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BILL ANALYSIS



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Senate Bill 1227 (as introduced 11-28-18)
Sponsor: Senator Steven M. Bieda
Committee: Judiciary

Date Completed: 12-10-18

CONTENT

The bill would amend Public Act 426 of 1988, which governs dangerous animals, to do the following:

- **Require that the owner of a dog, upon a sworn complaint that the animal was a dangerous animal, be given at least 28 days' notice of a mandatory appearance before a court and all evidence, investigations, notes, determinations, and communications.**
- **Require that the owner pay for boarding and retaining the animal unless it was held by an animal control authority and the animal was exonerated.**
- **Allow a dog found to be a dangerous animal to be microchipped, instead of tattooed, at the owner's expense.**
- **Prohibit an animal control officer or investigating law enforcement officer from coercing or threatening the owner of a dangerous animal to cause the owner to relinquish the animal.**

The bill would take effect 90 days after its enactment.

Under the Act, upon a sworn complaint that an animal is a dangerous animal and that it has caused serious injury or death to a person or a dog, a district court magistrate, district court, or a municipal court must issue a summons to the owner ordering him or her to appear to show cause why the animal should not be destroyed. Under the bill, the court also would have to provide the owner at least 28 days' notice of the date on which the owner would have to appear. All evidence, investigations, notes, determinations, and communications would have to be provided to the owner, including exculpatory evidence. Discovery would be permitted.

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

- An animal that bites or attacks a person who is knowingly trespassing on the property of the animal's owner.
- An animal that bites or attacks a person who provokes or torments the animal.
- An animal that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault.

Under the Act, after the filing of a sworn complaint, the court or magistrate must order the owner to immediately turn the animal over to a proper animal control authority, an incorporated humane society, a licensed veterinarian, or a boarding kennel, at the owner's option, to be retained until a hearing is held and a decision is made for the disposition of the animal. The owner must notify the person who retains the animal of the complaint and order. The owner is responsible for the expense of boarding and retaining the animal. The animal cannot be returned to the owner until it has a current rabies vaccination and a license as required by law.

Under the bill, the owner would be responsible for the expense of boarding and retaining the animal unless it was held by an animal control authority and the animal was exonerated.

Currently, after a hearing, the magistrate or court must order the destruction of the animal, at the expense of the owner, if the animal is found to be a dangerous animal that caused serious injury or death to a person or a dog. Under the bill, if, after a hearing, an animal was found by clear and convincing evidence and without justification to be dangerous animal that caused serious injury or death to an individual or death to a dog, the magistrate or court *could* order, at the expense of the owner, the destruction of the animal, or compliance with one or more of the provisions listed below.

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.

If the court or magistrate finds that an animal is a dangerous animal but has not caused serious injury or death to a person, the court or magistrate must notify the animal control authority for the county in which the complaint was filed of the finding of the court, the name of the owner of the dangerous animal, and the address at which the animal was kept at the time of the finding of the court. In addition, the court or magistrate must order the owner of that animal to do one or more of the following:

- Take specific steps, such as escape proof fencing or enclosure, including a top or roof, to ensure that the animal cannot escape or nonauthorized individuals cannot enter the premises.
- Have the animal sterilized.
- Obtain and maintain liability insurance coverage sufficient to protect the public from any damage or harm caused by the animal.
- Take any other action appropriate to protect the public.

The court or magistrate also may order the animal to have an identification number tattooed on it at the owner's expense, if the animal is of the *Canis familiaris* species. The identification number must be assigned to the animal by the Michigan Department of Agriculture and Rural Development and must be noted in its records. The identification number must be tattooed on the upper inner left rear thigh of the animal by means of indelible or permanent ink.

Under the bill, the above requirements would apply if the court or magistrate found that an animal was a dangerous animal and did not to order the destruction of the animal. Instead of being ordered tattooed, a dog could be ordered microchipped at the owner's expense. The Department would have to assign an identification number to the animal in addition to noting the number in its records. The Department also would have to promulgate rules and procedures to implement the bill in accordance with the Administrative Procedures Act.

An animal control officer or investigating law enforcement officer could not coerce or threaten the owner of an animal adjudicated to be a dangerous animal to cause the owner to relinquish the animal.

MCL 287.322

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill would have a minor fiscal impact on the Department of Agriculture and Rural Development in that the bill would require the promulgation of rules and procedures to implement an animal identification numbering system. In addition, the bill could have a fiscal impact on local units of government that operated an animal control authority that housed an alleged dangerous animal, as the bill would make the owner of that animal not responsible for boarding and retention of that animal should the animal is exonerated of being dangerous. The bill would relieve the owner of an exonerated animal the costs of that housing, but does not specify how that housing would be paid for, which without other direction, would fall on the budget of the animal control authority.

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.