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Chapter 727: DANGEROUS DOGS

§3952. Keeping a dangerous dog

A person who owns or keeps a dangerous dog commits a civil violation for which the court shall adjudge a fine of not less than \$250 and not more than \$1,000, plus costs, none of which may be suspended. [2003, c. 71, §1 (AMD).]

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

Upon investigation of the complaint, the sheriff, local law enforcement officer or animal control officer may issue a civil violation summons for keeping a dangerous dog.

If, upon hearing, the court finds that the dog is a dangerous dog as defined in section 3907, subsection 12-D, the court shall impose a fine and shall:

A. Order the dog confined in a secure enclosure except as provided in paragraph C or subsection 8. 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, such as tethering the dangerous dog. The secure enclosure must be locked, be designed with secure top, bottom and sides and be designed to prevent the animal from escaping from the enclosure. The court shall specify the length of the period of confinement and may order permanent confinement; [2011, c. 82, §1 (AMD).]

B. Order the dog to be euthanized if it 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; or [2011, c. 82, §1 (AMD).]

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may order that the owner or keeper of a dangerous dog:

- A. Provide the animal control officer in the municipality where the dangerous dog is kept with photographs and descriptions of dogs kept by that owner or keeper including the sex, breed, age and identifying markings of each dog; [2007, c. 170, §2 (NEW).]
- B. Have dogs kept by that owner or keeper permanently identified by tattooing, microchip placement or other means directed by the court; or [2007, c. 170, §2 (NEW).]
- C. Confine other dogs kept on the owner's or keeper's premises as provided in subsection 1, paragraph A and subsection 8. [2007, c. 170, §2 (NEW).]

[2007, c. 170, §2 (NEW) .]

2. Failure to abide by court order. If the court order in subsection 1, paragraph B, is not complied with within the time set by the court, the court may, upon application by the complainant or other person, issue a warrant to the county sheriff or any of the sheriff's deputies or to a police officer or constable in the municipality where the dog is found, commanding the officer to kill the dog immediately 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.

[1999, c. 350, §2 (AMD) .]

3. Dogs presenting immediate threat to public. After issuing a summons 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 order the owner or keeper of the dog to muzzle, restrain or confine the dog to the owner's premises or to have the dog confined at the owner's expense at a place determined by the sheriff, local law enforcement officer or animal control officer. If the owner or keeper fails to comply, the sheriff, local law enforcement officer or animal control officer may apply to District Court, 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.

[1999, c. 350, §2 (AMD) .]

4. Court action; ex parte.

[1999, c. 350, §2 (RP) .]

4-A. 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 a serious bodily injury as defined in Title 17-A, section 2, subsection 23; or [1999, c. 350, §2 (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. [1999, c. 350, §2 (NEW).]

[1999, c. 350, §2 (NEW) .]

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C. The owner 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. [1999, c. 350, §2 (NEW).]

[2011, c. 559, Pt. A, §4 (AMD) .]

5. 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.

[1999, c. 350, §2 (AMD) .]

6. Treble damages. If a dog whose owner or keeper refuses or neglects to comply with the order wounds any person by a sudden assault or wounds or kills any domestic animal, the owner or keeper shall pay the person injured treble damages and costs to be recovered by a civil action.

[1999, c. 350, §2 (AMD) .]

7. Class D crime. If the owner refuses or neglects to comply with an order issued under subsection 1, 1-A or 4-A, the owner 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.

[2007, c. 170, §3 (AMD) .]

8. Restriction of movement outside of a secure enclosure. An owner or keeper of a dog confined to a secure enclosure by a court under subsection 1, paragraph A or subsection 1-A, paragraph C may not allow the dog outside of the secure enclosure unless:

A. It is necessary to obtain veterinary care for the dog or to comply with orders of the court; and [2007, c. 170, §4 (NEW).]

B. The dog is securely muzzled, restrained by a tether not more than 3 feet in length with a minimum tensile strength of 300 pounds and under the direct control of the dog's owner or keeper. [2007, c. 170, §4 (NEW).]

[2011, c. 82, §2 (AMD) .]

SECTION HISTORY

1987, c. 383, §3 (NEW). 1987, c. 736, §6 (AMD). 1989, c. 212, (AMD). 1997, c. 690, §§35,36 (AMD). 1999, c. 350, §2 (AMD). 2001, c. 399, §5 (AMD). 2003, c. 71, §1 (AMD). 2007, c. 170, §§1-4 (AMD). 2007, c. 702, §9 (AMD). RR 2009, c. 1, §9 (COR). 2011, c. 82, §§1, 2 (AMD). 2011, c. 559, Pt. A, §4 (AMD).

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If you need legal advice, please consult a qualified attorney.

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