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Senate Bill 683 (Substitute S-1)
Senate Bill 684 (as introduced 1-11-24)
Sponsor: Senator Sean McCann
Committee: Natural Resources and Agriculture

Date Completed: 2-28-24

INTRODUCTION

The bills would separate the process to file a complaint against a dangerous animal and a dangerous dog, establishing specific hearing processes and procedures for complaints regarding dangerous dogs and potentially dangerous dogs. Following a hearing and determination, a court could order a dangerous dog to be relinquished to an animal control department or euthanized. A court could determine that a dangerous dog did not have to be euthanized, but the owner of such a dog would have to comply with specific confinement and restraint requirements, in addition to the requirements for a potentially dangerous dog. The owner of a dog determined potentially dangerous would have to sterilize the dog, notify certain entities of the determination, and comply with confinement and restraint requirements. An owner of a potentially dangerous dog or dangerous dog also would have to register and tag the dog as dangerous. An animal control department would have to maintain a list of registered dogs in its jurisdiction. Additionally, the bills would prescribe criminal penalties for failing to comply with the proposed requirements for a dangerous or potentially dangerous dog.

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

Senate Bills 683 and 684 are reintroductions of Senate Bills 510 and 511, respectively, of the 2021-2022 Legislative Session and Senate Bills 1232 and 1231, respectively, of the 2020-2021 Legislative Session.

BRIEF FISCAL IMPACT

The bills likely would have a minimal fiscal impact on the State and municipalities. Minimal administrative costs for courts and municipalities would be likely, while State costs for incarcerations are possible, to a minor degree. Fee and fine revenue would likely balance State and local expenses. The bills would have a moderate fiscal impact, dependent upon the number of conditions and events fostering the utilization of the bills' provisions, on local governments that operate animal shelters and the Department of Agriculture and Rural Development (MDARD).

MCL 287.321 et al. (S.B. 683)
777.12m (S.B. 684)

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CONTENT

Senate Bill 683 (S-1) would amend Public Act 426 of 1988, which governs confinement and destruction of dangerous animals, to do the following:

- **Separate the complaint and hearing procedure for a dangerous animal and dangerous dog.**
- **Create a procedure to file a sworn complaint against a potentially dangerous or dangerous dog and prescribe the hearing process.**
- **Require an owner of a potentially dangerous or dangerous dog to show cause at a hearing as to why the dog should not be considered as such.**
- **If a dog presented an immediate public threat, allow a court to order an animal control department or law enforcement to impound a dog at the owner's expense until a hearing was held.**
- **Allow a court that found a dog to be dangerous to require relinquishment of the dog to an animal control department or euthanasia of the dog.**
- **Require a court that found a dog to be potentially dangerous to order the owner to comply with certain vaccination, notification, and confinement requirements.**
- **Require the owner of a potentially dangerous dog to notify the animal control department if the dog were loose, had been sold, had died, or had attacked an individual or animal.**
- **Require dangerous dogs to be registered with the animal control department for a fee of at least \$100 annually and to wear a "dangerous dog" tag.**
- **Prohibit the owner of a dangerous dog or potentially dangerous dog from transferring ownership of the dog.**
- **Require animal control departments to maintain a list of dangerous dogs and the registration of such dogs.**
- **Prescribe a felony penalty for an owner who failed to comply with the proposed requirements of a potentially dangerous or dangerous dog.**

Senate Bill 684 would amend the sentencing guidelines in the Code of Criminal Procedure to include a failure to comply with Senate Bill 683's provisions regarding potentially dangerous or dangerous dogs as a Class G felony against a person with a maximum sentence of four years' imprisonment.

Senate Bill 684 is tie-barred to Senate Bill 683. Senate Bill 683 is described in greater detail below.

Dangerous Animals and Dogs, Defined

Currently, "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 under the control of its owner. The term 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 of an assault.
- Livestock.

Under the bill, "dangerous animal" would mean an animal other than a dog that bites or attacks an individual or domestic animal and would not include the animals currently not included as described above. "Animal" would mean any vertebrate other than a human being.

"Dangerous dog" would mean at least one of the following:

- A dog that has been determined to be a potentially dangerous dog and whose owner has been given notice that the dog is dangerous if the dog bites, attacks or threatens the safety of an individual or domestic animal or if the owner maintains the dog in violation of the Act.
- A dog that kills or inflicts severe injury on an animal without provocation.
- A dog that kills livestock or a domestic animal without provocation, if the dog is not on its owner's real property.
- A dog that has committed at least three reported documented bites on an individual or domestic animal without provocation.

A dog would not be considered dangerous or potentially dangerous, including a dog that was determined so by a court, if the dog threatened, injured, or damaged an individual, domestic animal, or property under at least one of the following circumstances:

- The individual was committing a willful trespass or other unlawful conduct on the owner's real property.
- The individual was intentionally provoking, tormenting, abusing, or assaulting the dog, its owner, or a family member of the owner.
- The individual was committing or attempting to commit a crime.
- A domestic animal was attacking or menacing the dog.
- An animal was attacking or menacing the dog while on the owner's real property.
- The dog was responding to pain or injury or protecting its offspring.
- The dog was protecting or defending an individual within the immediate vicinity of the dog from an attack or assault.
- The dog was 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 appropriate to the work of the dog.

Subject to the provision described above, "potentially dangerous dog" would mean at least one of the following:

- A dog that has a known propensity or disposition, as indicated by sworn statements from at least two adults and an investigation by an appropriate authority, to attack without provocation and in a menacing fashion or to threaten the safety of humans or domestic animals.
- A dog that has inflicted severe injury on a domestic animal, and that domestic animal was on or chased from the owner's real property or was otherwise under the control of its owner, if the dog inflicted the injury while on property other than its owner's real property.
- A dog that bites an individual without provocation and inflicts a severe injury upon that individual.

"Dog" would mean a domestic dog of any age of the species *Canis lupus familiaris*.

"Attack" means the deliberate act of an animal, whether in response to a command by its owner, to bite, seize with its teeth, or pursue an individual or domestic animal with the intent to kill, wound, injure, or harm.

"Domestic animal" would mean a dog, cat, or any other animal that is kept, bred, bought, or sold, and is considered by the owner to be a pet.

Currently, "livestock" means animals used for human food and or fiber or animals used for service to human beings including cattle, swine, sheep, llamas, goats, bison, equine, poultry, and rabbits. The term does not include animals that are human companions, such as dogs and cats. Instead under the bill, the term would not include domestic animals.

"Owner" means a person who owns or harbors a dog or other animal. Under the bill, "owner" would mean an individual who owns, harbors, keeps, possesses, or has control or custody of a dog or other animal.

"Owner's real property" would mean real property owned or leased by the owner of a dog or other animal. The term would not include a public right-of-way or a common area of a condominium complex, manufactured home park, apartment complex, or townhouse development.

"Provoke" means to perform a willful act or omission that an ordinary and reasonable person would conclude is likely to precipitate the bite or an attack by an ordinary dog or animal. Instead, the term would mean to perform a willful act or omission that an ordinary and reasonable person would conclude is likely to precipitate an attack by a dog or other animal.

"Serious injury" means permanent, serious disfigurement, serious impairment of health, or serious impairment of a bodily function of a person. The bill would delete this term and would instead refer to "severe injuries". "Severe injury" would mean physical injury that results in broken bones, muscle tears, multiple bite wounds, or disfiguring lacerations and requires multiple surgeries or corrective or cosmetic surgery.

"Without provocation" would mean that a victim was acting lawfully and peacefully at the time the victim was bitten, attacked, or threatened, or chased in a menacing fashion by a dog.

Complaint of a Dangerous Animal

Currently, if a sworn complaint alleges that an animal is a dangerous animal and it has caused serious injury or death to a person or dog, a district court magistrate, district court, or municipal court, must issue a summons to the owner ordering the owner to appear and show cause as to why the animal should not be destroyed. Under the bill, this provision would apply to a dangerous animal that caused severe injury or death to an individual or domestic animal.

Upon the filing of the complaint, the court must order the owner to turn the animal over to be retained until the hearing is held and a decision is made for the disposition of the animal. After a hearing, if the animal is found to be a dangerous animal that caused serious injury or death to an individual or dog, the court must issue the destruction of the animal, at the owner's expense.

After a hearing, if the animal has been previously adjudicated a dangerous animal or is found to be a dangerous animal that did not cause serious injury or death to an individual but is likely to cause serious injury or death to an individual in the future, the court may order the owner to have the animal destroyed. The bill specifies that this provision would apply to a dangerous animal that did not cause severe injury or death to an individual or domestic animal but was likely to cause severe injury or death to a domestic animal or individual in the future.

The Act requires a court that finds that an animal is a dangerous animal that has not caused severe injury or death to an individual to order the owner to sterilize the animal, obtain and maintain liability insurance coverage, or take any action appropriate to protect the public. The bill specifies that this provision would apply to a dangerous animal that did not cause severe injury or death to an individual or domestic animal.

Also, a court finding that an animal is a dangerous animal as described above must order the owner of a dangerous animal of the *Canis lupus familiaris* species to have a permanent identification number assigned to the animal. The bill would delete this provision.

The owner of a dangerous animal that causes the death of a person is guilty of involuntary manslaughter. If a dangerous animal attacks a person and causes serious injury other than

death, the owner of the animal is guilty of a felony punishable by up to four years' imprisonment and a minimum civil fine of \$2,000 or community service work for a minimum of 500 hours, or any combination of the penalties.

The owner of the previously adjudicated animal that attacks or bites and causes injury that is not a serious injury is guilty of a misdemeanor punishable by up to 90 days' imprisonment, a fine of between \$250 and \$500, or at least 240 hours of community service, or any combination of these penalties. Under the bill, the penalty provisions described above would instead refer to a dangerous animal not including a dangerous dog.

Complaint of Dangerous Dog

Under the bill, upon the filing of a sworn complaint that a dog was dangerous or potentially dangerous, a district court magistrate, district court, or municipal court would have to do the following:

- Issue a summons to the owner, ordering the owner to appear to show cause why the dog should not be considered a dangerous or potentially dangerous dog at a time and place specified in the summons.
- If the dog posed an immediate threat to public safety, order that the animal control department or law enforcement agency impound the dog, at the owner's expense, until a hearing was held, and a decision was made for the disposition of the dog.

"Animal control department" means an animal control shelter as that term is defined in Section 1 of 1969 Public Act 287 (which regulates animal control shelters, animal protection shelters, and pet shops): a facility operated by a municipality for the impoundment and care of animals that are found in the streets or at large, animals that are otherwise held due to the violation of a municipal ordinance or State law, or animals that are surrendered to the animal control shelter. "Impound" would mean to seize and take into the custody of an animal control department.

After a hearing, if the court found that a dog was potentially dangerous the court would have to order the owner to do all the following:

- Have the dog sterilized and vaccinated for rabies.
- Obtain a license for the dog.
- Within 30 days, after the court issued its findings, give written notice of the finding to the local branch of the United States Post Office and all utility companies that provided service to the owner's real property.
- Disclose the finding in writing to each provider of service or treatment to the dog.
- While on the owner's real property, keep the dog indoors or in a secured fenced yard from which the dog could not escape and into which children could not trespass.
- While outside the owner's real property, keep the dog under control of a responsible adult and restrained on a leash that was no longer than six feet.

"Provider of service or treatment" would include a veterinarian, a dog groomer, a staff member of a humane society or other animal welfare agency, an animal care facility worker, and a professional dog handler or trainer.

Except for in a case where a court found a dog to be dangerous but did not order the dog to be euthanized, after a hearing if the district court magistrate, district court, or municipal court found that a dog was a dangerous dog and if the release of the dog would pose a significant threat to public health, safety, or welfare, the court would have to order at least one of the following, and in addition, could prohibit the owner from owning, possessing, controlling, or having custody of any dog for a time period of up to three years:

- The owner to relinquish the dog to the animal control department.
- The animal control department to euthanize the dog.

If the court found that the dog was a dangerous dog but did not order the dog to be euthanized, the district court magistrate, district court, or municipal court would have to order the owner to do all the following:

- Complete the owner requirements following a hearing.
- Have a veterinarian implant the dog with a microchip.
- While on the owner's real property, confine the dog indoors or in a securely enclosed and locked structure of a sufficient height and design to prevent the dog's escape or direct contact with or entry by an individual or other animal, and that was designed to provide shelter from the elements.

Additionally, the court would have to order the owner to do the following while outside of the owner's real property:

- Ensure that the dog was wearing a muzzle that prevented the dog from biting an individual or another animal, but that did not injure the dog or interfere with its breathing.
- Keep the dog under the control of a responsible adult.
- Restrain the dog on a leash that was not longer than six feet.

The owner of a dog that was found to be dangerous or potentially dangerous would have to notify the animal control department if any of the following occurred:

- The dog was loose or unconfined.
- The dog bit an individual or attacked an animal.
- Unless for the purpose of giving up the dog to an animal control department for euthanasia, the dog was sold, given away, or died.

If the owner of a dog that were found to be a potentially dangerous dog or dangerous dog that did not have to be euthanized moved to a new address, the owner would have to notify the animal control department having jurisdiction of the owner's previous address and the animal control department having jurisdiction of the owner's new address within ten days after the owner moves.

The owner of a dangerous dog could not sell or otherwise transfer ownership of the dog. The owner of a dangerous dog could not relinquish the dog to an animal control department except for the purposes of euthanasia.

Dangerous Dog Registration

Under the bill, the animal control department would have to maintain a list of all dogs within its jurisdiction that have been found to be potentially dangerous dogs and not euthanized for five years. The animal control department could remove a potentially dangerous dog from the list if the owner demonstrated to the satisfaction of the animal control department that a change in circumstances or an action taken by the owner mitigated the risk the dog posed to public safety.

Within 10 days after a dog was found to be a dangerous dog and not euthanized, the owner would have to obtain a dangerous dog registration certificate and tag that identified the dog as a dangerous dog from the animal control department for a fee of at least \$100, to be determined by the county board of commissioners for the county within which the animal control department was located. The tag would have to be of a uniform design developed by the same entity that developed the dog licenses for the animal control department issuing the tag, and would have to specify, in large letters, the phrase "dangerous dog". The registration

certificate or renewal of a registration certificate only could be issued to an individual who was 18 years of age or older. The animal control department could only issue a registration certificate or renewal of a registration certificate to an owner who presented satisfactory evidence of all the following:

- That the dog was vaccinated for rabies, altered, and microchipped.
- That the dog was confined indoors or in a securely enclosed and locked structure of a sufficient height and design to prevent the dog's escape or direct contact with or entry by an individual or other animal, and that was designed to provide shelter from the elements.
- That the owner posted clearly visible signs on the owner's property warning individuals that a dangerous dog was present on the property.
- That the owner had liability insurance coverage that covered dog bites in an amount of at least \$100,000 or a surety bond in an amount of at least \$100,000.

"Altered" would mean a dog that has undergone a professional sterilization procedure performed by a veterinarian that rendered the dog incapable of reproducing.

The owner would have to affix the "dangerous dog" tag to the dog's collar and ensure that the dog always wore the collar and tag. The owner would have to, for a fee, annually renew a registration certificate in the same way the initial registration certificate was obtained. The animal control department would have to provide a copy of each dangerous dog registration issued under this section and verification of compliance to the State Veterinarian. "State Veterinarian" would mean the chief animal health official in the State as appointed by the Director of Michigan Department of Agriculture and Rural Development or the State Veterinarian's authorized representative.

Penalties

If the owner of a potentially dangerous dog or dangerous dog failed to comply with the Act's provisions, the owner would be guilty of a felony punishable by one or more of the following:

- A maximum of four years' imprisonment.
- A fine of at least \$2,000.
- A least 500 hours of community service.

If a potentially dangerous dog or dangerous dog attacked an individual after a finding were made deeming the dog a potentially dangerous dog or dangerous dog, the owner would have to relinquish the dog to the appropriate animal control department within seven days. The animal control department would have to euthanize the dog.

The governing body of a local unit of government could enact an ordinance regulating potentially dangerous dogs and dangerous dogs that was substantially like the bill's provisions.

FISCAL IMPACT

MDARD

The bills would have a moderate fiscal impact, dependent upon the number of conditions and events fostering the utilization of the bills' provisions, on local governments that operate animal shelters, and MDARD. Local governments that run animal control facilities would be required to establish and update a database of dangerous dogs, establish and maintain a licensing structure, create specialty licensing tags, provide evaluation of dogs for dangerous dog certificate registration eligibility, send registration data to the State veterinarian, and in certain cases impound or administer euthanasia to a dog. The bill requires that an owner be charged a fee of at least \$100 for a dangerous dog registration certificate, as determined by

the local county board of commissioners. It is assumed, though not specified, that registration fees would be used to offset the costs incurred by local government run animal control facilities because of the proposed legislation.

The MDARD, under the Office of State Veterinarian, would be required under the bills to keep on file a copy of each dangerous dog registration issued with verification of compliance, assumedly via a database which would need to be created.

Enforcement of the bills' provisions could be an expense for MDARD, a local animal control department, or a local court or law enforcement agency, but difficult to determine for whom, as the bills do not specify what entity is responsible for enforcement its provisions.

Courts, Corrections, and Local Government

The bills would have a negative fiscal impact on the State and local government. New felony arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities; however, it is unknown how many people would be prosecuted under provisions of the bill. The average cost to State government for felony probation supervision is approximately \$4,200 per probationer per year. For any increase in prison intakes the average annual cost of housing a prisoner in a State correctional facility is an estimated \$45,700. Per diem rates range from \$98 to \$192 per day, depending on the security level of the facility. Any associated increase in fine revenue would increase funding to public libraries.

The bills could increase local court costs in the form of administrative expenses for hearings to a small degree. The bills also could create minimal administrative costs for municipal governments, as they would require the creation of a registries for dangerous animals. Conversely, the bills could generate a small amount of fee revenue for those municipal governments, likely, to an equivalent amount.