

HOUSE BILL NO. 6318

November 05, 2020, Introduced by Rep. Huizenga and referred to the Committee on Judiciary.

A bill to amend 1988 PA 426, entitled

"An act to regulate dangerous animals; to provide for the confinement, tattooing, or destruction of dangerous animals; and to provide penalties for the owners or keepers of dangerous animals that attack human beings,"

by amending the title and sections 1, 2, and 3 (MCL 287.321, 287.322, and 287.323) and by adding sections 4, 5, 6, 7, and 8.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 TITLE
- 2 An act to regulate dangerous ~~animals;~~ **dogs and vicious dogs;**
- 3 to provide for the confinement, ~~tattooing,~~ **tracking,** or destruction

1 of dangerous ~~animals;~~ **dogs and vicious dogs**; and to provide
2 penalties for the owners ~~or keepers~~ of dangerous ~~animals that~~
3 ~~attack human beings.~~ **dogs and vicious dogs in certain situations.**

4 Sec. 1. As used in this act:

5 ~~(a) "Dangerous animal" means a dog or other animal that bites~~
6 ~~or attacks a person, or a dog that bites or attacks and causes~~
7 ~~serious injury or death to another dog while the other dog is on~~
8 ~~the property or under the control of its owner. However, a~~
9 ~~dangerous animal does not include any of the following:~~

10 ~~(i) An animal that bites or attacks a person who is knowingly~~
11 ~~trespassing on the property of the animal's owner.~~

12 ~~(ii) An animal that bites or attacks a person who provokes or~~
13 ~~torments the animal.~~

14 ~~(iii) An animal that is responding in a manner that an ordinary~~
15 ~~and reasonable person would conclude was designed to protect a~~
16 ~~person if that person is engaged in a lawful activity or is the~~
17 ~~subject of an assault.~~

18 ~~(iv) Livestock.~~

19 (a) "Animal control department" means an animal control
20 shelter as that term is defined in section 1 of 1969 PA 287, MCL
21 287.331.

22 (b) "Bite" means to seize an individual or animal by the use
23 of teeth or jaws so that the individual or animal seized is wounded
24 or pierced. Bite includes an act that results in the contact of
25 saliva with any break or abrasion of the skin.

26 (c) "Companion animal" means an animal that is commonly
27 considered to be, or is considered by the owner to be, a pet.
28 Companion animal includes, but is not limited to, dogs, cats, and
29 equines.

(d) "Dangerous dog" means 1 or both of the following:

(i) A dog that behaves in a manner that an ordinary and reasonable person would conclude poses a serious and unjustified imminent threat of serious physical injury to or the death of an individual, companion animal, or livestock while on property that is not the property of the dog's owner. A dog is not a dangerous dog if it is muzzled, on a leash, or attended by the owner.

(ii) A dog that, without justification, bites an individual and does not cause serious physical injury to that individual.

(e) "Dog" means an animal of the subspecies *Canis lupus familiaris*.

(f) "Domestic animal" means a dog, cat, poultry, livestock, or other animal that is kept, bred, bought, sold, or considered by the owner to be a pet.

(g) "Enclosure" means a secured area of fencing, or a structure, that has sides of at least 6 feet in height, a top, and a bottom, and is suitable to prevent the entry of young children and the escape of the animal. An enclosure may be a room within a residence. An owner may tether an animal within the enclosure.

(h) "Impounded" means taken into the custody of the animal control department of the local unit of government where the dog is found.

(i) "Justification" or "justified" as applied to a bite or attack, means the bite or attack occurred in 1 or more of the following circumstances:

(i) The dog bites or attacks an individual who is knowingly trespassing on the property of the dog's owner.

(ii) The dog bites or attacks an individual who provokes or torments the dog or its offspring.

(iii) The dog's bite or attack is a response that an ordinary and reasonable person would conclude was made to protect an individual if that individual is engaged in a lawful activity or is the subject of an assault.

(iv) The dog is owned by a branch of the United States Armed Forces, correctional facility, or police department, and the dog was performing its duties as expected.

(v) The dog is working as a hunting dog, herding dog, or predator control dog on the owner's real property or under the control of its owner, and the injury or damage was to a species or type of domestic animal that is appropriate to the work of the dog.

(j) ~~(b)~~—"Livestock" means ~~animals~~**an animal** used for human food and fiber or ~~animals~~**an animal** used for service to ~~human beings~~**humans**. Livestock includes, but is not limited to, cattle, swine, sheep, llamas, goats, bison, equine, poultry, and rabbits. Livestock does not include **companion** animals. ~~that are human companions, such as dogs and cats.~~

(k) ~~(c)~~—"Owner" means a person ~~who~~**that** owns or harbors a dog or other animal.

(l) "Physical injury" means the impairment of a physical condition.

(m) ~~(d)~~—"Provoke" means to perform a willful act or omission that an ordinary and reasonable person would conclude is likely to precipitate ~~the~~**a** bite or attack by ~~an ordinary~~**a** dog. ~~or animal.~~

(n) ~~(e)~~—"Serious **physical** injury" means permanent, serious disfigurement, serious impairment of health **that creates a substantial risk of death or causes death**, or serious impairment of a bodily function of ~~a person~~**an individual**.

(o) ~~(f)~~—"Torment" means an act or omission that causes

1 unjustifiable pain, suffering, and distress to an animal, or causes
2 mental and emotional anguish in the animal as evidenced by its
3 altered behavior, for a purpose, such as sadistic pleasure,
4 coercion, or punishment, that an ordinary and reasonable person
5 would conclude is likely to precipitate ~~the~~ a bite or attack.

6 (p) "Vicious dog" means a dog that, without justification,
7 attacks an individual and causes serious physical injury to or the
8 death of that individual, or attacks and causes the death of
9 another dog.

10 Sec. 2. (1) Upon a sworn complaint by an animal control
11 officer, law enforcement officer, or adult individual, with
12 personal knowledge of an incident, alleging that ~~an animal~~ a dog is
13 a ~~dangerous animal~~ vicious dog and that the ~~animal~~ dog has caused
14 serious physical injury to or the death ~~to a person or has caused~~
15 ~~serious injury or death to a dog, of an individual, or has caused~~
16 the death of another dog, a district court ~~magistrate, district~~
17 ~~court, or a municipal court shall~~ may issue a summons to the owner
18 ordering ~~him or her~~ the owner to appear to show cause why the
19 ~~animal dog~~ should not be ~~destroyed~~. found to be a vicious dog. If a
20 complaint is made under this subsection, the animal control officer
21 or law enforcement officer shall give notice of the conduct that is
22 the basis of the complaint to the owner, conduct a thorough
23 investigation, interview the owner and witnesses, gather medical
24 and veterinary records, and submit to the district court or
25 municipal court a detailed report with the sworn complaint. The
26 animal control department shall determine where the dog will be
27 confined during the pendency of the case.

28 ~~(2) Upon the filing of a sworn complaint as provided in~~
29 ~~subsection (1), the court or magistrate shall order the owner to~~

~~1 immediately turn the animal over to a proper animal control
2 authority, an incorporated humane society, a licensed veterinarian,
3 or a boarding kennel, at the owner's option, to be retained by them
4 until a hearing is held and a decision is made for the disposition
5 of the animal. The owner shall notify the person who retains the
6 animal under this section of the complaint and order. The expense
7 of the boarding and retention of the animal is to be borne by the
8 owner. The animal shall not be returned to the owner until it has a
9 current rabies vaccination and a license as required by law.~~

10 **(2) Upon the filing of a complaint under subsection (1), the**
11 **district court or municipal court shall conduct a hearing. An**
12 **animal control officer, law enforcement officer, or adult**
13 **individual who files the complaint under subsection (1) has the**
14 **burden of proving by clear and convincing evidence that the dog**
15 **that is the subject of the complaint is a vicious dog. The district**
16 **court or municipal court may consider the opinion of a board-**
17 **certified veterinary behaviorist, or other expert, in determining**
18 **if the dog's behavior was justified. If the district court or**
19 **municipal court finds the evidence establishes that the conduct of**
20 **the dog was justified, the district court or municipal court shall**
21 **not find that the dog is a vicious dog. If the district court or**
22 **municipal court finds the evidence establishes that the dog is a**
23 **vicious dog under this act, the district court or municipal court**
24 **shall declare the dog to be a vicious dog.**

25 **(3) After a hearing under subsection (2),** ~~the magistrate or if~~
26 **a district court or municipal court shall order the destruction of**
27 ~~the animal, at the expense of the owner, if the animal is found to~~
28 ~~be a dangerous animal that caused serious injury or death to a~~
29 ~~person or a dog. After a hearing, the court may order the~~

~~destruction of the animal, at the expense of the owner, if the court finds that the animal is a dangerous animal that did not cause serious injury or death to a person but is likely in the future to cause serious injury or death to a person or in the past has been adjudicated a dangerous animal.~~ finds that a dog is a vicious dog, the district court or municipal court may order that the dog be euthanized. If the district court or municipal court does not order that the dog be euthanized, the owner shall do all of the following:

(a) If the dog is not already implanted with a microchip, implant the dog with a microchip and provide the microchip number to the animal control department of the local unit of government where the owner resides.

(b) If the dog is not already spayed or neutered, within 15 days after the district court's or municipal court's finding that the dog is a vicious dog, have the dog spayed or neutered at the owner's expense.

(c) Maintain the dog at all times in an enclosure that is approved by the animal control department of the local unit of government where the owner resides before the dog's release to the owner, except as follows:

(i) If it is necessary for the owner to obtain veterinary care for the dog.

(ii) If an emergency or natural disaster threatens the dog's life.

(iii) To comply with a court order, if the dog is securely muzzled and restrained with a leash not exceeding 6 feet in length, is under the direct control and supervision of the owner, or is muzzled in the owner's residence.

1 (d) Except as allowed under this subdivision, maintain
2 ownership of the dog. The owner shall not sell or give away the dog
3 without obtaining a court order approving the transfer of
4 ownership.

5 (e) Provide a current address to the animal control department
6 of the local unit of government where the owner resides. If the
7 owner relocates, the owner shall provide notice of the relocation
8 to the animal control department of the local unit of government
9 where the owner has relocated and where the owner formerly resided.

10 ~~(4) If the court or magistrate finds that an animal is a~~
11 ~~dangerous animal but has not caused serious injury or death to a~~
12 ~~person, the court or magistrate shall notify the animal control~~
13 ~~authority for the county in which the complaint was filed of the~~
14 ~~finding of the court, the name of the owner of the dangerous~~
15 ~~animal, and the address at which the animal was kept at the time of~~
16 ~~the finding of the court. In addition, the court or magistrate~~
17 ~~shall order the owner of that animal to do 1 or more of the~~
18 ~~following:~~

19 ~~(a) If the animal that has been found to be a dangerous animal~~
20 ~~is of the canis familiaris species, have an identification number~~
21 ~~tattooed upon the animal, at the owner's expense, by or under the~~
22 ~~supervision of a licensed veterinarian. The identification number~~
23 ~~shall be assigned to the animal by the Michigan department of~~
24 ~~agriculture and shall be noted in its records pursuant to Act No.~~
25 ~~309 of the Public Acts of 1939, being sections 287.301 to 287.308~~
26 ~~of the Michigan Compiled Laws. The identification number shall be~~
27 ~~tattooed on the upper inner left rear thigh of the animal by means~~
28 ~~of indelible or permanent ink.~~

29 ~~(b) Take specific steps, such as escape proof fencing or~~

1 ~~enclosure, including a top or roof, to ensure that the animal~~
2 ~~cannot escape or nonauthorized individuals cannot enter the~~
3 ~~premises.~~

4 ~~(c) Have the animal sterilized.~~

5 ~~(d) Obtain and maintain liability insurance coverage~~
6 ~~sufficient to protect the public from any damage or harm caused by~~
7 ~~the animal.~~

8 ~~(e) Take any other action appropriate to protect the public.~~

9 (4) If the owner of a dog found to be a vicious dog under
10 subsection (2) fails to comply with subsection (3), the animal
11 control department of the local unit of government shall impound
12 the dog and the owner shall pay a \$500.00 fine plus any impoundment
13 fees to the animal control department.

14 (5) The owner of a dog impounded under subsection (4) may
15 appeal the impoundment. If the impoundment ordered under subsection
16 (4) is not appealed within 21 days, the district court or municipal
17 court may order the dog to be euthanized. Upon filing a notice of
18 appeal, the order of euthanasia is automatically stayed pending the
19 outcome of the appeal. The owner shall provide timely written
20 notice of the appeal to the animal control department.

21 (6) An animal control department shall maintain a list of dogs
22 within its jurisdiction that have been declared vicious dogs.

23 (7) If the animal control department has custody of a dog
24 during the pendency of a case under this section, the animal
25 control department may file a petition with the district court or
26 municipal court requesting an order that the owner post security
27 for the dog. The security must be sufficient to secure payment of
28 all reasonable expenses expected to be incurred by the animal
29 control department in caring and providing for the dog pending a

determination in the case. Reasonable expenses include, but are not limited to, the estimated medical care and boarding of the dog for 30 days. If security is posted in accordance with this subsection, the animal control department may draw funds to cover the actual costs incurred by the animal control department in caring for the dog. Upon receipt of a petition filed by the animal control department, the district court or municipal court shall schedule a hearing on the petition, to be conducted within 5 business days after the petition is filed. The petitioner shall serve the owner of the dog a true copy of the petition.

(8) If the court orders the posting of security under subsection (7), the security must be posted with the clerk of the district court or municipal court within 5 business days after the conclusion of the hearing. If the owner is ordered to post security and fails to do so, the dog is forfeited by operation of law, and the animal control department must transfer the dog through adoption or another measure, or ensure that the dog is humanely euthanized.

Sec. 3. (1) ~~The owner of an animal that meets the definition of a dangerous animal in section 1(a) that causes the death of a~~ **A person that violates section 4(4) is guilty of involuntary manslaughter, punishable under section 321 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.321 of the Michigan Compiled Laws, a misdemeanor punishable by 1 or more of the following:**

(a) Imprisonment for not more than 90 days.

(b) A fine of not less than \$1,000.00.

(c) Not less than 100 hours of community service.

(2) ~~If an animal that meets the definition of a dangerous~~

~~animal in section 1(a) attacks a~~ **A** ~~person and causes serious injury~~
~~other than death, the owner of the animal~~ **that violates section**
2(3) ~~is guilty of a felony ,punishable by imprisonment~~ **1 or more**
of the following:

(a) Imprisonment for not more than 4 years. ~~,a~~

(b) A fine of not less than \$2,000.00. ~~,or community service~~
~~work for not~~

(c) Not less than 500 hours ~~,or any combination of these~~
~~penalties.of community service.~~

~~(3) If an animal previously adjudicated to be a dangerous~~
~~animal attacks or bites a person and causes an injury that is not a~~
~~serious injury, the owner of the animal is guilty of a misdemeanor,~~
~~punishable by imprisonment for not more than 90 days, a fine of not~~
~~less than \$250.00 nor more than \$500.00, or community service work~~
~~for not less than 240 hours, or any combination of these penalties.~~

~~(4) If the owner of an animal that is previously adjudicated~~
~~to be a dangerous animal allows the animal to run at large, the~~
~~owner is guilty of a misdemeanor, punishable by imprisonment for~~
~~not more than 90 days, a fine of not less than \$250.00 nor more~~
~~than \$500.00, or community service work for not less than 240~~
~~hours, or any combination of these penalties.~~

~~(5) The court may order a person convicted under this section~~
~~to pay the costs of the prosecution.~~

Sec. 4. (1) Within 10 business days after an animal control
department receives notice of an alleged dangerous dog under this
act and after a thorough investigation, the animal control
department shall send notice of the allegation and the
investigation to the owner of the dog and allow the owner an
opportunity to meet with the director of the animal control

1 department.

2 (2) After the meeting described in subsection (1), or if a
3 meeting described in subsection (1) is refused by the owner, the
4 animal control department may continue the investigation. If the
5 animal control department continues the investigation, the animal
6 control department shall gather medical evidence, interview
7 witnesses, and create a detailed report before the animal control
8 department files a sworn complaint with the district court or
9 municipal court requesting that the district court or municipal
10 court find the dog to be a dangerous dog.

11 (3) Upon the filing of a complaint under subsection (2), the
12 district court or municipal court shall conduct a hearing. The
13 animal control department that files the complaint has the burden
14 of proving by a preponderance of the evidence that the dog that is
15 the subject of the complaint is a dangerous dog. If the district
16 court or municipal court finds that the evidence establishes that
17 the conduct of the dog was justified, the district court or
18 municipal court shall not find that the dog is a dangerous dog. If
19 the district court or municipal court finds the evidence
20 establishes that the dog is a dangerous dog under this act, the
21 district court or municipal court shall find that the dog is a
22 dangerous dog.

23 (4) After a hearing under subsection (3), if the district
24 court or municipal court finds that the dog is a dangerous dog, the
25 owner shall do all of the following:

26 (a) If the dog is not already implanted with a microchip,
27 implant the dog with a microchip.

28 (b) If the dog is not already spayed or neutered, within 15
29 days after the district court's or municipal court's finding that

1 the dog is a dangerous dog, have the dog spayed or neutered at the
2 owner's expense.

3 (c) If the district court or municipal court determines that
4 the protection of the public requires the dog to undergo a behavior
5 evaluation, obtain that evaluation from a certified applied
6 behaviorist, a board-certified veterinary behaviorist, or another
7 recognized expert in the field of animal behavior and complete any
8 recommendations provided by that expert. The owner of the dog is
9 responsible for the cost of the evaluation and the completion of
10 expert recommendations as required under this subdivision.

11 (d) If the district court or municipal court determines that
12 the protection of the public requires the dog to be supervised,
13 maintain the dog under the direct supervision of an adult when the
14 dog is on public property.

15 (e) If the district court or municipal court determines that
16 the protection of the public requires the dog to be restrained,
17 maintain the dog in a muzzle that will prevent the dog from biting
18 an individual or animal when the dog is on public property. The
19 muzzle must not injure the dog or interfere with the dog's vision
20 or respiration.

21 (5) If the owner fails to comply with the requirements of this
22 section, an animal control department has the right to impound a
23 dog that has been found to be a dangerous dog under subsection (3).

24 (6) The owner of a dog found to be a dangerous dog under
25 subsection (3) may petition the district court or municipal court
26 to reverse the finding.

27 Sec. 5. A person shall not knowingly or recklessly permit a
28 dog found to be a dangerous dog under section 4 to leave the
29 premises of its owner when the dog is not on a leash or controlled

1 by another recognized control method.

2 Sec. 6. The owner of a dog that, without justification,
3 attacks an individual who is peaceably conducting himself or
4 herself in any place where he or she may lawfully be is liable in a
5 civil action for the damages caused by the attack to the individual
6 injured by the animal.

7 Sec. 7. The governing body of a local unit of government may
8 enact an ordinance or code that restricts or places additional
9 requirements on the owners of dogs provided that the ordinance or
10 code does not regulate a dog based on breed, perceived breed, or
11 type.

12 Sec. 8. If a dog attacks an individual after the dog has been
13 found to be a vicious dog under section 2 or a dangerous dog under
14 section 4, the owner of the dog shall surrender the dog to the
15 appropriate animal control department to be humanely euthanized.