

Massachusetts House of Representatives Bill Summary

Bill #: H.2342 / S.1459

Title: An Act relative to dangerous dogs

Sponsor: Rep. Mark Sylvia, Sen. Mark Montigny

Committee: Municipalities and Regional Government

Hearing Date:

Prior History: Similar to H.2117 from 2023-2024 (OTP)

Current Law: Chapter 140 Section 157 of MGL defines what a nuisance dog or dangerous dog is and establishes a procedure that the complainant and the owner of the nuisance or dangerous dog must follow when there is an incident(s).

- Subsection (a) concerns the process of filing complaints for nuisance or dangerous dogs.
- Subsection (d) outlines various processes in response to an order being issued by a judge in case regarding a dangerous or nuisance dog.

Chapter 140 Section 157A of MGL deals with the non-compliance of a dog owner or a keeper of a dog of an order of an authority or district court. This section also bans the ownership or possession of a dangerous dog by a child under the age of 17 and prohibits the transfer of ownership or possession of a dangerous dog for sale or breeding without providing the recipient with information related to the dangerousness of the dog.

Chapter 140 Section 158 of the General Laws authorizes a police officer, constable or animal control officer to capture, detain, or in the case of a threat to public safety, euthanize a dog in a humane manner if found to be in violation of an order of a hearing authority or a district court.

Chapter 249 of Section 4 of the General Laws governs processes related to higher courts reviewing the decisions of lower courts.

Summary: Section 1 of this bill amends section 157 of chapter 140 of the General Laws by inserting in subsection (a), in line 26, a new paragraph. This new language states that if a hearing authority seeks for a dog to be impounded pending the public hearing following a complaint for a dangerous or a notice that a dog is being kept in

violation of this section by a hearing authority or a court, the hearing authority shall file a petition in the district court to order an impoundment at a facility. This facility shall be one the municipality uses to shelter animals. If the hearing authority seeks to impound a dog, who has bitten and broken the skin of another animal or human, for any length of time beyond any state mandated quarantine period, an order of impoundment must be requested. A municipality shall not incur liability for failure to request impoundment of a dog under this subsection.

This language also authorizes a justice of a district court, with probable cause to believe that a dog is dangerous or that a dog is being kept in violation of this section or an order issued under this section, to:

- Issue an order of restraint
- Confine the dog to protect the safety or other animals and the public
- Impound the dog in a humane place of detention that the municipality uses to shelter animals
- Take any other action as the court deems necessary to protect other animals and the public from the dog

If an order of confinement is issued, the person to whom the order is issued shall confine the dog in accordance with clause (ii) of subsection (d).

Section 2 further amends subsection (a) of section 157 of chapter 140 of the General Laws by inserting after the word “complaint” in line 27, the words “and of any violations of orders issued under this section”. The addition of this phrase has the effect of requiring a hearing authority to investigate or cause the investigation of any complaint and any violations of orders issued under this section regarding nuisance or dangerous dogs.

Section 3 amends section 157 of chapter 140 by striking out the words “or a dangerous dog” and inserting in place thereof the following words “, a dangerous dog or whether a violation of an order issued under this section has been found”.

Section 4 amends subsection (a)(4) of section 157 of chapter 140 of the General Laws by inserting after the first sentence of the second paragraph, in line 29, three new sentences. This new language authorizes an animal control officer, police officer, or hearing authority to order a biting dog that has broken the skin of a human, to be leashed or wear a humane basket or basket-type muzzle outside of an enclosed structure until the hearing for the complaint. The new language requires a hearing authority to hold a public hearing regarding the complaint within 30 days of the complaint being made,

after adequate notice was provided, unless continued by an agreement of both parties. Failure to provide adequate notice shall result in a dismissal of the case without prejudice.

Section 5 further amends section 157 of chapter 140 of the General Laws by inserting in line 30, after the word “hearing” the following words “for a complaint, which shall be limited to the issues to the hearing notice”. The addition of this language ensures that the hearing regarding a complaint be limited to the issues specifically referenced in the hearing notice.

Section 6 adds a sentence to the end of the second paragraph of subsection (4) of section 157 of chapter 140, in line 35, of the General Laws that requires the hearing authority, based on credible evidence and the testimony presented at the public hearing for a violation, to dismiss the violation or make a finding that the violation has occurred. Upon the finding that a violation has occurred, the hearing authority may order additional requirements pursuant to subsections (b) and (c) of this section.

Section 7 amends subsection (c) of section 157 of chapter 140 of the General Laws by striking out subsection (c)(ii) and inserting new language concerning the confinement of a dog that has been deemed a nuisance or dangerous dog by the hearing authority. This new language holds that the nuisance dog must be confined to the premises of the owner or keeper of the dog. Confined in this section shall mean securely confined indoors or when outdoors, kept in a fenced-in area that includes an egress to the indoors and a locked gate and is surrounded by a 6-foot high fence with a privacy barrier, or in a securely enclosed and locked pen. The owner or keeper of the dog shall ensure that the dog cannot escape by digging and that no natural or artificial items near the edges of the fenced-in area would allow the dog to jump or climb over the fence. Within this confinement, the dog must be able to move freely, and the dog’s food must be able to be placed eight feet from where the dog can urinate or defecate. Such excretions shall be removed daily. In a pen or a dog run, a dog house or a proper shelter from the elements shall be provided to protect the dog.

Section 8 amends subsection (c)(iii) of section 157 of chapter 140 by inserting after the word “muzzle” in line 58, language that clarifies what is meant by a muzzle. This language holds that a muzzle shall refer to a basket or basket-type muzzle.

Section 9 adds a new subsection, subsection (c)(vii) in section 157 of chapter 140 of the General Laws that provides an option for a hearing authority to require the owner or keeper of a dog that is deemed dangerous to consult with a veterinarian, behaviorist, or trainer to develop a public safety and behavior modification plan that exclusively

uses evidence-based training techniques that do not result in pain, discomfort, fear, or anxiety. Electric, prong, or choke collars shall not be used. All professionals involved in this plan shall be educated in and employ methods that adhere to the principles of the American Veterinary Society of Animal Behavior and the American College of Veterinary Behaviorists.

Section 10 amends the existing subsection (c)(vii) of section 157 of chapter 140 of the General Laws by renumbering the subsection to subsection (c)(viii).

Section 11 amends section 157 of chapter 140 of the General Laws by inserting in line 84, before the word “No”, the figure “(d)”. This reorganizes the existing language of the law in the paragraph on the lines 84-87 in subsection (d).

Section 12 amends section 157 of chapter 140 of the General Laws in line 85 by inserting after the word “removed”, the words “excluded”. This addition has the effect of holding that no order shall be issued by a hearing authority directing that a dog deemed dangerous be removed or excluded from the city or town in which the owner of the dog resides.

Section 13 amends section 157 of chapter 140 of the General Laws by inserting a new subsection (e) in line 88. This new language states that once a complaint has been filed, the owner or keeper of a dog shall not transfer the ownership of the dog that is the subject of the complaint.

Section 14 amends section 157 of chapter 140 of the General Laws by striking out the existing figure (d) in line 88 and inserting in place thereof the figure (f).

Section 15 amends section 157 of chapter 140 by striking out the word “an” in line 88 and inserting the following words “receipt of a written”. This change has the effect of holding that within 10 days after receipt of a written order issued by the hearing authority, the owner or keeper of a dog may bring a petition to the court asking for an order issued by a hearing authority for a nuisance or dangerous dog to be reviewed by the court or a magistrate of the court.

Section 16 amends subsection (d) of section 157 of chapter 140 by inserting after the words “or (j)”, after the word “inclusive” in line 89. This adds subsection (j), which concerns violations by a dog owner or keeper of a dog of an issued order, to the list of orders issued that allow for the owner or keeper of a dog to bring a petition in the district court.

Section 17 amends subsection (d) of section 157 of chapter 140 by striking in line 89, the word “a” and replacing it with the word “the”.

Section 18 amends section 157 of chapter 140 by inserting in line 89, after the word “dog”, the words “or complainant”. This addition allows for a complainant to also bring a petition in the district court to ask that an order be reviewed by the court or the magistrate of the court. The current language only allows for the owner or keeper of the dog subject to the complaint to bring a petition to review an order.

Section 19 amends section 157 of chapter 140 in line 95, after the word “affirm” the words “or otherwise resolve”. This new language has the effect of authorizing the magistrate of the court to affirm or otherwise resolve an order of a hearing authority.

Section 20 amends subsection (d) of section 157 of chapter 140 in line 97 by striking out the word “A” and inserting in its place the word “Either”. This change has the effect of establishing that either party shall have the right to request a de novo hearing on the complaint before a justice of the court.

Section 21 further amends subsection (d) of section 157 of chapter 140 in line 99 by inserting language stating that a request for a denovo hearing shall me made within 10 days after receipt of the decision of the magistrate.

Section 22 amends section 157 of chapter 140 in line 100 by striking out the figure “(e)” and inserting in its place the figure “(g)”.

Section 23 amends section 157 of chapter 140 in line 100 by striking out the figure “(1)”.

Section 24 amends section 157 of chapter 140 in line 100 by striking out the phrase “an owner or keeper” and inserting in place the words “either party”. This change has the effect of stating that pending an appeal by either party, a hearing authority may file a petition in district court to request an impoundment order for a dog complained of as being a dangerous dog.

Section 25 amends section 157 of chapter 140 in line 101 by striking out the figure “(d)” and inserting in its place the figure “(f)”.

Section 26 amends section 157 of chapter 140 in line 106 by striking out the figure “(2)”.

Section 27 amends section 157 of chapter 140 in line 118 by striking out the figure “(f)” and inserting in place thereof the figure “(h)”.

Section 28 amends section 157 of chapter 140 in line 119 by striking out the figure “(d)” and inserting in place thereof the figure “(f)”.

Section 29 amends section 157 of chapter 140 of the General Laws is hereby further amended by striking in line 124, after the word “parties”, the words “except for the provisions outlined in section 4 of chapter 249”. Section 4 of chapter 249 governs processes related to higher courts reviewing the decisions of lower courts.

Section 30 amends section 157 of chapter 140 in line 125 the figure “(g)” and inserting in place thereof the figure “(i)”.

Section 31 amends section 157 of chapter 140 in line 144 the figure “(h)” and inserting in place thereof the figure “(j)”.

Section 32 amends section 157 of chapter 140 by inserting in line 145, after the word “section” the words “after obtaining a court order”. This has the effect of requiring the obtainment of a court order to seize and impound a dog if an owner or keeper of a dog is found in violation of an order under this section.

Section 33 amends section 157 of chapter 140 by inserting in line 146, after the word “officer” the words “pursuant to section 158 of chapter 140”. Section 158 of chapter 140 of the General Laws authorizes a police officer, constable or animal control officer to capture, detain, or in the case of a threat to public safety, euthanize a dog in a humane manner if found to be in violation of an order of a hearing authority or a district court.

Section 34 amends section 157 of chapter 140 by inserting in line 146, after the word “the” the words “owner or”. This has the effect of ensuring that both the owner and keeper of dog are included in provisions of this section regarding consequences for violations of an order by a hearing authority.

Section 35 amends section 157 of chapter 140 by inserting after the word “seizure” in line 149 the words “in writing”. This has the effect of ensuring that the owner or keeper of a dog found in violation of an order by a hearing authority receives a written notice of a seizure order.

Section 36 amends section 157 of chapter 140 by inserting after the word “such” in line 149 the words “written”. This ensures that the notice given to an owner or keeper of a dog is in written format.

Section 37 amends section 157 of chapter 140 by inserting after the word “authority” in line 150 the words “for a public hearing”. This has the effect of allowing the owner or keeper of a dog, who has received a written seizure notice due a violation of an order by a hearing authority,

to file a petition with the hearing authority for a public hearing for the return of the dog to the owner.

Section 38 amends section 157 of chapter 140 by striking out the word “shall in line 151” and inserting in place the words “may”. This new language states that the owner or keeper of a dog may be ordered to immediately surrender to the licensing authority the license and tags if they are found in violation of an order.

Section 39 amends section 157 of chapter 140 by striking out the words “in the person’s possession” in line 152 and inserting in place the words “of the dog that is the subject of the violation”. This change has the effect of specifying what dog license or dog tags may be required to be turned over to the licensing authority in if the owner or keeper of the dog is found to have been in violation of an order.

Section 40 amends section 157 of chapter 140 by striking out the word “shall” in line 153 and inserting in place thereof the word “may”. This new language states that the owner or keeper of a dog may be prohibited from licensing a dog within the commonwealth for a period of 5 years if they are found in violation of an order.

Section 41 amends subsection (h) of section 157 of chapter 140 by striking out the last sentence of subsection (h). This section removes the language stating that a hearing authority that determines that a dog is dangerous or a nuisance or that a dog owner or keeper has violated an order issued under this section shall report such violations to the issuing licensing authority within 30 days. This language has been moved to a different part of section 157 of chapter 140 in Section 43 of this act.

Section 42 amends section 157 of chapter 140 by striking out subsection (i) in its entirety. This section currently states that orders issued by a hearing authority shall be valid throughout the commonwealth unless overturned under subsection (d) and (f). This language has been changed to reflect the accurate subsection references and has been moved to a different part of section 157 of chapter 140 in Section 43 of this act.

Section 43 amends section 157 of chapter 140 by inserting a new subsection, subsection (k). This new subsection holds that if a hearing authority determines that a dog is dangerous or nuisance or that a dog owner or keeper has violated an order issued under this section shall report such violations to the issuing licensing authority within 30 days. Orders issued by a hearing authority shall be valid throughout the commonwealth unless overturned under subsection (f) or (h).

Notes:

A de novo hearing is when a court is deciding the issue(s) without

reference to any legal conclusion or assumption made by the previous court to hear the case.

This language is similar to H.2117 but differs by:

- Making grammatical changes
- Renumbering certain subsections of section 157 of chapter 140 of the General Laws
- Revising the authority of a hearing authority to impound dogs that have received complaints for being a nuisance or dangerous or dogs who have been found to have violated certain orders
- Expanding the powers of a hearing authority in issuing orders regarding violations for nuisance or dangerous dogs
- Stipulating that a municipality shall not incur liability for the failure to request the impoundment of a dog for violations of orders related to nuisance or dangerous dogs
- Adding language requiring a hearing authority to investigate or cause the investigation of any complaint and violation of orders issued regarding nuisance or dangerous dogs
- Authorizing a complainant to also bring a petition in the district court to ask that an order be reviewed by the court or magistrate of the court in addition to the owner or keeper of the dog
- Authorizing the magistrate of a court to affirm or otherwise resolve an order of a hearing authority
- Authorizing a hearing authority to file a petition in a district court to request an impoundment order for a dog complained of as being a nuisance or dangerous
- Adding language ensuring that both the owner or keeper of a dog are subject to consequences for violations of an order by a hearing authority
- Adding language ensuring that a notice of a seizure of a dog is given in a written format
- Changing the requirement that an owner or keeper of a dog found to be in violation to be ordered to immediately surrender to the licensing authority the dog license and tag to be a potential option for a judge to issue
- Changing the requirement that an owner or keeper of a dog found to be in violation to immediately be prohibited from licensing a dog in the commonwealth for 5 years to be a potential option for a judge to issue
- Moving language stating that a hearing authority that determines that a dog is dangerous or a nuisance or that a dog owner or keeper has violated an order issued under this section shall report such violations to the issuing licensing authority within 30 days to a new subsection.

- Moving language stating that orders issued by a hearing authority shall be valid throughout the commonwealth unless overturned under certain subsections to a new subsection.