

ASSEMBLY AGRICULTURE COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

[First Reprint]

ASSEMBLY, No. 2401

STATE OF NEW JERSEY

DATED: JUNE 22, 2021

The Assembly Agriculture Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2401 (1R).

This committee substitute, to be known as the “Responsible Dog Ownership Act,” provides for the protection of the public, especially children, from unrestrained dogs. It requires the establishment of leashing and fencing requirements to be implemented by municipalities throughout the State; amends the State vicious dog law to clarify enforcement of that law in conjunction with the provisions of the substitute; and establishes new criminal offenses involving dog attacks and criminal liability for owners of the dogs involved.

Specifically, the committee substitute requires the Department of Health (DOH) to adopt, within 180 days after the date of enactment and after consulting with the New Jersey Certified Animal Control Officers Association, the League of Municipalities, and the New Jersey Veterinary Medical Association, rules and regulations establishing:

(1) standards for leashing, restraining, and otherwise restricting the free movement of a dog when it is off the property of its owner;

(2) standards and requirements for fencing when fencing of a dog may be required pursuant to section 6 of the bill, including (a) the appropriate height, dimensions, and other requirements for an enclosed fenced area to properly protect the public and ensure the well-being of the dog, and (b) exemptions or fencing compliance options for residents of condominiums, townhouses, and apartments and other rental properties;

(3) circumstances warranting exemption from the leashing requirement established in section 6 of the bill, including, but not limited to, exercising dogs in dog parks; and

(4) any other requirements for the control and regulation of the free movement of dogs of all sizes, which are determined by the DOH to be appropriate, reasonable, and necessary for public safety.

The committee substitute further directs the DOH to develop and adopt municipal model ordinances providing for the standards and requirements established in the rules and regulations, and requires each municipality in the State to adopt a responsible dog ownership

ordinance, resolution, or regulation that, at a minimum, incorporates the DOH standards and requirements and provides for their enforcement. The municipality is required to establish a separate dedicated fund for the sole purpose of enforcement and to deposit in that fund any penalties from violations of the bill's provisions and any money allocated from dog licenses for this purpose.

In section 5, the committee substitute requires that whenever a dog is off the property of the dog's owner, the dog must be on a leash or controlled with another appropriate restraint, except under circumstances that the DOH exempts by regulation. Furthermore, the substitute provides that:

(1) If a dog is found off the property of the dog's owner without a leash or other appropriate restraint and attacks a person without causing bodily injury to the person, the owner of the dog would be issued a warning notice that fencing requirements may be imposed to control the dog if the dog is found off the property of the dog's owner without a leash or other appropriate restraint; and

(2) Upon the third occurrence, the owner would be ordered to comply with the fencing requirements established in DOH rules and regulations or by municipal ordinance, resolution, or regulation.

The municipality is required to issue an order to the owner of the dog with a schedule for compliance with the fencing requirements with required specifications for the fencing to be installed. If the owner does not comply in a timely manner, the dog's registration would be revoked and the owner would be fined.

The committee substitute provides that the municipality will not order compliance with fencing requirements and, instead, impose fines established in the bill when:

(1) the owner of the dog is a resident of a condominium, townhouse, apartment, or other rental property or otherwise exempt from fencing requirements established by rules and regulations or by municipal ordinance, resolution, or regulation; or

(2) a person intentionally has the dog off the property of the dog's owner, the dog is off leash or unrestrained, and the dog attacks a person without causing bodily injury, including, but not limited to, when (a) the dog is being walked in locations off the dog owner's property, (b) the dog is in a park or other public open space, or (c) the dog is taken to the property of another person other than the owner of the dog and is found off the property.

An owner found by clear and convincing evidence to have violated:

(1) a municipal order issued concerning fencing would be subject to a fine of not less than \$250 nor more than \$750 per day of the violation, and each day's continuance of the violation would constitute a separate and distinct violation; and

(2) an ordinance, resolution, or regulation concerning the leashing or other restraint of a dog would be subject to a fine of \$250 for the

first violation, \$500 for the second violation, and \$750 for the third and subsequent violations.

The fines would be paid to the municipality in which the violation occurred and deposited in the dedicated fund for enforcement of the law.

The committee substitute specifies that the provisions of subsections b., c., and d. of section 5 would not apply whenever a dog kills a person, causes serious bodily injury to a person, or causes bodily injury to a person and poses a serious threat of serious bodily injury or death to a person or another domestic animal. Under those circumstances, the applicable provisions of the State vicious dog law, P.L.1989, c.307 (C.4:19-17 et seq.), N.J.S.2C:11-2, N.J.S.2C:12-1, N.J.S.2C:24-4, and sections 6 and 7 of the committee substitute would apply.

The substitute requires that whenever a person registers or licenses a dog with a municipality, that the municipality is required to provide the person with a copy of the leashing requirements in effect in the municipality, and notice of the crimes concerning dog attacks and the owner's criminal liability established in State law under the committee substitute, and the provisions of any ordinance, resolution, or regulation concerning the free movement of dogs in the municipality.

The committee substitute also establishes criminal liability for the owner of a dog whose dog causes any injury or death when the dog is not leashed or restrained in a residential neighborhood, park, or other open space accessible to the public, or if the owner of the dog fails to comply with court-imposed requirements pursuant to the State vicious dog law. Any fines collected from a criminal conviction would be deposited in the dedicated fund for enforcement of the municipality in which the injury or death occurred.

In addition to any provisions of the State vicious dog law that may apply, the committee substitute establishes, new criminal offenses: death caused as a result of injuries sustained from a dog attack; assault involving a dog; aggravated assault involving a dog; and endangerment of a child by a dog. Any fines collected from a criminal conviction for these offenses would be deposited in the dedicated fund for enforcement of the municipality in which the injury or death occurred.

The substitute establishes the crime of death caused as a result of injuries sustained from a dog attack as criminal homicide when: (1) a person purposely, knowingly, or recklessly allows a dog off leash or fails to restrain a dog in a residential neighborhood, park, or other open space accessible to the public; and (2) the dog kills a person in an unprovoked attack. Death caused as a result of injuries sustained from a dog attack is a crime of the second degree.

The substitute establishes that the owner of a dog is guilty of assault as a crime of the fourth degree, if the owner purposely, knowingly, or recklessly allows the owner's dog off leash or fails to

restrain the dog in a residential neighborhood, park, or other open space accessible to the public, or fails to comply with court-imposed requirements pursuant to the State vicious dog law, and the dog inflicts any bodily injury, other than serious bodily injury, upon a person.

The substitute establishes that the owner of a dog is guilty of aggravated assault as a crime of the third degree, if the owner purposely, knowingly, or recklessly allows the owner's dog off leash or fails to restrain the dog in a residential neighborhood, park, or other open space accessible to the public, or fails to comply with court-imposed requirements pursuant to the State vicious dog law, and the dog inflicts serious bodily injury upon a person.

The offenses involving the endangerment of a child are as follows:

(1) Any person who purposely, knowingly, or recklessly allows a dog off leash or fails to restrain the dog in a residential neighborhood, park, or other open space accessible to the public in which a child may be present is guilty of a crime of the second degree if the dog kills a child while off-leash or unrestrained;

(2) If the dog inflicts serious bodily injury upon a child, the person is guilty of a crime of the third degree;

(3) If the dog inflicts any other bodily injury upon a child, the person is guilty of a crime of the fourth degree; and

(4) If the dog is discovered off leash or unrestrained, attacks a child, and does not inflict any bodily injury upon a child, the person is guilty of a disorderly persons offense.

A crime of the second degree is ordinarily punishable by a term of imprisonment of five to ten years or a fine of up to \$150,000, or both.

A crime of the third degree is ordinarily punishable by a term of imprisonment of three to five years or a fine of up to \$15,000, or both, but a first offense carries a presumption of nonimprisonment. A crime of the fourth degree is ordinarily punishable by a term of imprisonment of up to 18 months or a fine of up to \$10,000, or both. A disorderly persons offense is ordinarily punishable by a term of imprisonment of up to six months or a fine of up to \$1,000, or both.

The committee substitute provides that these criminal offenses would not apply to the owner of the dog if: (1) the dog was provoked; (2) the dog was defending itself, its offspring, or its owner from injury or an attack; and (3) if the dog was defending its owner, the owner of the dog was not engaged in the commission of a criminal offense.

Finally, the committee substitute amends the State vicious dog law to provide for special licensure and dog control of dogs declared vicious that are not euthanized by the municipality. The substitute also amends that law to require liability insurance for owners of potentially dangerous dogs and vicious dogs. Current law is permissive about requiring the insurance and the insurance provision currently only refers to potentially dangerous dogs.