once. After 2 years from the date of the court order finding that the dog is a nuisance dog, the owner or keeper may petition the court to amend or reduce any of the restrictions placed on the dog. The court may amend or reduce the restrictions placed on the dog if the owner or keeper demonstrates to the satisfaction of the court that the owner or keeper has complied with the court order and the dog no longer poses a risk as a nuisance dog. [PL 2017, c. 404, §12 (NEW).]

4. Identification and confinement of other dogs. In addition to orders imposed pursuant to subsections 2 and 3, the court may order that the owner or keeper of a dangerous dog or a nuisance dog:

A. Provide the animal control officer in the municipality where the dangerous dog or nuisance dog is kept with photographs and descriptions of other dogs kept by that owner or keeper including the sex, breed, age, identifying markings and microchip numbers of each dog; and [PL 2017, c. 404, §12 (NEW).]

B. Confine any other dogs kept on the owner's or keeper's premises as provided in subsection 2, paragraphs D and E. [PL 2017, c. 404, §12 (NEW).]
[PL 2017, c. 404, §12 (NEW).]

5. Failure to abide by court order. If the owner or keeper of a dog willfully fails to comply with any provision of a court order imposed pursuant to subsection 2, 3 or 4, the court shall find the owner or keeper in contempt.

If the court order imposed pursuant to subsection 2, paragraph A is not complied with within the time set by the court, the court may, upon application by the complainant under subsection 1 or other person,

issue a warrant to the sheriff or any of the sheriff's deputies or to a local law enforcement officer or constable in the municipality where the dog is found, commanding the officer to have the dog humanely euthanized and make a return of the warrant to the court within 14 days from the date of the warrant.

The owner or keeper must be ordered to pay all costs of supplementary proceedings and all reasonable costs for seizure and euthanasia of the dog.

[PL 2017, c. 404, §12 (NEW).]

6. Dogs presenting immediate or continuing threat to public. After issuing a summons pursuant to subsection 1 and before hearing, if the dog poses an immediate or continuing threat to the public, a sheriff, local law enforcement officer or animal control officer shall give a written order requiring the owner or keeper of the dog to muzzle with a basket-style muzzle, restrain or confine the dog to the owner's or keeper's premises or to have the dog confined at the owner's or keeper's expense at a place determined by the sheriff, local law enforcement officer or animal control officer. If an owner or keeper of a dog fails to comply with the written order, the sheriff, local law enforcement officer or animal control officer may apply to the District Court, the Superior Court or a justice of the peace for an ex parte order for authorization to take possession of the dog that poses an immediate or continuing threat to the public and turn the dog over to the applicant or other suitable person.

A dog owner or keeper who fails to abide by the written order commits a civil violation for which a fine of not less than \$50 and not more than \$200 may be adjudged for each day of noncompliance.

[PL 2017, c. 404, §12 (NEW).]

7. Ex parte. An order may be entered ex parte upon findings by the court or justice of the peace when:

A. The dog has inflicted serious bodily injury; or [PL 2017, c. 404, §12 (NEW).]

B. There is a reasonable likelihood that the dog is dangerous or vicious and:

(1) Its owner has failed to muzzle, restrain or confine the dog; and

(2) That failure poses an immediate threat of harm to the public. [PL 2017, c. 404, §12 (NEW).]

[PL 2017, c. 404, §12 (NEW).]

8. Modify order. An order under subsection 7 may be modified by the court.

A. Upon 2 days' notice or a shorter period the court may prescribe, the owner or keeper whose dog has been possessed pursuant to an ex parte order may appear in the District Court or the Superior Court and move for the dissolution or modification of the ex parte order. [PL 2017, c. 404, §12 (NEW).]

B. The court shall hear and determine the motion, and the hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. [PL 2017, c. 404, §12 (NEW).]

C. The owner or keeper shall submit an affidavit setting forth specific facts to substantiate the modification or dissolution of the order. The applicant has the burden of presenting evidence to substantiate the original findings. [PL 2017, c. 404, §12 (NEW).]

[PL 2017, c. 404, §12 (NEW).]

9. Lien. Any person taking possession of a dog as provided in this section has a lien on that dog in accordance with Title 17, section 1021, subsection 6.

[PL 2017, c. 404, §12 (NEW).]

10. Treble damages. If a dog whose owner or keeper refuses or neglects to comply with an order under this section wounds any person by a sudden assault or wounds or kills any domesticated animal,

the owner or keeper shall pay the person injured treble damages and costs to be recovered by a civil action.

[PL 2017, c. 404, §12 (NEW).]

11. Class D crime. If the owner or keeper of a dog refuses or neglects to comply with an order issued under subsection 2, 3, 4 or 7, the owner or keeper commits a Class D crime. The court, as part of the judgment, may prohibit a person convicted under this subsection from owning or possessing a dog or having a dog on that person's premises for a period of time. The prohibition may be permanent. [PL 2017, c. 404, §12 (NEW).]

12. Duty of owner or keeper to notify. The owner or keeper of a dog determined by a court of competent jurisdiction to be a dangerous dog or a nuisance dog shall notify the municipality in which the dog resides in writing and within 30 days if ownership of the dog is transferred, the residence of the dog is changed or the dog is deceased.

[PL 2017, c. 404, §12 (NEW).]

SECTION HISTORY

PL 2017, c. 404, §12 (NEW). PL 2019, c. 113, Pt. C, §2 (AMD).

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