



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB0638

by Rep. John M. Cabello

SYNOPSIS AS INTRODUCED:

510 ILCS 5/15
510 ILCS 5/15.1

from Ch. 8, par. 365

Amends the Animal Control Act. Provides that if the Administrator, State's Attorney, or Director has investigated and determined that there exists probable cause to believe that a dog is a vicious dog, that official may file a complaint in the circuit court in the name of the People of the State of Illinois to deem a dog to be a vicious dog. Deletes language providing that a citizen of the county in which the dog exists may file a complaint to commence a hearing to deem a dog to be a vicious dog. Provides that the changes to this Section are only effective to causes of actions accruing on or after the effective date of the bill. Provides that after a thorough investigation including: sending, within 10 business days of the Administrator or Director becoming aware of the alleged infraction, notifications to the owner of the alleged infractions, the fact of the initiation of an investigation, and affording the owner an opportunity to meet with the Administrator or Director prior to the making of a determination; gathering of any medical or veterinary evidence; interviewing witnesses; and making a detailed written report, an animal control warden, deputy administrator, or law enforcement agent may, after determining that there exists probable cause to believe that a dog is a dangerous dog, ask the Administrator, or his or her designee, or the Director, to deem a dog to be "dangerous". Effective immediately.

LRB100 05615 SLF 15629 b

1 AN ACT concerning animals.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Animal Control Act is amended by changing
5 Sections 15 and 15.1 as follows:

6 (510 ILCS 5/15) (from Ch. 8, par. 365)

7 Sec. 15. (a) In order to have a dog deemed "vicious", the
8 Administrator, Deputy Administrator, or law enforcement
9 officer must give notice of the infraction that is the basis of
10 the investigation to the owner, conduct a thorough
11 investigation, interview any witnesses, including the owner,
12 gather any existing medical records, veterinary medical
13 records or behavioral evidence, and make a detailed report
14 recommending a finding that the dog is a vicious dog and give
15 the report to the State's Attorney's Office and the owner. If
16 the ~~The~~ Administrator, State's Attorney, or Director has
17 investigated and determined that there exists probable cause to
18 believe that a dog is a vicious dog, that official ~~or any~~
19 ~~citizen of the county in which the dog exists~~ may file a
20 complaint in the circuit court of the county in which the dog
21 exists in the name of the People of the State of Illinois to
22 deem a dog to be a vicious dog. Testimony of a certified
23 applied behaviorist, a board certified veterinary behaviorist,

1 or another recognized expert may be relevant to the court's
2 determination of whether the dog's behavior was justified. The
3 petitioner must prove the dog is a vicious dog by clear and
4 convincing evidence. The Administrator shall determine where
5 the animal shall be confined during the pendency of the case.

6 A dog may not be declared vicious if the court determines
7 the conduct of the dog was justified because:

8 (1) the threat, injury, or death was sustained by a
9 person who at the time was committing a crime or offense
10 upon the owner or custodian of the dog, or was committing a
11 willful trespass or other tort upon the premises or
12 property owned or occupied by the owner of the animal;

13 (2) the injured, threatened, or killed person was
14 abusing, assaulting, or physically threatening the dog or
15 its offspring, or has in the past abused, assaulted, or
16 physically threatened the dog or its offspring; or

17 (3) the dog was responding to pain or injury, or was
18 protecting itself, its owner, custodian, or member of its
19 household, kennel, or offspring.

20 No dog shall be deemed "vicious" if it is a professionally
21 trained dog for law enforcement or guard duties. Vicious dogs
22 shall not be classified in a manner that is specific as to
23 breed.

24 If the burden of proof has been met, the court shall deem
25 the dog to be a vicious dog.

26 If a dog is found to be a vicious dog, the owner shall pay a

1 \$100 public safety fine to be deposited into the Pet Population
2 Control Fund, the dog shall be spayed or neutered within 10
3 days of the finding at the expense of its owner and
4 microchipped, if not already, and the dog is subject to
5 enclosure. If an owner fails to comply with these requirements,
6 the animal control agency shall impound the dog and the owner
7 shall pay a \$500 fine plus impoundment fees to the animal
8 control agency impounding the dog. The judge has the discretion
9 to order a vicious dog be euthanized. A dog found to be a
10 vicious dog shall not be released to the owner until the
11 Administrator, an Animal Control Warden, or the Director
12 approves the enclosure. No owner or keeper of a vicious dog
13 shall sell or give away the dog without approval from the
14 Administrator or court. Whenever an owner of a vicious dog
15 relocates, he or she shall notify both the Administrator of
16 County Animal Control where he or she has relocated and the
17 Administrator of County Animal Control where he or she formerly
18 resided.

19 (b) It shall be unlawful for any person to keep or maintain
20 any dog which has been found to be a vicious dog unless the dog
21 is kept in an enclosure. The only times that a vicious dog may
22 be allowed out of the enclosure are (1) if it is necessary for
23 the owner or keeper to obtain veterinary care for the dog, (2)
24 in the case of an emergency or natural disaster where the dog's
25 life is threatened, or (3) to comply with the order of a court
26 of competent jurisdiction, provided that the dog is securely

1 muzzled and restrained with a leash not exceeding 6 feet in
2 length, and shall be under the direct control and supervision
3 of the owner or keeper of the dog or muzzled in its residence.

4 Any dog which has been found to be a vicious dog and which
5 is not confined to an enclosure shall be impounded by the
6 Administrator, an Animal Control Warden, or the law enforcement
7 authority having jurisdiction in such area.

8 If the owner of the dog has not appealed the impoundment
9 order to the circuit court in the county in which the animal
10 was impounded within 15 working days, the dog may be
11 euthanized.

12 Upon filing a notice of appeal, the order of euthanasia
13 shall be automatically stayed pending the outcome of the
14 appeal. The owner shall bear the burden of timely notification
15 to animal control in writing.

16 Guide dogs for the blind or hearing impaired, support dogs
17 for persons with physical disabilities, accelerant detection
18 dogs, and sentry, guard, or police-owned dogs are exempt from
19 this Section; provided, an attack or injury to a person occurs
20 while the dog is performing duties as expected. To qualify for
21 exemption under this Section, each such dog shall be currently
22 inoculated against rabies in accordance with Section 8 of this
23 Act. It shall be the duty of the owner of such exempted dog to
24 notify the Administrator of changes of address. In the case of
25 a sentry or guard dog, the owner shall keep the Administrator
26 advised of the location where such dog will be stationed. The

1 Administrator shall provide police and fire departments with a
2 categorized list of such exempted dogs, and shall promptly
3 notify such departments of any address changes reported to him.

4 (c) If the animal control agency has custody of the dog,
5 the agency may file a petition with the court requesting that
6 the owner be ordered to post security. The security must be in
7 an amount sufficient to secure payment of all reasonable
8 expenses expected to be incurred by the animal control agency
9 or animal shelter in caring for and providing for the dog
10 pending the determination. Reasonable expenses include, but
11 are not limited to, estimated medical care and boarding of the
12 animal for 30 days. If security has been posted in accordance
13 with this Section, the animal control agency may draw from the
14 security the actual costs incurred by the agency in caring for
15 the dog.

16 (d) Upon receipt of a petition, the court must set a
17 hearing on the petition, to be conducted within 5 business days
18 after the petition is filed. The petitioner must serve a true
19 copy of the petition upon the defendant.

20 (e) If the court orders the posting of security, the
21 security must be posted with the clerk of the court within 5
22 business days after the hearing. If the person ordered to post
23 security does not do so, the dog is forfeited by operation of
24 law and the animal control agency must dispose of the animal
25 through adoption or humane euthanization.

26 (f) The changes to this Section made by this amendatory Act

1 of the 100th General Assembly apply only to causes of action
2 accruing on or after the effective date of this amendatory Act
3 of the 100th General Assembly.

4 (Source: P.A. 99-143, eff. 7-27-15; 99-642, eff. 7-28-16.)

5 (510 ILCS 5/15.1)

6 Sec. 15.1. Dangerous dog determination.

7 (a) After a thorough investigation including: sending,
8 within 10 business days of the Administrator or Director
9 becoming aware of the alleged infraction, notifications to the
10 owner of the alleged infractions, the fact of the initiation of
11 an investigation, and affording the owner an opportunity to
12 meet with the Administrator or Director prior to the making of
13 a determination; gathering of any medical or veterinary
14 evidence; interviewing witnesses; and making a detailed
15 written report, an animal control warden, deputy
16 administrator, or law enforcement agent may, after determining
17 that there exists probable cause to believe that a dog is a
18 dangerous dog, ask the Administrator, or his or her designee,
19 or the Director, to deem a dog to be "dangerous". No dog shall
20 be deemed a "dangerous dog" unless shown to be a dangerous dog
21 by a preponderance of evidence. The owner shall be sent
22 immediate notification of the determination by registered or
23 certified mail that includes a complete description of the
24 appeal process.

25 (b) A dog shall not be declared dangerous if the

1 Administrator, or his or her designee, or the Director
2 determines the conduct of the dog was justified because:

3 (1) the threat was sustained by a person who at the
4 time was committing a crime or offense upon the owner or
5 custodian of the dog or was committing a willful trespass
6 or other tort upon the premises or property occupied by the
7 owner of the animal;

8 (2) the threatened person was abusing, assaulting, or
9 physically threatening the dog or its offspring;

10 (3) the injured, threatened, or killed companion
11 animal was attacking or threatening to attack the dog or
12 its offspring; or

13 (4) the dog was responding to pain or injury or was
14 protecting itself, its owner, custodian, or a member of its
15 household, kennel, or offspring.

16 (c) Testimony of a certified applied behaviorist, a board
17 certified veterinary behaviorist, or another recognized expert
18 may be relevant to the determination of whether the dog's
19 behavior was justified pursuant to the provisions of this
20 Section.

21 (d) If deemed dangerous, the Administrator, or his or her
22 designee, or the Director shall order (i) the dog's owner to
23 pay a \$50 public safety fine to be deposited into the Pet
24 Population Control Fund, (ii) the dog to be spayed or neutered
25 within 14 days at the owner's expense and microchipped, if not
26 already, and (iii) one or more of the following as deemed

1 appropriate under the circumstances and necessary for the
2 protection of the public:

3 (1) evaluation of the dog by a certified applied
4 behaviorist, a board certified veterinary behaviorist, or
5 another recognized expert in the field and completion of
6 training or other treatment as deemed appropriate by the
7 expert. The owner of the dog shall be responsible for all
8 costs associated with evaluations and training ordered
9 under this subsection; or

10 (2) direct supervision by an adult 18 years of age or
11 older whenever the animal is on public premises.

12 (e) The Administrator may order a dangerous dog to be
13 muzzled whenever it is on public premises in a manner that will
14 prevent it from biting any person or animal, but that shall not
15 injure the dog or interfere with its vision or respiration.

16 (f) Guide dogs for the blind or hearing impaired, support
17 dogs for persons with a physical disability, and sentry, guard,
18 or police-owned dogs are exempt from this Section; provided, an
19 attack or injury to a person occurs while the dog is performing
20 duties as expected. To qualify for exemption under this
21 Section, each such dog shall be currently inoculated against
22 rabies in accordance with Section 8 of this Act and performing
23 duties as expected. It shall be the duty of the owner of the
24 exempted dog to notify the Administrator of changes of address.
25 In the case of a sentry or guard dog, the owner shall keep the
26 Administrator advised of the location where such dog will be

1 stationed. The Administrator shall provide police and fire
2 departments with a categorized list of the exempted dogs, and
3 shall promptly notify the departments of any address changes
4 reported to him or her.

5 (g) An animal control agency has the right to impound a
6 dangerous dog if the owner fails to comply with the
7 requirements of this Act.

8 (Source: P.A. 99-143, eff. 7-27-15.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.