



**MELISSA MINOR-BROWN**  
STATE REPRESENTATIVE  
17th District

**HOUSE OF REPRESENTATIVES  
STATE OF DELAWARE  
411 LEGISLATIVE AVENUE  
DOVER, DELAWARE 19901**

**COMMITTEES**  
Health and Human Development, Chair  
Administration, Vice Chair  
Ethics, Vice Chair  
Rules, Vice Chair  
Veterans Affairs

## **House Health & Human Development Committee Meeting Minutes**

5.3.23

*This committee meeting has been recorded and may be accessed via [legis.delaware.gov](http://legis.delaware.gov)*

Chair Minor-Brown called the meeting to order at 11:12. Members present included Reps. Baumbach, Briggs King, Chukwuocha, Harris, Heffernan, Hensley, Johnson, Morrison, Neal, Postles, and Romer. Rep. Griffith and Sen. Pinkney also present. For a list of guests present, please see the attendance list below.

Chair Minor-Brown introduced **HB 118, AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE PROHIBITION OF SMOKING IN VEHICLES WHEN A MINOR IS IN THE VEHICLE.**

Rep. Hensley said that the legislation was brought to him by a group of fourth grade students. The bill prohibits smoking in vehicles if a person under the age of eighteen is present. He clarified that a law enforcement officer is not permitted to stop a motorist based on this violation; if a motorist is stopped for a different violation and is found to also be smoking in the vehicle with a minor present, they will be subject to an additional civil penalty. He added that nine states and Puerto Rico have passed similar laws. According to the Center for Disease Control, exposure to secondhand smoke is particularly harmful for children, who may develop respiratory issues as a result.

Chair Minor-Brown opened the floor to public comment.

Greyson Luongo, a student, said that people inhaling secondhand smoke are exposed to more toxins than the person using the tobacco product. He added that a non-smoker who lives with a smoker has a twenty to thirty percent higher risk of developing cancer.

Natalya Dixon, a student, stated that it is not appropriate for adults to smoke in a car with children. She said that the smell of smoke lingers on a child's clothing and could be noticeable in a public setting like school. She added that secondhand smoke in a vehicle can expose children to up to four thousand different kinds of chemicals, at least seventy of which can cause cancer. She noted that secondhand smoke has a greater impact on children due to having smaller lungs and quicker breathing.

Lauran Stephens, a student, said that children exposed to secondhand smoke in a vehicle can develop several different health issues. She added that cigarette smoking is responsible for four hundred and eighty thousand deaths per year in the United States, and that forty-one thousand of these deaths are related to secondhand smoke.

Victoria Nguyen, a student, pointed out that research indicates that smoking or vaping in a car with children can cause them to develop health problems. She added that smoking in a car is worse than smoking outside, even if the window is open.

Amelia Raymond, a student, stated that secondhand smoke leads to approximately three thousand deaths per year in the United States. She said that eighty-two percent of adults in the United States support prohibiting smoking in a vehicle with a person under eighteen, including sixty percent of current smokers.

Cecilee Penland, a student, emphasized that children should have the right to clean air while in a vehicle. She added that exposure to secondhand smoke can lead to long-term health issues. She mentioned that she has been in a car with a smoker and does not like the smell.

Zoey Cook, a student, expressed concern about the health issues caused by exposure to secondhand smoke. She stated that she has been in vehicles with smokers and therefore is at a higher risk for conditions like lung cancer.

Joanne Grant, the mother of a student in the class, pointed out that smoking can change the air quality in a vehicle from acceptable to up to ten times the hazardous level delineated by the Environmental Protection Agency. She added that even when a cigarette is put out, the air remains toxic for several minutes.

Leanna Vitti, the teacher of the students who provided testimony, said that she grew up with parents who smoked in the car while she was present. She emphasized that this experience had negative impacts on her mental and physical health and that she was later diagnosed with lymphoma.

Robert Overmiller expressed his support for the legislation.

Rep. Briggs King noted that one of the students mentioned vaping in their testimony despite there being no reference to vaping in the bill.

Rep. Hensley said that he would consider an amendment adding vaping to the legislation.

Chair Minor-Brown thanked the students and teachers who provided public comment.

Rep. Johnson congratulated the students on their impactful testimony.

Rep. Morrison thanked Rep. Hensley for introducing this legislation, adding that his mother was a lifelong smoker who passed away due to lung cancer. He said that if it had been illegal to

smoke in a vehicle with children, his mother would have obeyed the law. He thanked the students for providing testimony on the bill

A student identified as Cameron said that her grandmother passed away from cancer because of being a lifelong smoker, and that this led her father to quit smoking.

Rep. Romer emphasized the importance of hearing the opinions of young people on legislation that impacts them.

Chair Minor-Brown mentioned that a lot of children provided public comment when legislation was introduced in a previous session to raise the smoking age to twenty-one.

Rep. Hilovsky thanked the students and their teacher for coming to Legislative Hall to testify on this legislation. He encouraged them to continue speaking up.

Rep. Neal thanked the educators in the room for their efforts.

A motion was made by Rep. Postles and seconded by Rep. Baumbach to release HB 118 from committee; motion carried. Yes = 12 (Minor-Brown, Harris, Baumbach, Briggs King, Chukwuocha, Hensley, Hilovsky, Johnson, Morrison, Neal, Postles, Romer); No = 0; Absent = 4 (Heffernan, Parker Selby, Shupe, Smith). The bill was released from committee with a F=4, M=7, U=0 vote.

Rep. Briggs King encouraged the students to introduce legislation prohibiting pregnant women from smoking.

Chair Minor-Brown introduced **SB 71, AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO REPORTING SUSPECTED ANIMAL CRUELTY.**

Rep. Griffith stated that there is a strong correlation between animal abuse, child abuse, and domestic violence. She mentioned that, in New York, a lack of child abuse legislation led to the use of animal welfare laws to prosecute the perpetrator of a severe child beating. She added that Delaware is fortunate that strong connections have been formed between animal welfare advocates, child welfare advocates, family law attorneys, judicial officers, and child welfare social workers. Judge Jennifer B. Ranji of the Delaware Family Court convened these experts for a conference, and together proposed multiple potential solutions. She said that this legislation would codify existing procedure by mandating that prosecutors, police, or social workers who witness animal abuse during one of their cases report it to the Office of Animal Welfare. She reiterated that if animal abuse is occurring, there is a high probability that child abuse or domestic abuse is also occurring. She said that there is a provision providing immunity from liability for a person who reports these conditions in good faith.

Chair Minor-Brown opened the floor to public comment.

Chris Motoyoshi, Director of the Office of Animal Welfare, expressed her support for the legislation. She said that her agency investigates approximately 500 reports of animal cruelty annually, and that unless they receive notification of the abuse, they are unable to investigate. She added that the link between animal abuse, child abuse, and domestic violence makes it important to establish cross-reporting between animal welfare, law enforcement, and child protection agencies. The immunity from liability could potentially encourage more people to come forward about these incidents.

Robert Overmiller said that he supports the bill.

A motion was made by Rep. Briggs King and seconded by Rep. Neal to release SB 71 from committee; motion carried. Yes = 10 (Minor-Brown, Harris, Baumbach, Briggs King, Chukwuocha, Hilovsky, Johnson, Morrison, Neal, Romer); No = 0; Absent = 6 (Heffernan, Hensley, Parker Selby, Postles, Shupe, Smith). The bill was released from committee with a F=3, M=6, U=0 vote.

Chair Minor-Brown introduced **HB 126, AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE CLEAN WATER FOR DELAWARE ACT.**

Rep. Neal explained that the legislation would establish a date by which the report referenced in the Clean Water Act must be provided to the Delaware General Assembly.

Chair Minor-Brown opened the floor to public comment.

Robert Overmiller expressed his support for the legislation.

A motion was made by Rep. Baumbach and seconded by Rep. Harris to release HB 126 from committee; motion carried. Yes = 10 (Minor-Brown, Harris, Baumbach, Chukwuocha, Hilovsky, Johnson, Morrison, Neal, Postles, Romer); No = 0; Absent = 6 (Briggs King, Heffernan, Hensley, Parker Selby, Shupe, Smith). The bill was released from committee with a F=3, M=7, U=0 vote.

Chair Minor-Brown introduced **HB 124, AN ACT TO AMEND TITLE 7 AND TITLE 16 OF THE DELAWARE CODE RELATING TO NOISE CONTROL AND ENFORCEMENT OF LAWS FOR PROTECTION AND CONTROL OF ANIMALS AND BARKING DOGS.**

Rep. Morrison said that this legislation is an updated version of a bill released from the House Health & Human Development Committee during a previous session. He said that his constituents had expressed concerns about dogs in their neighborhoods that continuously barked. He added that he consulted the Office of Animal Welfare, law enforcement, and the county governments while drafting this legislation. He pointed out that the committee has received letters of support from the Delaware Police Chief's Council, the New Castle County Council, and New Castle County Executive Matt Meyer. He mentioned that the Wilmington Police

Department and the Delaware League of Local Governments also support this legislation. He explained that this bill would transfer the responsibility of responding to dog barking complaints from law enforcement to the Office of Animal Welfare and allow fines for the owners of chronically barking dogs.

Rep. Morrison introduced expert witness George Smiley, who has served on the New Castle County Council for eighteen years and is familiar with the history of the legislation. He said that law enforcement officers have greater responsibilities to the community and are not trained to recognize if a dog is barking due to neglect or abuse. Some municipalities like Newark and Dover have procedures in place to handle dog barking complaints, and would not be impacted by this legislation. The fines will not be applicable if the dog is barking because of trespassing or other provocation. The dog would need to be barking continuously for fifteen minutes or intermittently for thirty minutes for the bill to be applicable. It also exempts dogs in shelters, pet stores, and veterinarian offices or if the dog is engaged in training, exhibition, hunting, or herding. The Office of Animal Welfare will assess each complaint on a case-by-case basis after conducting a thorough investigation, including interviews with the person who filed the complaint and the owner of the dog. If a violation has occurred, a warning will be issued for the first offense. Fines will be issued for all future offenses, unless the offense occurs within seven days of the first offense. The fiscal note attached to the bill will allow the Office of Animal Welfare to hire and train new employees to enforce the legislation. New Castle County code currently states that law enforcement is responsible for responding to barking dogs, but the Council has agreed to get rid of this provision upon passage of this bill.

Rep. Baumbach asked about the origin of the legislation.

Rep. Morrison requested that his expert witness, George Smiley, be permitted to speak.

George Smiley said that he has been working for multiple years to transfer the responsibility of responding to dog barking from law enforcement to an animal welfare agency without success. For a short period of time, a few animal shelters stepped in to fill this role, but the task eventually transferred back to law enforcement. He thanked Rep. Morrison for introducing this legislation.

Rep. Baumbach asked if he was correct in stating that county governments were initially responsible for dog barking before this task was transferred to the Office of Animal Welfare, and that the responsibility was eventually left to local law enforcement.

George Smiley confirmed that this was essentially the case.

Rep. Chukwuocha thanked Rep. Morrison for introducing this legislation.

Rep. Postles asked if the county stopped responding to dog barking complaints.

George Smiley replied that county law enforcement agencies never stopped responding to dog barking complaints but reiterated that local police have more important duties.

Rep. Postles asked who citizens call to file a dog barking complaint.

George Smiley said that currently citizens call 911 or their police department's non-emergency number. He added that the Office of Animal Welfare is better equipped to respond to a barking dog because they can quickly determine if it has been neglected or abused.

Rep. Morrison emphasized the importance of having trained professionals in the field. He added that the fines provide encouragement for the owner of a chronically barking dog to change their behavior.

Rep. Postles clarified that he would like to know how dog barking will be reported after this legislation is implemented.

Rep. Morrison replied that if a constituent calls 911 or their police department's non-emergency number regarding dog barking, they will be redirected to the Office of Animal Welfare.

Chair Minor-Brown opened the floor to public comment.

David Bentz, representing the Delaware Department of Health and Social Services, thanked Rep. Morrison for working with them closely regarding this legislation. He expressed concern about the ability of the Office of Animal Welfare to handle these responsibilities, as they are already struggling to fulfill their current duties. He said that dog barking on its own is not an animal welfare issue, and instead a nuisance or noise complaint that should be handled by the counties. He added that most of these incidents occur in the late evening or early morning, times during which the Office of Animal Welfare only responds to emergencies.

Robert Overmiller said that if a dog owner is fined because of dog barking, the owner may take actions toward the dog that are abusive to prevent the dog from continuing to bark.

Brian Boyle, representing the Office of the New Castle County Executive, thanked Rep. Morrison for introducing this legislation. He said that the Office of Animal Welfare is better suited to respond to dog barking complaints than law enforcement.

Rodney Foust said that his neighbor has a dog that will continuously bark throughout the day. He has attempted to address this issue with his neighbor to no avail. He expressed support for the legislation.

Charlie Hall, representing the American Kennel Club, thanked Rep. Morrison for amending the bill to accommodate some of their requests. However, his organization will continue to oppose this legislation based on concerns that responsible dog owners will be unjustly punished. He added that a statewide solution is not the appropriate response to this problem.

Rep. Morrison pointed out that the fiscal note provides funding for the Office of Animal Welfare to hire three additional employees, which is exactly what they requested to accommodate these new responsibilities.

Rep. Hilovsky asked if the employees of the office will be on-call in the evenings to respond to dog barking complaints.

Rep. Morrison clarified that the employees will not be responding to dog barking complaints outside of established business hours, but noted that the police have not been responding either.

A motion was made by Rep. Baumbach and seconded by Rep. Johnson to release HB 124 from committee; motion carried. Yes = 8 (Minor-Brown, Harris, Baumbach, Chukwuocha, Johnson, Morrison, Neal, Romer); No = 2 (Hilovsky, Postles); Absent = 6 (Briggs King, Heffernan, Hensley, Parker Selby, Shupe, Smith). The bill was released from committee with a F=2, M=6, U=1 vote.

**Chair Minor-Brown introduced SB 52, AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE STERILE NEEDLE AND SYRINGE EXCHANGE PROGRAM.**

Rep. Harris thanked the legislators and community members that were involved in creating this legislation. She said that this legislation would update an outdated provision related to the State's current needle exchange program. She explained that syringe service programs are community-based preventative measures that reduce the spread of disease through injection drug use by providing sterile injection equipment. She emphasized that these programs also offer participants access to substance use disorder treatment and referrals to a variety of critical health services. According to the CDC, these programs effectively reduce transmission of viral hepatitis, HIV, and other infectious diseases. These programs are associated with a fifty percent decrease in HIV and Hepatitis C incidents. Participants in needle exchange programs are three times as likely to reduce or stop illicit drug use altogether and five times more likely to enter treatment. She added that every state now has some form of a needle exchange program in operation, seven of which have taken a needs-based approach. The bill would remove the requirement for a one-to-one needle exchange, which creates a barrier for access to the program. The average daily injection rate is 2.8 times for heroin, and increases with the addition of fentanyl. The goal of the program should be to provide the quantity of clean needles necessary to prevent a person from reusing an old one. By providing additional syringes as needed the program will be able to encourage secondary exchange, which relies on a participant to provide clean needles to their community and may prevent other substance users from spreading disease. She pointed out that the rate of opioid use and deaths in Delaware are extremely high.

Rep. Baumbach thanked Rep. Harris for introducing this legislation.

Rep. Chukwuocha asked if the fiscal note would provide for the purchase of thicker needles, which are steadily becoming more necessary.

Rep. Harris asked expert witnesses Lynn Morrison and Holly Rybinski to respond.

Lynn Morrison, CEO of Brandywine Counseling and Community Services, clarified that they already supply multiple sizes of syringes. She added that the price is similar regardless of size and confirmed that they are seeing an increased need for larger syringes.

Rep. Harris noted that the only reason that they are aware of the need for larger needles is because of the safe environment that syringe service programs create, which allow users to come forward with information without fear of punishment.

Rep. Hilovsky expressed concern that providing too many needles to an individual at once will prevent them from returning and potentially seeking the associated counseling services.

Lynn Morrison replied that participants are currently running out of needles between visits and are sharing syringes even more than before as a result. She said that there is no evidence that a needs-based approach will reduce the number of visits from program participants.

Rep. Harris said that the likelihood that a substance user requests an unreasonable number of needles and never returns is incredibly low. She pointed out that many substance users hide their condition from family, friends, or their workplace and hide their injection materials. She noted that there are substance users who are also homeless, and that it is unrealistic to think that they would carry around a large amount of syringes with them. She added that the staff members providing the clean needles are having conversations with the participant to help determine their needs based on their personal circumstances.

Holly Rybinski, Prevention Program Manager at Brandywine Counseling & Community Services, confirmed that they would not provide an unreasonable number of syringes to a participant if they determined that the request was not truly reflective of the individual's needs.

Rep. Postles asked how the current one-to-one needle exchange policy prevents people from accessing the program.

Rep. Harris explained that if a person does not have access to a used needle, they will not be able to receive a new one. Alternatively, a person may have needles to exchange, but it may be less than the amount that they need. Participants may actively hunt for discarded needles to exchange, which puts them at additional risk for disease.

Holly Rybinski added that it is not intimidation or a fear of being pushed into treatment that prevents people from accessing the program, but a lack of syringes to exchange.

Chair Minor-Brown opened the floor to public comment.



Sarah Stowens, representing ChristianaCare, expressed her support for the bill. She emphasized that a needs-based approach effectively reduces blood-borne infections by facilitating access to safe needles and disposing of unsafe ones. She added that these programs are often successful at connecting substance users with appropriate treatment.

James Dowling, representing the Division of Public Health, said that they support the legislation. He noted that needs-based programs are recognized nationally as best practice. The program reduces the number of dirty syringes in circulation and, as a result, lowers rates of HIV and Hepatitis C infections. He added that the program currently exchanges approximately 35,000 syringes per month, a forty percent increase from January of 2022.

Suzan Abdallah, the director of HIV prevention outreach at the Delaware HIV Consortium, emphasized that the program provides vital resources for Delawareans struggling with injection drug use. Clean syringes are necessary to prevent the spread of HIV and Hepatitis C. The syringe service program also connects participants with resources such as counseling for substance abuse disorder. When paired with medication treatment, these programs have been found to reduce HIV incidents by roughly two thirds.

Christina Bryan, representing the Delaware Healthcare Association, pointed out that the CDC supports needs-based programs over a one-to-one needle exchange. She expressed her support for the legislation. She thanked the bills sponsors for their work on this issue.

Robert Overmiller said that he opposes the legislation because he believes it promotes drug use.

A motion was made by Rep. Romer and seconded by Rep. Neal to release SB 52 from committee; motion carried. Yes = 10 (Minor-Brown, Harris, Baumbach, Chukwuocha, Hilovsky, Johnson, Morrison, Neal, Postles, Romer); No = 0; Absent = 6 (Briggs King, Heffernan, Hensley, Parker Selby, Shupe, Smith). The bill was released from committee with a F=5, M=3, U=1 vote.

Chair Minor-Brown adjourned the meeting at 12:55.

Respectfully submitted by:

Wyatt Patterson

## Attendance List

- Sarah Stowens
- James Dowling
- Suzan Abdallah
- Christina Bryan
- Molly Magarik
- David Bentz
- Chris Motoyoshi
- George Smiley
- Robert Overmiller
- Brian Boyle
- Greysen Luongo
- Natalya Dixon
- Laueran Stephens
- Victoria Nguyen
- Amelia Raymond
- Cecilee Penland
- Zoey Cook
- Joanne Grant
- Leanna Vitti
- Rodney Foust
- Charlie Hall
- Lynn Morrison



Thank you for the opportunity to provide comments on House Bill 118. The American Lung Association supports policies to reduce exposure to secondhand smoke by requiring totally smoke-free environments.

The American Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease, through research, education and advocacy. The work of the Lung Association is focused on four strategic imperatives: to defeat lung cancer; to improve the air we breathe; to reduce the burden of lung disease on individuals and their families; and to eliminate tobacco use and tobacco-related diseases.

Tobacco use remains the leading cause of preventable death in Delaware and the United States, killing an estimated 480,000 Americans each year, including 1,400 Delawareans.<sup>1</sup> The American Lung Association supports funding of evidence-based tobacco prevention, education and cessation programs. These programs should focus their efforts on the populations most disproportionately impacted by tobacco use and secondhand smoke exposure.

Exposure to secondhand smoke in an enclosed space such as a car is dangerous – especially for children. The Lung Association supports measures to require totally smoke-free environments to protect public health that includes legislation and policies that prohibit smoking in vehicles with children under the age of 18 present, as House Bill 118 does. Additionally, we believe that policies such as HB 118 offer an important education opportunity in helping parents understand that exposing children to secondhand smoke is dangerous and can result in significant health problems.

While policies regarding smoking in vehicles with children are certainly an important public health issue, no one policy is a silver bullet, but collectively strong measures can help address tobacco use in our state. Tobacco policy cannot be done in isolation and evidenced-based policies must also be considered, including fully funding tobacco control programs, expanding coverage of cessation products and services and increasing and protecting tobacco taxes for all products so that one product or group of products do not become cheaper and therefore more accessible.

The American Lung Association thanks you for the opportunity to provide comments and express our support of House Bill 118 in conjunction with evidence based policies to reduce tobacco use and secondhand smoke exposure in the state and continue Delaware's commitment to a healthier community.

Sincerely,

A handwritten signature in cursive script that reads "Aleks Casper".

Aleks Casper  
Director of Advocacy, Delaware  
American Lung Association

<sup>1</sup> U.S. Department of Health and Human Services. The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health 2014.

4 Orchid Drive  
Bear, DE 19701

May 3, 2023

**Subject:** Dog Barking Bill (House Bill 124)

Members of the General Assembly:

My name is Charles Whealton and I am writing to you in support of house bill legislation on "dog barking" being put forth by Mr. Eric Morrison. I had no choice but to contact Mr. Morrison because nobody seems willing to do anything about this issue. One of my neighbors is a textbook case of why updated dog barking legislation is necessary

I originally contacted Animal Welfare, probably twice over the years, and each time they referred me to the New Castle County Police. The police are incredibly short staffed. They don't have time for this, though they have come out once or twice.

Let me summarize by saying that I've been woken up countless times during the 5am and 6am hour when there was no reason for me to be up. I've been woken up just trying to take a nap. The dog in question has never been properly conditioned to interact with its surroundings. It barks at other dogs across the pond behind our house. It barks at other dogs walking through our neighborhood. None of the dogs usually bark back. I've never seen a time when the dog I'm talking about is not the aggressor. It barks at the geese in the pond, other humans who are doing nothing that should make it feel threatened, and I've had it charge at me when I'm just doing yard work, only being stopped by the fence. We cannot even enjoy our deck. I cannot tell you how many recordings for my students I had to restart during the pandemic, how many times I've had to tell them I was sorry during a Zoom Meeting based class. It's that bad.

The only thing the individual in question has done about it is to get a new, smaller dog, that now mimics the more vicious dog in its barking. Why? Because the neighbor in question knows they can get away with it. Our laws are custom made to favor them, not those of us being victimized by their lack of decency. When this legislation was previously up, I was typing this message 7:07AM and both dogs were out there barking. Try dealing with that for years.

I have videos if you need proof. Feel free to pull my 911 call logs over the last several years. Another of my neighbors, a retired law enforcement officer, has told me he doesn't know how I put up with it. He's a house away and it gets on his nerves.

Please pass this legislation. Enforce it, continually monitor it, and update it to make it stricter if necessary. Until you've lived near a nightmare like this with a neighbor who laughs at you because the laws favor them, you have no idea what this is like. People like this are a discredit to those who do the right things concerning their animals.

Yours Truly,



Charles R. Whealton

## House Bill 124 – Regulating Barking Dogs & Senate Bill 71 - Immunity for Animal Cruelty Reporting

Ever McConnell <mcconnell.jen1@gmail.com>

Thu 5/4/2023 2:06 PM

To: MinorBrown, Melissa C (LegHall) <Melissa.MinorBrown@delaware.gov>; Harris, Kerri Evelyn (LegHall) <kerrielynn.harris@delaware.gov>; Baumbach, Paul (LegHall) <Paul.Baumbach@delaware.gov>; Chukwuocha, Nnamdi (LegHall) <Nnamdi.Chukwuocha@delaware.gov>; Heffernan, Debra (LegHall) <Debra.Heffernan@delaware.gov>; Johnson, Kendra (LegHall) <Kendra.Johnson@delaware.gov>; Morrison, Eric (LegHall) <Eric.Morrison@delaware.gov>; Neal, DeShanna (LegHall) <deshanna.neal@delaware.gov>; Parker Selby, Stell (LegHall) <stell.parkerselby@delaware.gov>; Romer, Cyndie (LegHall) <cyndie.romer@delaware.gov>; BriggsKing, Ruth (LegHall) <Ruth.BriggsKing@delaware.gov>; Hensley, Kevin S (LegHall) <Kevin.Hensley@delaware.gov>; Hilovsky, Jeff (LegHall) <jeff.hilovsky@delaware.gov>; Postles, Charles (LegHall) <Charles.Postles@delaware.gov>; Shupe, Bryan (LegHall) <Bryan.Shupe@delaware.gov>; Smith, Michael (LegHall) <Michael.F.Smith@delaware.gov>; Hansen, Stephanie (LegHall) <Stephanie.Hansen@delaware.gov>; HouseCommitteeComment (Mailbox Resources) <HouseCommitteeComment@delaware.gov>

Greetings House Health and Human Development Committee members:

As a constituent of the state of Delaware and a member of the Wilmington Kennel Club, I'm writing to you regarding my concerns with House Bill 124 and Senate Bill 71.

While I believe that both these bills were constructed with the best intentions for the people of our state, they both lack protections for responsible dog owners such as myself as well as our dogs.

**House Bill 124**, for example, seeks to protect the public from nuisance barking; and on that assumption, most would agree. I wholeheartedly agree that no one should be subjected to extended periods of continuous barking. However, this bill does not take into account the various communities Delaware has. For example, extended barking could be the barking of a beagle tracking game with its owner hunting in a rural area, the barking of a labrador retriever alerting that its owner is having a medical emergency, or the barking of a german shepherd dog guarding its owner's property in an urban area. As it stands, this bill doesn't allow for these types of nuance and is way too broad. It does not actually protect dogs or their responsible owners. Because of all the nuance in a law such as this, I believe this issue is best handled at the local level. In addition, this law could tie up Animal Control officers responding to nuisance barking instead of pursuing real animal abuse.

**Senate Bill 71**, on face value, seeks to protect individuals reporting animal cruelty from any liability resulting from that report. While this bill also aspires to the best intentions, it lacks an understanding of the nuance of this type of issue. I strongly believe that those who abuse and treat animals in a cruel manner should be held accountable and punished accordingly. However, there are some incidents where an individual with no expertise in animal husbandry or ethical, hobby breeding may misunderstand a situation. Likewise, the reporting requirement placed on official agents unqualified to do so could serve to either cause abuse to be reported where it does not exist or fail to report abuse where it does exist. Furthermore, this bill can provide a way for excessive, frivolous, or even prosecutorial reporting, which then punishes responsible owners and creates significant burdens on the state. As written, this bill does not actually protect dogs or their responsible owners.

I thank you for your time as well as all the hard work you do on behalf of constituents like me.

Best Regards,

## **Jen McConnell, MA**

Talleyville, DE 19803

[mcconnell.jen1@gmail.com](mailto:mcconnell.jen1@gmail.com)


410.458.9399

## DE HB84 comments - 3/29 hearing

Loren Breen <loren@animalpolicygroup.com>

Wed 3/29/2023 2:48 AM

To:HouseCommitteeComment (Mailbox Resources) <HouseCommitteeComment@delaware.gov>

 1 attachments (15 KB)

DE HB84 amendment request.docx;

Members of the Health and Human Development Committee,

I am reaching out on behalf of [Animal Policy Group](#) and [Dogtopia](#) to request an amendment for *[RELATING%20TO%20ENFORCEMENT%20OF%20LAWS%20FOR%20PROTECTION%20AND%20CONTROL%20OF%20ANIMALS%20AND%20BARKING%20DOGS.]HB 84 RELATING TO ENFORCEMENT OF LAWS FOR PROTECTION AND CONTROL OF ANIMALS AND BARKING DOGS.* We would like to see **dog daycare/boarding facility/kennel added to the list of those exempt** from proposed § 3057F. Barking Dogs. (See attached for requested change).

Animal shelters, pet stores, dog grooming facilities, veterinarian offices, and animal clinics are all exempt under the proposed language; Dog daycare/boarding facilities are a natural extension to this list. Below is some information concerning dog behavior and vocalization, and the actions Dogtopia takes to ensure prevention of sound transfer in their practice and infrastructure.

Dogtopia is committed to being good tenant neighbors. With 228 open locations in North America, and 80K dog visits per week, we are thankful that noise is not a concern due to our proper playroom management and effective design strategies

### NOISE CONTROL:

1. **Dog behavior** - The majority of vocalization comes from dogs who are crated or kenneled because dogs did not evolve to be separated from other dogs surrounding them. It can be frustrating and over-stimulating for a dog to be able to see its friends and not be able to access them. That can lead to barking. Dogtopia address this by having an open playroom and open outdoor environment business model where dogs play communally and do not feel the need to vocalize as often as you may see at an animal shelter. Another important differentiator is that ASPCA reports that barking inside shelters is reduced when there is an increase in dog interaction, physical and mental exercise. Those are the kind of activities that we do at Dogtopia, all day long!
2. **Outdoor play** - Playtime outside at Dogtopia is generally a short amount of time and facilitated by a Canine Coach who will facilitate pack activities with the same amount of attentiveness as inside. This means that careful attention is paid to the group dynamics to ensure dogs are displaying safe levels of energy, including noise levels.
3. **Outdoor design** - Here are a few key factors when looking at the outdoor space. Dogs barking during play outside would be considered a point source (for noise) and sound typically diminishes at a rate of 6 dB (decibels) for each doubling distance from the receptor. Dogtopia outdoor play space is designed using solid fencing materials which further reduces noise levels by 5 - 10 dB. If we assume a dog can bark between 80 – 95 dB, the decibel level 250 feet from the point source would measure 38 – 53 dB. A whisper is measured at 30 dB, the sound of a computer running is measured at 40 dB and the sound of a refrigerator running is 50 dB. When taking into account our solid fencing material, and the placement of the outdoor space relative to the existing structures, we are confident that barking dog will not be a nuisance.
4. **Dog Space** – Dog space typically consist of the playrooms, utility rooms, evaluation rooms, spa & grooming, and suites. Dogtopia's standard design for walls around the Dog Space at the interior of the daycare are 6" thick, fully insulated, full-height, metal stud walls with type X-5/8" gypsum board on each side. The wall is full-height in that it spans from the floor to the roof deck (not just above the ceiling) and is filled with acoustical insulation. This wall is continuous and prevents any



substantial amount of sound or smell from escaping the Dog Space. Any windows in this wall assembly are frameless preventing the transfer of sound.

5. **People Space** – People Space typically consist of restrooms, reception, hallways, office, laundry/storage, and a breakroom. Sound coming from these areas is minimal and designed with a standard 3 5/8" metal stud wall that spans from the floor to 6" above the suspended ceiling, with type X-5/8" gypsum board on each side. This wall type is insulated only when surrounding the office or restrooms. The wall type may also be used within the Dog Space as sound transmission within the Dog Space isn't of concern.

Let me know if you have any questions. Thank you for your time.

Best,

**Loren Breen**

Policy and Research Director | [Animal Policy Group](#)  
[loren@animalpolicygroup.com](mailto:loren@animalpolicygroup.com)

*Animal Policy Group has over a decade of experience working with industry partners to develop policy strategies and build strong coalitions to increase veterinary access and advocate for animal welfare.*

## Requested changes in blue

### HOUSE BILL NO. 84

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO ENFORCEMENT OF LAWS FOR PROTECTION AND CONTROL OF ANIMALS AND BARKING DOGS.

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

Section 1. Amend Chapter 30F, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3032F. Enforcement of laws for protection and control of animals.

~~The constables of the several counties of this State, and the police force of the City of Wilmington, as well as all other places in the State where police organizations exist, shall, as occasion requires, assist the Office of Animal Welfare and the Department of Agriculture in the enforcement of all laws which are enacted for the protection of animals.~~ All police officers shall, as occasion requires, assist the Office of Animal Welfare and the Department of Agriculture, in the enforcement of all laws which are enacted for the protection and control of animals.

§ 3033F. Fines and ~~penalties in certain cases; disposition.~~ penalties.

All fines, penalties and forfeitures, imposed and collected in ~~any county of~~ the State under every act relating to or affecting cruelty to animals, animal fighting, dog control, dog barking, or dangerous animals, shall be remitted to the enforcing agency.

§ 3057F. Barking Dogs.

(a) No person who owns, possesses, harbors, or controls a dog may allow the dog to cause a noise disturbance by barking, whining, or howling for an extended period. An extended period means continuously for a period of 15 minutes or, intermittently, for 30 minutes or more.

(b) No violation of subsection (a) exists if at the time the dog is making such noise a person is trespassing or threatening to trespass upon private property where the dog is located, or if the dog is being teased or provoked.

(c) No violation under subsection (a) exists if, at the time the dog is making a noise disturbance, it is located in an animal shelter, pet store, **dog daycare/boarding facility**, dog grooming facility, veterinarian office, or animal clinic.

(d) A person who violates subsection (a) shall be subject to the following:

(1) For a first violation a written warning.

(2) For a second violation, only if it occurs 7 days or more after the first violation, a civil penalty of \$100.

(3) For a third violation a civil penalty of \$200.

(4) For each subsequent violation a civil penalty of \$300.

~~§ 3057F.~~ § 3058F. State dog law management.

(c) In addition to animal welfare officers, all police officers may ~~enforce~~ assist in the enforcement of the dog control laws and ordinances of the State or any of its political subdivisions.

~~§ 3058F.~~ § 3059F. Rules and regulations. The Department may adopt, amend, modify, or repeal ordinances, rules, and regulations to effectuate the policy and purposes of this chapter.

Section 2. This Act takes effect on July 1, 2024.

## Comments on House Bill 84

Suzanne Schwartz <suzanneandrobort@hotmail.com>

Tue 3/28/2023 3:51 PM

To:HouseCommitteeComment (Mailbox Resources) <HouseCommitteeComment@delaware.gov>

I would like to offer my comments on House Bill 84. I fully support reasonable restrictions on barking dogs. However, there are a number of very serious flaws in this Bill.

First, while 15 consecutive minutes is a reasonable time limit for barking, 30 minutes of intermittent barking is not. In the course of a day a dog may have many occasions to bark for a few minutes — the mailman, dogs being walked past their house, etc. Over a full day that could easily add up to more than 30 minutes. In fact, I doubt that there are many dogs that haven't barked for 30 minutes over the course of at least one day. If you are trying to address sustained but not continuous barking, something like 30 minutes within an hour would be more reasonable. If you are trying to put every dog and dog owner at risk, leave it as is.

Second, it is virtually impossible for a dog to identify a "trespasser." Dogs bark at people on their property — mailmen, delivery people, gardeners, etc. In fact, many people keep dogs just for the purpose of keeping potential trespassers/criminals away. If they have to try to train their dogs to keep quiet whenever someone not deemed a "trespasser" comes around, it is unlikely the dogs will bark when a real intruder appears. The dog will have no way of knowing it's okay to bark then. An exception for "trespassers" is way too narrow. It might even lead to an increase in crime!

Third, enforcement of this bill will be either arbitrary or impossible. In a community with many dogs (as most are), it can be very difficult to identify which dog is barking. Often, one dog barking starts other dogs barking. How would complainants be required to document that one particular dog was the one barking for the unacceptable period of time? How would they document the time period of barking? Would video evidence be required? Are you asking neighbors to spy on other neighbors? Or are you just going to take someone's word for it? That is likely to lead to false claims that result from unrelated disagreements. And why would you believe the complainant rather than the dog owner? What if the dog owner finds someone else to agree that their dog wasn't barking for that period of time?

Fourth, giving the fines to the enforcing agency creates an incentive to believe complaints, even without evidence. This could lead to distrust of the police/enforcer. Better to not have the enforcers benefit from the fines, in order to make it perfectly clear that their interest is solely in finding the truth.

Finally, I believe that the imposition of ongoing fines will prove to be an expense and an annoyance to dog owners, but will not necessarily have the effect of reducing the amount of barking. It might in the long run have that effect, however, as I believe the current bill would result in fewer dogs being adopted/rescued, as the risk of being subject to law enforcement actions and significant fines overwhelms the desire to have a dog. I doubt that is how the bill was intended to work, and do not believe that is a desirable outcome.

I hope you will not pass House Bill 84 as is. I believe it needs significant, thoughtful revision before further action should be taken.

Sincerely,

Suzanne Schwartz, responsible dog owner  
137 S Newport Way  
Dagsboro, DE 19939

### **Memorandum of Support – SB 71 (Hansen)**

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO REPORTING SUSPECTED ANIMAL CRUELTY.

The Animal Legal Defense Fund supports SB 71 – requiring law-enforcement agencies, the Department of Services for Children, Youth and Their Families, and the Department of Justice to report suspected animal cruelty to the Office of Animal Welfare that is discovered while performing their responsibilities in child welfare cases. This Act also provides immunity to people who in good faith, report suspected animal cruelty and makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

It is crucial that the law empower current state employees to report suspected animal cruelty when they encounter signs of abuse within their scope of their professional duties. Not only are these professionals often the only witnesses to animal abuse or neglect, but they are uniquely in a position to help identify and report the signs of cruelty – helping ensure more animal victims are removed from harm.

It is important to note that violence against humans and violence against animals are intertwined. There is an established link between cruelty to animals and violence toward humans — regularly referred to as “The Link.”<sup>1</sup> Sixty percent of people who reported witnessing or perpetrating animal cruelty as a child also reported child maltreatment or domestic abuse in the homes.<sup>2</sup> Additionally, children who abuse animals are twice as likely to have suffered child maltreatment themselves.<sup>3</sup> Cross reporting allows law enforcement to intervene in situations where multiple members of the family may be experiencing violence.

Animals are often threatened or harmed as a way to control or psychologically abuse a human victim. Approximately one-third of women in domestic violence shelters report they delayed their escape out of fear for their companion animal.<sup>4</sup> Witnessing animal cruelty causes psychological trauma to children and negatively impacts their development.<sup>5</sup> Therefore intervening in animal cruelty may be crucial to assist human victims of child abuse or domestic violence.

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<sup>1</sup> Animal Cruelty’s Link to Other Forms of Violence, Animal Legal Defense Fund (October, 2021), available at <https://aldf.org/wp-content/uploads/2022/01/Animal-Legal-Defense-Fund-Link-Factsheet.pdf>

<sup>2</sup> Sarah DeGue & David DiLillo, Is Animal Cruelty a “Red Flag” for Family Violence?: Investigating Co-occurring Violence Toward Children, Partners, and Pets, 24 J. Interpersonal Violence 1036 (2009).

<sup>3</sup> Fiona S. McEwen, Terrie E. Moffitt, Louise Arseneault, *Is childhood cruelty to animals a marker for physical maltreatment in a prospective cohort study of children?* CHILD ABUSE & NEGLECT 38, 533-543 (2014).

<sup>4</sup> Barrett et al., *supra* note 8; Frank R. Ascione, Emerging Research on Animal Risk as a Risk Factor for Intimate Partner Violence 8 (Kathleen A. Kendall-Tackett & Sarah M. Giacomoni eds. 2007); Catherine A. Faver & Elizabeth B. Strand, To Leave or To Stay? Battered Women’s Concern for Vulnerable Pets, 18 J. Interpersonal Violence 1367, 1374 (2003).

<sup>5</sup> Roshni Trehan Ladny & Laura Meyer, Traumatized Witnesses: Review of Childhood Exposure to Animal Cruelty, 13 J. Child & Adolescent Trauma 527 (2019).

As a result, thirteen states and two U.S. territories already have laws imposing a duty or granting immunity to certain professions such as child protective services workers reporting suspected animal cruelty.

It is for these reasons the Animal Legal Defense Fund supports SB 71 and respectfully requests the bill be moved as soon as possible. **We recommend including cross reporting for those workers under the auspices of the Division of Services for Aging and Adults with Physical Disabilities, and respectfully suggest this be an added component of this reporting bill for reasons consistent with our support for the legislation.**

We appreciate your consideration and commend the bill sponsors for their leadership and recognition on this important matter involving the health, safety, and welfare of all in Delaware—humans and animals alike.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian R. Hackett", with a stylized flourish at the end.

Brian R. Hackett  
Legislative Affairs Manager  
bhackett@aldf.org