

MAINE STATE LEGISLATURE

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AUGUSTA, MAINE

L.D. 575

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AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 433, L.D. 575, Bill, "An Act to Provide for Increased Penalties, Enforcement and Education Regarding Dangerous Dogs"

Amend the bill by striking out the title and substituting the following:

'An Act to Provide for Increased Penalties and Enforcement Regarding Dangerous Dogs'

Further amend the bill by striking out all of sections 1 to 5 and inserting in their place the following:

'Sec. 1. 7 MRSA §3907, sub-§12-D is enacted to read:

12-D. Dangerous dog. "Dangerous dog" means a dog that bites an individual who is not trespassing on the dog owner's or keeper's premises at the time of the bite or a dog that causes a reasonable and prudent person who is not on the dog owner's or keeper's premises and is acting in a reasonable and nonaggressive manner to fear bodily harm by attacking or threatening to attack that individual or individual's domestic animal. "Dangerous dog" does not include a dog certified by the State and used for law enforcement use.

For the purposes of this definition, "dog owner's or keeper's premises" means the residence or residences, including buildings and land and motor vehicles, belonging to the owner or keeper of the dog.

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to H.P. 433, L.D. 575

2 **Sec. 2. 7 MRSA §3952**, as amended by PL 1997, c. 690, §§35 and
36, is further amended to read:

4 **§3952. Keeping a dangerous dog**

6 A person who owns or keeps a dangerous dog commits a civil
7 violation for which a forfeiture of not more than \$1,000, plus
8 costs, may be adjudged.

10 1. **Procedure.** Any person who is assaulted by a dog without
11 ~~prevention~~ or any person witnessing an ~~unprovoked~~ assault
12 against a person or domesticated animal or a person with
13 knowledge of an assault against a minor, within 10 30 days of the
14 assault, may make written complaint to the sheriff, local law
15 enforcement officer or animal control officer that the dog is a
16 dangerous ~~or vicious~~ dog.

18 The Upon investigation of the complaint, the sheriff, local law
19 enforcement officer or animal control officer may file--the
20 complaint--in--District--Court--or--Superior--Court issue a civil
21 violation summons for keeping a dangerous dog.

22 If, upon hearing, the court ~~is satisfied~~ finds that an ~~assault on~~
23 ~~a person or a domesticated animal has taken place~~ the dog is a
24 dangerous dog, the court may impose a civil forfeiture and shall:

26 A. Order the dog muzzled, restrained ~~or~~, confined to the
27 premises of its owner or keeper or confined in a secure
28 enclosure. The court may set standards for that enclosure;
29 or

32 B. Order the dog to be euthanatized if it has killed,
33 maimed or inflicted serious bodily injury upon a person or
34 has a history of a prior assault.

36 ~~The owner or keeper who keeps a dog in violation of this section~~
37 ~~commits a civil violation for which a forfeiture not to exceed~~
38 ~~\$100, plus costs, may be adjudged.~~

40 2. **Failure to abide by court order.** If the court order in
41 subsection 1, paragraph B, is not complied with within the time
42 set by the court, the court may, upon application by the
43 complainant or other person, issue a warrant to the county
44 sheriff or any of his the sheriff's deputies or to a police
45 officer or constable in the municipality where the dog is found,
46 commanding the officer to kill the dog immediately and make a
47 return of the warrant to the court within 14 days from the date
48 of the warrant.

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

5 **3. Dogs presenting immediate threat to public.** After
 6 ~~filing of complaint in District Court or Superior Court~~ issuing a
 7 summons and before hearing, if the dog poses an immediate or
 8 continuing threat to the public, ~~the dog is subject to muzzling,~~
 9 ~~restraint or confinement to its premises upon order of the~~ a
 10 ~~sheriff, local law enforcement officer or animal control officer~~
 11 ~~who filed the complaint~~ shall order the owner or keeper of the
 12 dog to muzzle, restrain or confine the dog to the owner's
 13 premises or to have the dog confined at the owner's expense at a
 14 place determined by the sheriff, local law enforcement officer or
 15 animal control officer. ~~Upon failure~~ If the owner or keeper
 16 fails to comply, the sheriff, local law enforcement officer or
 17 animal control officer ~~to whom complaint was made~~ may apply to
 18 District Court, Superior Court or a justice of the peace for an
 19 ex parte order for authorization to take possession of the dog
 20 that poses an immediate or continuing threat to the public and
 21 turn the dog over to the applicant or other suitable person.

22 **4. ~~Court action, ex parte.~~** ~~An order may be entered ex~~
 23 ~~parte upon findings by the court or justice of the peace that~~
 24 ~~there is a reasonable likelihood that the dog is dangerous or~~
 25 ~~vicious, its owner has failed to muzzle, restrain or confine it~~
 26 ~~and that such failure poses an immediate threat of harm to the~~
 27 ~~public.~~

30 ~~A. Upon 2 days' notice or such shorter period as the court~~
 31 ~~may prescribe, the owner whose animal has been possessed~~
 32 ~~pursuant to an ex parte order may appear in the District~~
 33 ~~Court or Superior Court and move the dissolution or~~
 34 ~~modification of the ex parte order.~~

36 ~~B. The court shall hear and determine such motion as~~
 37 ~~expeditiously as justice requires.~~

40 ~~C. The owner shall submit an affidavit setting forth~~
 41 ~~specific facts to substantiate such findings as will serve~~
 42 ~~to modify or dissolve the order. The applicant shall have~~
 43 ~~the burden of presenting evidence to substantiate the~~
 44 ~~original findings.~~

46 **4-A. Ex parte.** An order may be entered ex parte upon
 findings by the court or justice of the peace when:

48 A. The dog has inflicted a serious bodily injury as defined
 50 in Title 17-A, section 2, subsection 23; or

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

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

6 (2) That failure poses an immediate threat of harm to
8 the public.

10 4-B. Modify order. An order may be modified by the court.

12 A. Upon 2 days' notice or a shorter period the court may
14 prescribe, the owner whose animal has been possessed
pursuant to an ex parte order may appear in the District
16 Court or Superior Court and move the dissolution or
modification of the ex parte order.

18 B. The court shall hear and determine the motion as
20 expeditiously as possible.

22 C. The owner shall submit an affidavit setting forth
specific facts to substantiate the modification or
24 dissolution of the order. The applicant has the burden of
presenting evidence to substantiate the original findings.

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

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

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

40 Further amend the bill by relettering or renumbering any
42 nonconsecutive Part letter or section number to read
consecutively.

44 Further amend the bill by inserting at the end before the
46 summary the following:

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COMMITTEE AMENDMENT "A" to H.P. 433, L.D. 575

FISCAL NOTE

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This bill may increase prosecutions for Class D crimes. If a jail sentence is imposed, the additional costs to the counties are estimated to be \$82.48 per day per prisoner. These costs are not reimbursed by the State. The number of prosecutions that may result in a jail sentence and the resulting costs to the county jail system are expected to be insignificant.

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In addition to the criminal cases, this bill may also increase the number of civil violations filed in the court system. The additional workload, administrative costs and indigent defense costs associated with the minimal number of new cases can be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may also increase General Fund revenue by minor amounts.'

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SUMMARY

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This amendment enacts a definition of "dangerous dog." It makes keeping a dangerous dog a civil violation and clarifies the process for ordering a dog confined and for an ex parte order. It makes failure to abide by a court order regarding a dangerous dog a Class D crime. It also adds a fiscal note to the bill.