

CHAPTER 428  
FORMERLY  
HOUSE BILL NO. 419  
AS AMENDED BY  
HOUSE AMENDMENT NOS. 1 & 2

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO COUNTIES AND TITLE 7 OF THE DELAWARE CODE RELATING TO DOGS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE :

Section 1. Amend Subchapters I and II, Chapter 17, Title 7 of the Delaware Code by striking sections 1705, 1706, 1708, 1709, 1710, 1711, 1712, 1714, 1717, and 1725 in their entirety.

Section 2. Amend Subchapters I and II, Chapter 17, Title 7 of the Delaware Code by re-designating the sections set forth below and re-codifying such sections in Subchapter I of Chapter 17 of Title 7 of the Delaware Code:

Existing section number	New section number
§ 1713	§ 1701
§ 1715	§ 1702
§ 1721	§ 1703
§ 1722	§ 1704
§ 1723	§ 1705
§ 1724	§ 1706

Section 3. Amend §1707, Chapter 17, Title 7 of the Delaware Code by deleting the word “gun” as it appears in the in the section heading and in subparagraph (b) thereof and substituting the word “firearm” in lieu thereof .

Section 4. Amend Subchapter I, Chapter 17, Title 7 of the Delaware Code by adding a new section “§1708” thereto as follows:

“§ 1708. Penalties.

(a) Whoever violates this chapter, unless otherwise specifically provided, shall be fined not less than \$50 or more than \$100 for each offense. For each subsequent offense, the person shall be fined not less than \$100 or more than \$250. All fines imposed following a conviction for violation for any sections(s) of this subchapter shall be remitted by the sentencing court or voluntary assessment center to the county in which the offense occurred.

(b) Applicability. Any duly constituted law enforcement officer of this State or any of its political subdivisions, the County, or any animal control constable or dog warden employed by the County who charges a person with any offense which is a violation of a law, ordinance or regulation established or promulgated under the authority of this Chapter shall, in addition to issuing a summons for any such offense, provide the alleged violator with a voluntary assessment form which, when properly executed by the officer, allows the offender to dispose of the charge without the necessity of personally appearing in the court to which the summons is returnable.

(c) Definitions.

(1) “Payment” as used in this section shall mean the total amount of the fine and costs as herein provided and any assessment added to the fine pursuant to Delaware law.

(2) “Voluntary assessment form” as used in this section shall mean the written document issued to an alleged violator which advises such person that they may dispose of the charge without the necessity of personally appearing in court by paying the fine together with any costs and statutory assessments.

(d) Places and time of payment. Payments made pursuant to this section shall be remitted to the voluntary assessment center or court to which the summons is returnable and shall be disbursed to the County in which the offense occurred. The payment must be received by the voluntary assessment center or court within 30 days from the date of arrest (excluding Saturday and Sunday) and shall be paid only by check or money order or by electronic means as authorized by the voluntary assessment center.

(e) Offenses designated as “offenses subject to voluntary assessment” exceptions. All offenses, as now or hereafter set forth in this chapter, or ordinances or regulations promulgated under authority thereof, are hereby designated as offenses subject to voluntary assessment except for violations punishable under § 928 of Title 9 of this Code.

(f) Offer and acceptance of voluntary assessment; effect; request for hearing.

(1) At the time of making an arrest for any offense subject to this section, the arresting officer, animal control constable or dog warden may offer the alleged violator the option of accepting a voluntary assessment. The alleged violator’s acceptance of the voluntary assessment constitutes an acknowledgment of guilt of the offense stated in the form, and an agreement to pay the fine as herein provided, together with costs and assessments, within 30 days from the date of arrest (excluding Saturday and Sunday), during which time payment must be received by the applicable court or voluntary assessment center.

(2) In lieu of paying the voluntary assessment, a person who has been issued a voluntary assessment form may request a hearing on any charge stated in such form by notifying, in writing, the voluntary assessment center or court to which payment was to be made of such request within 30 days of the date of arrest. If the alleged violator makes a timely request for a hearing, the charge shall be prosecuted as if the voluntary assessment had not been permitted and the officer shall swear to the summons prior to trial.

(g) Penalty. If an alleged violator elects the option of accepting a voluntary assessment in accordance with subsection (f) of this section, the penalty imposed shall be the minimum fine for each offense charged, and fines shall be cumulative if more than 1 offense is charged.

(h) Court Costs and Assessments. In lieu of any other court costs, and provided the offense is not subject to other proceedings under this section, each fine for an offense under this section shall be subject to court costs of \$20.00, unless otherwise provided by court rule in lieu thereof. Each fine for an offense under this section shall be subject to all penalty assessments which are provided for in Chapter 90 of Title 11 or any other provision of the Code.

(i) Agreement to accept voluntary assessment; procedure. Whenever a person is arrested for commission of an offense subject to voluntary assessment and has elected to make payment as herein provided, the arresting officer, using the uniform Delaware complaint and summons citation, shall complete the information section and prepare the voluntary assessment form indicating the amount of the fine, and give a copy of the citation and form to the arrested person and release the arrested person from custody. The arresting officer shall also inform the arrested person of the court or voluntary assessment center to which payment should be submitted if the person does not request a hearing. No officer shall receive or accept custody of a payment. If the person declines to accept voluntary assessment, the arresting officer shall issue a citation and summons or, if appropriate, follow the procedure for arrest as set forth in Chapter 19 of Title 11.

(j) Payment of fine as complete satisfaction; repeat offenders.

(1) Payment of the prescribed fine, costs and penalty assessment is a complete satisfaction of the violation, except as provided in paragraph (2) of this subsection, but does not waive any administrative penalty in the nature of license revocation which may lawfully be revoked by a County.

(2) In the event that following compliance with the payment provisions of this section, it is determined that within the 2-year period immediately preceding the violation, the violator was convicted of or made a payment pursuant to this section in satisfaction of a violation of the same section of this title, personal appearance before the court to which the summons is returnable shall be required. Notice of the time and place for the required court appearance shall be given to the violator by the court to which the summons for the offense would be returnable.

(k) Removal from applicability of section.

If a payment due pursuant to this section is not received by voluntary assessment center or the court to which the summons is returnable within 30 days from the date of arrest (excluding Saturday and Sunday), the violator shall be prosecuted for the offense charged on the voluntary assessment form in a manner as if a voluntary assessment form had not been issued. Upon conviction in such prosecution, the court shall impose penalties as provided for by this Chapter and this section.

(l) Nonexclusive procedure. The procedure prescribed is not exclusive of any other method prescribed by law for the arrest and prosecution of persons violating this chapter."

Section 5. Amend Subchapter III, Chapter 17 of Title 7, Delaware Code by striking it in its entirety.

Section 6. Amend Chapter 9, of Title 9, Delaware Code by designating the entirety of the existing Chapter as "Subchapter I" thereof.

Section 7. Amend the newly designated Subchapter I, Chapter 9, Title 9 of the Delaware Code by adding the following "§908" through "§919" thereto as follows:

"§ 908. Dogs running at large.

(a) No dog shall be permitted to run at large at any time, unless the dog is accompanied by the owner or custodian and under the owner's or custodian's reasonable control and is licensed in accordance with County ordinances, except that a person who is an occupant of a farm or property containing 20 acres or more on which there are no more than 3 resident dwelling units may permit a dog to run at large between the 1st day of October and the last day of February, next following. Any owner or custodian who violates this subsection shall be fined not less than \$25 or more than \$50. For each subsequent offense occurring within 12 months of a prior offense, the person shall be fined not less than \$50 or more than \$100. The minimum fine for a subsequent offense shall not be subject to suspension. For the purposes of this section, the term "dog" shall mean any dog or dog hybrid. Allowing a dog to run at large is a violation.

(b) The owner or custodian of every dog shall, at all times between the hours of sunset and sunrise of each day, keep such dog either:

(1) Confined within an enclosure from which it cannot escape; or

(2) Firmly secured by means of a collar or chain or other device so that it cannot stray from the premises on which it is secured; or

(3) Under the reasonable control of some person or when engaged in lawful hunting accompanied by the owner or custodian.

(c) Whoever, being the owner, custodian, possessor or harbinger of any female dog, allows such dog to run or remain at large in this State while in heat shall be fined not less than \$50 nor more than \$100. For each subsequent offense occurring within 12 months of a prior offense, the person shall be fined not less than \$100 or more than \$200. The minimum fine for a subsequent offense shall not be subject to suspension. Allowing a female dog to run at large while in heat is a violation.

(d) Whoever, being the owner, custodian, possessor or harbinger of any dog that while running at large and without provocation, bites a person, shall be fined not less than \$100 nor more than \$500. For each subsequent offense involving the same dog, such owner, custodian, possessor or harbinger shall be fined not less than \$750 or more than \$1,500. The minimum fines provided for in this subsection, \$100 for the first offense and \$750 for each subsequent offense, shall not be subject to suspension.

(e) Upon conviction in any court of an offense under subsection (d) of this section, the court shall cause a report to be forwarded to the County in which the offense occurred or to the dog control authority in each County as designated by the County. Said report shall contain the name of the defendant, the name of the dog, the license number of the dog, the date of the offense and the date of conviction. The County shall maintain these reports for a period of 3 years.

§ 909. Destruction of muskrat dens, poultry or livestock.

No owner or custodian of any dog shall permit such dog to injure, destroy or disturb any muskrat den, trap, lead or

house or any poultry or livestock.

§ 910. Dogs deemed personal property; theft; penalty.

(a) All dogs shall be deemed personal property and may be the subject of theft pursuant to Chapter 5 of Title 11. Any warrant of arrest or other process issued under or by virtue of the several laws in relation to the theft of such property may be directed to and executed by any sheriff, police officer, constable, or dog warden.

(b) The presence of any dog, regardless of age, not confined on the premises of a person other than the lawful owner of such dog shall raise no presumption of theft against the owner or tenant of such premises.

(c) No person shall confine any dog not his or her lawful property without contacting the County, an animal control constable, dog warden or other officer within 48 hours of confining such dog and providing the County, animal control constable, dog warden or other officer with a complete description of the dog, the exact location of the premises on which such dog is to be detained and the name of the owner or tenant of such property.

§ 911. Injuring or killing dogs for certain acts.

(a) Any police officer, animal control constable or dog warden who finds a dog running at large and deems such dog to be an immediate threat to the public health and welfare may kill such dog.

(b) Any person may injure or kill a dog in self-defense or to protect livestock, poultry or another human being at the time such dog is attacking such livestock, poultry or human being.

(c) Any person may injure or kill a dog at the time such dog is wounding another dog if the dog being wounded is on the property of its owner or under the immediate control of its owner and being wounded by a dog that is running at large.

(d) Any person who injures or kills any dog in accordance with this section shall not be held criminally or civilly liable therefor.

§ 912. Poisoning of dogs

No person except a law enforcement officer, animal control constable or dog warden shall place any poison of any description in any place on the person's premises, or elsewhere, where it may be easily found and eaten by dogs.

§ 913. Liability of dog owner for damages.

The owner of a dog is liable in damages for any injury, death or loss to person or property that is caused by such dog, unless the injury, death or loss was caused to the body or property of a person who, at the time, was committing or attempting to commit a trespass or other criminal offense on the property of the owner, or was committing or attempting to commit a criminal offense against any person, or was teasing, tormenting or abusing the dog.

§ 914. Impounding of dog running at large.

Any dog found running at large contrary to any of the provisions of this chapter may be impounded and disposed of under such rules and regulations as the County adopts. Any impounded dog shall not be disposed of without 5 days' written notification to the owner of the dog, if ownership can be determined, unless earlier disposal is recommended by a doctor of veterinary medicine.

§ 915. Penalties; Fines.

(a) Whoever violates this chapter, unless otherwise specifically provided, shall be subject to the fines provided for in 7 Del. C. § 1708 and such fines shall be payable as provided therein.

§ 916. Unauthorized acts against a service dog; penalties.

(a) "Service dog" means any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

(c) No person shall intentionally interfere with the use of a service dog by obstructing, intimidating or otherwise jeopardizing the safety of the user or animal. Whoever violates this subsection shall be guilty of a class B misdemeanor.

(d) No person shall intentionally injure or disable a service dog that is being used by its owner or the officer teamed with the dog. Whoever violates this subsection shall be guilty of a class A misdemeanor.

(e) No person shall intentionally kill a service dog owned by a private person or agency. Whoever violates this subsection shall be guilty of a class D felony. This subsection, however, does not apply to a law enforcement officer as defined by § 222 of Title 11 that is forced to take such action pursuant to the lawful performance of the officer's duties.

(f) No person shall intentionally steal, take or wrongfully obtain a service dog owned by a private person or agency. Whoever violates this subsection shall be guilty of a class E felony.

(g) In any case where a person is convicted under subsection (c), (d), (e) or (f) of this section, that person shall also be ordered to make full restitution for all damages, including incidental and consequential expenses incurred by the service, guide or seeing eye dog owner and the dog which arise out of or are related to the criminal offense.

§ 917. County Dog Law Management.

(a) In order to enforce this Chapter the County shall authorize the hiring of, or contract for, sufficient animal control constables or dog wardens to accomplish the purposes of this Chapter.

(b) All animal control constable and dog wardens shall be uniformed and shall be adequately trained and equipped to enforce the dog control laws and ordinances of the State or any of its political subdivisions and the County.

(c) For the purposes of this chapter, the term "animal control constable" shall have the meaning ascribed in Chapter 29 of Title 10 of this Code. The term "dog warden" shall mean a person employed by the County or an animal control agency to enforce the dog control laws and ordinances of this State or County and any of its political subdivisions. In addition, all police officers, sheriffs and their regular deputies may enforce the dog control laws and ordinances of the

County, this State and any of its political subdivisions.

§ 918. Rules and regulations.

Each County may adopt, amend, modify or repeal ordinances, rules and regulations to effectuate the policy and purposes of this chapter.

§ 919 is reserved.

Section 8. Amend Chapter 9, Title 9 of the Delaware Code by adding a new "Subchapter II" thereto as follows

"Subchapter II. Dangerous and Potentially Dangerous Dogs.

§ 920. Definitions.

For the purposes of this Subchapter:

(1) "Animal control agency" shall mean the entity acting alone or in concert with other governmental units and legally authorized to enforce the dog control laws and regulations of the State, a County or any municipality.

(2) "Attack" shall mean the deliberate action of a dog, whether or not in response to a command by its owner, to bite, seize with its teeth or pursue any human being or domestic animal with the obvious intent to kill, wound, injure or otherwise harm the human being or domestic animal.

(3) "Dangerous dog" shall mean any dog declared to be dangerous by the Panel pursuant to § 925 of this Title or any potentially dangerous dog kept or maintained in violation of § 926(b) of this Title.

(4) "Dog" shall mean any dog or dog hybrid.

(5) "Domestic animal" shall mean any dog, poultry or livestock.

(6) "Owner" shall mean any person who owns, keeps, harbors or is the custodian of a dog.

(7) "Panel" shall mean the Dog Control Panel.

(8) "Physical injury" shall mean impairment of physical condition or substantial pain.

(9) "Potentially dangerous dog" shall mean any dog declared to be potentially dangerous by the Panel pursuant to § 926 of this title.

(10) "Proper enclosure" shall mean securely confined indoors or a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the dog from escaping. Such pen or structure shall have secure sides and a secure top and shall also provide protection from the elements for the animal. If the pen or structure has no bottom secured to the sides, the sides must be embedded at least 2 feet into the ground.

(11) "Serious physical injury" shall mean physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

§ 921. Dog Control Panel; establishment; organization.

(a) The Dog Control Panel created pursuant to the former Subchapter III of Chapter 17 of Title 7 shall continue to have all authority and responsibility conferred on it by that Chapter and the current Panel members shall serve out their terms. The Dog Control Panel shall consist of 5 members, all of whom shall be residents of the State. Each County shall select a representative to serve for purposes of electing members of the Panel as seats on the Panel become open by resignation, expiration of a member's term, death, or other reason which may disqualify a member from serving. Each member of the Panel shall be elected by a majority vote of the 3 County representatives and each candidate for the Panel shall be voted upon separately. All new Panel members shall serve for a term of 2 years commencing on the date of their election and shall be eligible for reappointment. The composition of the Panel shall be as follows:

(1) A licensed veterinarian who possesses at least 5 years of experience in the treatment of canines;

(2) A member of 1 or more American Kennel Club licensed or member dog clubs for at least 5 years;

(3) An animal behaviorist specializing in the treatment of canine behavior disorders, a member of the Association of Pet Dog Trainers or a professional dog obedience trainer, each of whom possess no less than 5 years experience in the handling of canines;

(4) A police officer who is a member of the Delaware State Police, a member of the New Castle County Police, or a member of the police department, bureau, or force of any incorporated city or town; and

(5) A representative from the Delaware Society for the Prevention of Cruelty to Animals or the Kent County Society for the Prevention of Cruelty to Animals.

(b) For purposes of conducting business, 3 members of the Panel shall constitute a quorum. A majority vote of the members present at a meeting at which a quorum is present shall be required on any action or matter before the Panel. Members of the Panel shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incurred incident to their duties as members of the Panel.

(c) A chairperson of the Panel shall be chosen by the members of the Panel from among its members and shall serve in that capacity for a term of 1 year and shall be eligible for reelection.

(d) Each Panel member may submit the names of up to 2 alternates to the County representatives for approval, provided the alternates meet or exceed the criteria for appointment met by the Panel member who they will represent. Upon the approval of the County representatives, an alternate may act in a Panel member's place and stead, with authority to attend all meetings of the Panel and with power to vote in the absence of the member.

(e) The County representatives shall elect a new member to fill any vacancy that has been created by the resignation, death, or other inability to serve of a Panel member. Said member shall serve for the remainder of the term of the member who has resigned, died, or who is otherwise unable to serve.

(f) Members of the Panel and alternates shall not be subject to, and shall be immune from, claims, suits, liability, damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken or performed, or recommendations made while discharging any duty or authority under Subchapter II of this chapter, so long as such person acted in good faith and without malice in carrying out their responsibilities, authority, duties, powers and privileges of the offices conferred by this law upon them or by any other provisions of Delaware law, federal law or regulations or any duly adopted ordinances, rules, or regulations of a County. Complainants shall bear the burden of proving malice or a lack of good faith to defeat the immunity provided herein.

(g) Any member of the Panel or alternate with a direct or indirect interest in a matter before the Panel shall recuse himself or herself from the consideration of such matter. In situations in which a Panel member or alternate does not vote by reason of a direct or indirect interest in a matter before the Panel, the presence of the Panel member or alternate shall not be counted for purposes of establishing a quorum. The fact that a Panel member or alternate has not voted by reason of a direct or indirect interest in a matter before the Panel shall in no way affect the validity of an act or actions taken regarding the matter before the Panel.

(h) Failure to attend or to be represented at 2 consecutive regular meetings of the Panel, in the absence of mitigating circumstances, shall be construed as a request by that member to resign from the Panel and a replacement may thereafter be selected by the County representatives in his or her stead.

§ 922. Seizure and impoundment of dangerous or potentially dangerous dogs; notification of dog owner; request for hearing.

(a) An animal control constable or dog warden shall seize and impound a dog suspected of being dangerous or potentially dangerous when the warden has reasonable cause to believe that the dog:

- (1) Chased or pursued a person, including but not limited to a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the dog owner's property, in an apparent attitude of attack on 2 separate occasions within a 12-month period;
- (2) Killed or inflicted physical injury or serious physical injury upon a human being;
- (3) Killed or inflicted serious physical injury upon a domestic animal, provided the domestic animal was on the property of its owner or under the immediate control of its owner; or
- (4) Was subject to, or was used to facilitate, animal cruelty or animal fighting, as alleged in a criminal complaint or charge.

(b) Any dog seized pursuant to this section shall be impounded until a final disposition as to whether the dog is dangerous or potentially dangerous. The animal control agency shall take all reasonable action to determine the identity of the owner of the impounded dog. If the owner cannot be identified within 5 days of the dog's impoundment, unless earlier disposal is recommended by a doctor of veterinary services, the animal control agency may dispose of the dog in accordance with Chapter 80 of Title 3.

(c) The owner of any seized and impounded dog shall be notified by the animal control agency by certified mail, return receipt requested, of the owner's right to a hearing before the Panel to determine whether the dog is dangerous or potentially dangerous. This notice shall require that the owner return within 7 days of receiving such notice, by certified mail or personal delivery, a signed statement indicating whether the owner wishes the hearing to be conducted or, if not, that the owner waives his or her right to such hearing and agrees to abide by the findings and conclusions of the animal control agency or agrees to relinquish ownership of such dog, in which case the animal control agency shall dispose of the impounded dog in accordance with Chapter 80 of Title 3. If the owner cannot be notified by certified mail, return receipt requested, or refuses to sign for the certified letter, or does not reply to the certified letter with a signed statement within 7 days of receipt, the animal control agency shall dispose of the dog in accordance with Chapter 80 of Title 3.

(d) Within 21 days of an animal control agency's receipt of a request for a hearing pursuant to subsection (c) of this section, a hearing shall be held by the Panel. If a hearing is not held within that time frame, the dog shall be released to its owner and the charges made pursuant to subsection (a) of this section shall be dismissed, unless a delay is requested by the owner and approved by the Panel.

(e) Nothing in Part II of this chapter shall be construed to interfere with the provisions for protecting human health from rabies in Chapter 82 of Title 3.

§ 923. Exceptions.

(a) Notwithstanding § 922 of this title, no dog shall be considered dangerous or potentially dangerous if an injury was sustained by:

- (1) A human being who, at the time the injury was sustained, was committing criminal trespass or other tort upon premises occupied by the owner of the dog, or was teasing, tormenting, abusing or assaulting the dog, or was committing or attempting to commit a crime;
- (2) A domestic animal which, at the time the injury was sustained, was teasing, tormenting, abusing or assaulting the dog; or
- (3) A domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the control of its owner, and the injury was to a species or type of domestic animal appropriate to the work of the dog.

(b) Notwithstanding § 922 of this title, no dog shall be considered dangerous or potentially dangerous if the dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault.

(c) Notwithstanding § 922 of this title, no military, correctional or police-owned dogs shall be considered dangerous or potentially dangerous if the attack or injury to a person or domestic animal occurs while the dog is performing duties as expected.

§ 924. Hearing procedures; appeal.

(a) Upon the receipt of a request for a hearing by the Panel, the animal control agency shall fix the time and place

for the hearing and notify the owner of the impounded dog by certified mail, return receipt requested, of such time and place. At such hearing, the owner shall have the right to appear either personally or by counsel or both, to produce witnesses and evidence on his/her own behalf and to cross-examine witnesses.

(b) All hearings shall be informal and open to the public, and need not conform to standard rules of evidence. Hearsay evidence shall be allowed but may not be relied upon as the sole evidence in the Panel's determination. Deliberations of the Panel may be conducted in executive session. All proceedings of the Panel, except those held in executive session, shall be recorded and transcribed by a registered court reporter. The Panel shall determine whether the dog in question should be declared dangerous or potentially dangerous, and shall articulate on the record the reasons for its decision. The Panel shall announce its decision at the conclusion of the hearing. After announcing its decision, the Panel shall provide the owner with written notice of the action taken and the reasons therefor. The decision of the Panel is final.

(c) If a dog is determined to be dangerous, the Panel may direct the animal control agency to dispose of the dog by euthanasia in accordance with Chapter 80 of Title 3. If euthanasia is not ordered, the owner shall comply with § 925(b) of this title, except that the animal control agency may grant said owner up to 30 days from the date of the determination to comply with §§ 925 (b)(1) through (3) of this title. If a dog is determined to be potentially dangerous, the owner shall comply with § 926(b) of this title, except that the animal control agency may grant said owner up to 30 days from the date of the determination to comply with § 926 (b)(1) of this title.

(d) Notwithstanding subsection (b) of this section, if a dog is determined to be dangerous and the Panel directs the animal control agency to dispose of the dog by euthanasia, the owner may appeal the Panel's decision to the Court of Common Pleas within 10 days of the receipt of the Panel's decision. The appeal and review shall be conducted according to the provisions governing judicial review of case decisions under the Administrative Procedures Act (Chapter 101 of Title 29 of the Delaware Code) that are not inconsistent with this subsection. The filing of an appeal shall act as a stay of the Panel's decision, pending final disposition of the appeal."

(e) The County shall be responsible for the costs of proceedings, including but not limited to court stenographer fees, before the Panel that arise from incidents within that county.

§ 925. Finding to declare a dog dangerous; duties of owner.

(a) The Panel may declare a dog to be dangerous if it finds by a preponderance of the evidence that the dog:

- (1) Killed or inflicted physical injury or serious physical injury upon a human being;
- (2) Killed or inflicted serious physical injury upon a domestic animal, provided the domestic animal was on the property of its owner or under the immediate control of its owner; or
- (3) Was subject to, or was used to facilitate animal cruelty or animal fighting as alleged in a criminal complaint or charge.

(b) If the Panel declares a dog to be dangerous, it shall be unlawful for any person to keep or maintain such dog unless:

- (1) The dog is spayed or neutered;
- (2) The dog owner procures and maintains liability insurance in the amount of at least \$100,000, covering any damage or injury which may be caused by such dog;
- (3) The dog is confined by its owner within a proper enclosure, and whenever outside of the proper enclosure the dog is securely muzzled and restrained by a substantial chain or leash, not exceeding 6 feet, and under the control of a responsible adult, or caged;
- (4) The dog owner displays, in a conspicuous manner, a sign on his/her premises warning that a dangerous dog is on the premises. The sign shall be visible and legible from the public highway or 100 feet, whichever is less; and
- (5) The dog owner immediately notifies the animal control agency when the dog is loose, unconfined, has attacked a human being or another domestic animal, has been moved to another address or dies.

(c) It shall be unlawful for the owner of a dangerous dog to sell, offer for sale or give away said dog to any other person or entity other than an animal control agency. If a dangerous dog is given to an animal control agency, the dog shall be disposed of by euthanasia in accordance with Chapter 80 of Title 3.

§ 926. Finding to declare a dog potentially dangerous; duties of owner.

(a) The Panel may declare a dog to be potentially dangerous if it finds by a preponderance of the evidence that the dog:

- (1) Attacked or inflicted physical injury upon a human being;
- (2) Attacked or inflicted serious physical injury upon a domestic animal, provided the domestic animal was on the property of its owner or under the immediate control of its owner; or
- (3) Chased or pursued a person, including, but not limited to a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the dog owner's property, in an apparent attitude of attack on 2 separate occasions within a 12-month period.

(b) If the Panel declares a dog to be potentially dangerous, it shall be unlawful for any person to keep or maintain the dog unless:

- (1) The dog is spayed or neutered, provided the Panel ordered the spaying or neutering as part of its decision in declaring the dog to be potentially dangerous;
- (2) While on the dog owner's property, the dog is kept indoors or within a securely fenced yard from which it cannot escape; and
- (3) When off the owner's premises, the dog is restrained by a substantial chain or leash, not exceeding 6 feet, and is under the physical control of a responsible adult.

(c) If there are no additional instances of the behavior described in subsection (a) of this section within a 24-month period from the date the dog is declared potentially dangerous, the dog shall no longer be deemed a potentially dangerous dog.

§ 927. Liability of owner for costs of impoundment.

If a dog is declared dangerous or potentially dangerous the owner of the dog shall, prior to reclaiming the dog, reimburse the animal control agency its regular standard fees charged for the care of the dogs while in the animal control agency's custody plus any reasonable veterinary fees incurred for the dog during the period of impoundment. Failure of the dog's owner to pay such fees within 5 days after a final determination of whether the dog is dangerous or potentially dangerous shall result in the ownership of the dog reverting to the animal control agency. The animal control agency shall then dispose of the dog in accordance with Chapter 80 of Title 3. If a dog is determined to be neither dangerous nor potentially dangerous, the owner shall not be liable for the costs of impoundment.

§ 928. Violations by owners of dangerous or potentially dangerous dogs; penalties.

(a) For a violation of § 925(b)(4), 926(b)(1), (b)(2) or (b)(3) of this title, the owner of the dangerous dog or potentially dangerous dog shall be fined not less than \$50 nor more than \$100. For a subsequent offense, the person shall be fined not less than \$100 or more than \$200.

(b) For a violation of § 925(b)(1) or (b)(5) of this title, the owner of the dangerous dog shall be fined not less than \$100 or more than \$250. For a subsequent offense, the person shall be fined not less than \$250 or more than \$500.

(c) For a violation of § 925(b)(2), (b)(3), or (c) of this title, the owner of the dangerous dog shall be fined not less than \$250 or more than \$1,000. For a subsequent offense, the person shall be fined not less than \$500 or more than \$2,000.

(d) Any dog declared dangerous pursuant to § 925(a) of this title, which, after having been declared dangerous, kills, attacks or inflicts physical injury or serious physical injury, without provocation upon a human being or domestic animal, shall be seized and impounded by the animal control agency and disposed of by euthanasia in accordance with Chapter 80 of Title 3.

(e) Any fine imposed for a violation of Part II of this Chapter shall not be suspended to any amount less than the minimum prescribed fine and no such fine shall be payable by mail. All fines imposed following a conviction for violation Part II of this Chapter shall be remitted by the sentencing court to the County in which the offence occurred."

Section 9. This Act shall become effective on July 1, 2010.

Approved July 23, 2010