

2018

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**DOMESTIC ANIMALS (DANGEROUS DOGS) LEGISLATION
AMENDMENT BILL 2018**

EXPLANATORY STATEMENT

**Presented by
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Shadow Minister for Urban Services**

EXPLANATORY STATEMENT

This explanatory statement relates to the Domestic Animals (Dangerous Dogs) Legislation Amendment Bill 2018 (the bill) as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the bill and to help inform debate on it. It does not form part of the bill and has not been endorsed by the Legislative Assembly.

The statement must be read in conjunction with the bill. It is not, and is not meant to be, a comprehensive description of the bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Background

This bill amends the Domestic Animals Act 2000 and the Domestic Animals Regulation 2001.

The aim of the bill is to promote a greater obligation on dog owners to manage dogs in a safe and responsible manner. In addition the bill is to promote positive relations between all dog owners and dogs and other domestic pets.

The bill recognises that dogs are important part of the lives of many Canberrans. They are companions and are often significant parts of people's daily lives. Dogs can become like family. For some, dogs are important service providers including as guide dogs, companion dogs and therapy dogs. Some dogs are used in hunting.

However, dogs can also cause injury and even death to humans. Dogs can cause death or serious injury to other dogs, cats and other domestic pets. The owners of dogs in these circumstances need to be held responsible for the actions of their dogs. There has been a rapid increase in the number of dog attacks reported in Canberra. In the past 5 years there has been a 30% average annual increase in reported attacks. This bill is presented to address this trend in increasing number of attacks.

Amendment to the Domestic Animals Act 2000.

The bill is principally about creating clear accountability measures. Many victims of dog attacks have complained they aren't informed about the status of an investigation into a dog attack. The bill will require Domestic Animal Services to inform the victim, dog owner and responsible Minister of the outcome of the investigation of a dog attack within 14 days of its completion. The registrar will also be required to collect data and document an investigation. This bill also addresses the conditions under which a dog is seized; tightening them to require that a dog that seriously injures or kills a domestic animal must be impounded during the course of an investigation. Dogs should not be seized for minor incidents. The bill accounts for this in one way by distinguishing between attacks on domestic and non-domestic animals. This means that a dog that innocently kills or injures a non-domestic animal will not be captured by the legislation.

Human Rights

This bill affects the ownership rights of dog owners. These rights are restricted in the bill to the extent that the ownership of the dog should not impact on the rights of other people or the rights of other people in relation to their ownership of a domestic pet. If a dog kills the domestic pet of a person, the owner of the attacking dog should be held responsible. The instinctive behaviour of the dog or the domestic pet in the attack should have no bearing on the responsibility borne by the owner of the dog for managing that behaviour.

Outline of provisions

Part 1 – Preliminary

Clause 1 - Name of Act

This clause names the amendment Act.

Clause 2 - Commencement

This clause provides for the commencement of the Act.

Clause 3 - Legislation amended

This clause states the legislation that is amended by the amendment bill.

Part 2 – Domestic animals Act 2000

Clause 5 - Declarations of Dangerous Dogs

This clause changes the definition of a dangerous dog to include dogs that have attacked and caused death or serious injury to a domestic animal.

Clause 7 - Investigation of attacking Section 53A to 53C

This clause requires the registrar to investigate an attack by a dog that caused the death of or serious injury to a person or domestic animal and any written complaint about a menacing, aggressive or harassing dog. The registrar is not compelled to investigate if the complaint is frivolous or vexatious.

One of the common complaints about the current arrangements is that the victims of dog attacks are not quickly, if ever, informed of the consequences for the dog and its owner of an investigation. This clause requires the registrar to, within 14 days of completing an investigation, give written notice of the outcome of the investigation to the keeper and any carer of the dog and, if a complaint was made, the complainant, and people occupying property adjacent or nearby to premises where the dog is kept and the Minister. The Registrar is also required to keep records.

This clause also deals with attacking dogs that cause the death or serious injury to a person or death of domestic animal. Where the registrar is reasonably satisfied that a dog attacked a person or domestic animal and the attack caused the death of the person or serious injury to the person or the death of the domestic animal the registrar must destroy the dog with explicit exceptions.

The registrar can choose not to destroy the dog where the registrar is reasonably satisfied that either, the person or domestic animal involved in the attack provoked the dog or the person or animal was attacked because the dog came to the aid of a person or animal that the dog could be expected to protect or, if the attack was on premises occupied by the keeper of the dog, the person or animal was on the premises without lawful excuse or the dog is not likely to be a danger to the public or another animal. If the dog is not destroyed, the registrar must issue a control order for the dog to the dog's keeper or carer.

This clause also deals with attacking, harassing or menacing dogs. Where the registrar is reasonably satisfied a dog attacked a person or animal and the attack caused injury to the person, or in other circumstances the registrar may destroy the dog. In making this decision the registrar must consider if the dog is likely to be a danger to the public or another animal and any other relevant matter. Under this clause if the registrar decides not to destroy the dog, the registrar must issue a control order for the dog to the dog's keeper or carer.

This clause also has matters to do with giving advice where a dog is destroyed.

Clause 8 – Seizure of dogs - Section 56A

This is a substitute clause that requires the registrar seize to a dog under prescribed circumstances. If a dog is seized the registrar must impound the dog until an investigation is completed.

Clause 12 – Dictionary

This clause defines a domestic animal as a dog or cat or any animal kept on a premises by a person. This definition is to exclude animals that are not kept as pets such as wild mice etc or native animals that would be covered by other legislation.