

618.19 DANGEROUS AND VICIOUS DOGS.

618.19.1

(A) As used in this Section:

(1)(a) "Dangerous dog" means a dog that, without provocation, and subject to division (A)(1)(b) of this Section, has done any of the following:

(i) Caused injury, other than killing or serious injury, to any person;

(ii) Killed another dog;

(iii) Been the subject of a third or subsequent violation of Section 618.01 of this code.

(b) "Dangerous dog" does not include a police dog that has caused injury, other than killing or serious injury, to any person or has killed another dog while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.

(2) "Menacing fashion" means that a dog would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.

(3)(a) Subject to division (A)(3)(b) of this Section, "nuisance dog" means a dog that without provocation and while off the premises of its owner, keeper, or harbinger has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person.

(b) "Nuisance dog" does not include a police dog that while being used to assist one or more law enforcement officers in the performance of official duties has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person.

(4) "Police dog" means a dog that has been trained, and may be used, to assist one or more law enforcement officers in the performance of their official duties.

(5) "Serious injury" means any of the following:

(a) Any physical harm that carries a substantial risk of death;

(b) Any physical harm that involves a permanent incapacity, whether partial or total, or a temporary, substantial incapacity;

(c) Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement;

(d) Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain.

(6)(a) "Vicious dog" means a dog that, without provocation and subject to division (A)(6)(b) of this Section has killed or caused serious injury to any person;

(b) "Vicious dog" does not include either of the following:

(i) A police dog that has killed or caused serious injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;

(ii) A dog that has killed or caused serious injury to any person while that person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, or harbinger of the dog.

(7) "Without provocation" means that a dog was not teased, tormented, or abused by the person killed or injured, or that the dog was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity.

(B) Upon the transfer of ownership of any dog, the seller of the dog shall give the buyer a transfer of ownership certificate that shall be signed by the seller. The certificate shall contain the registration number of the dog, the name of the seller, and a brief description of the dog. Blank forms of the certificate may be obtained from the county auditor. A transfer of ownership shall be recorded by the auditor upon presentation of a transfer of ownership certificate that is signed by the former owner of a dog and that is accompanied by a fee of five dollars.

(C) Prior to the transfer of ownership or possession of any dog, upon the buyer's or other transferee's request, the seller or other transferor of the dog shall give to the person a written notice relative to the behavior and propensities of the dog.

(D) Within ten days after the transfer of ownership or possession of any dog, if the seller or other transferor of the dog has knowledge that the dog is a dangerous dog, the seller or other transferor shall give to the buyer or other transferee, the board of health for the district in which the buyer or other transferee resides, and the dog warden of the county in which the buyer or other transferee resides, a completed copy of a written form on which the seller shall furnish the following information:

(1) The name and address of the buyer or other transferee of the dog;

(2) The age, sex, color, breed, and current registration number of the dog.

In addition, the seller shall answer the following questions, which shall be specifically stated on the form as follows:

"Has the dog ever chased or attempted to attack or bite a person? If yes, describe the incident(s) in which the behavior occurred."

"Has the dog ever bitten a person? If yes, describe the incident(s) in which the behavior occurred."

"Has the dog ever seriously injured or killed a person? If yes, describe the incident(s) in which the behavior occurred."

The dog warden of the county in which the seller resides shall furnish the form to the seller at no cost.

(E) No seller or other transferor of a dog shall fail to comply with the applicable requirements of divisions (B) to (D) of this section.

(F) Whoever violates any provision set forth in 618.19.1 is guilty of a third degree misdemeanor and shall be subject to the penalties set forth in Section 698.02

618.19.2

(A) No owner, keeper, or harbinger of a dangerous dog shall fail to do either of the following:

(1) While that dog is on the premises of the owner, keeper, or harbinger, securely confine it at all times in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top;

(2) While that dog is off the premises of the owner, keeper, or harbinger, keep that dog on a chain-link leash or tether that is not more than six feet in length and additionally do at least one of the following:

(a) Keep that dog in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top;

(b) Have the leash or tether controlled by a person who is of suitable age and discretion or securely attach, tie, or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station such a person in close enough proximity to that dog so as to prevent it from causing injury to any person;

(c) Muzzle that dog.

(B) No person who has been convicted of or pleaded guilty to three or more violations of Section 618.01 of this code involving the same dog and no owner, keeper, or harbinger of a dangerous dog shall fail to do the following:

(1) Obtain liability insurance with an insurer authorized to write liability insurance in this state providing coverage in each occurrence-because of damage or bodily injury to or death of a person caused by the dangerous dog if so ordered by a court and provide proof of that liability insurance upon request to any law enforcement officer, county dog warden, or public health official charged with enforcing this Section;

(2) Obtain a dangerous dog registration certificate from the county auditor pursuant to division (F) of this Section, affix a tag that identifies the dog as a dangerous dog to the dog's collar, and ensure that the dog wears the collar and tag at all times;

(3) Notify the local dog warden immediately if any of the following occurs:

(a) The dog is loose or unconfined.

(b) The dog bites a person, unless the dog is on the property of the owner of the dog, and the person who is bitten is unlawfully trespassing or committing a criminal act within the boundaries of that property.

(c) The dog attacks another animal while the dog is off the property of the owner of the dog.

(4) If the dog is sold, given to another person, or dies, notify the county auditor within ten days of the sale, transfer, or death.

(C) No person shall do any of the following:

(1) Debark or surgically silence a dog that the person knows or has reason to believe is a dangerous dog;

(2) Possess a dangerous dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;

(3) Falsely attest on a waiver form provided by the veterinarian under division (D) of this Section that the person's dog is not a dangerous dog or otherwise provide false information on that written waiver form.

(D) Before a veterinarian debarks or surgically silences a dog, the veterinarian may give the owner of the dog a written waiver form that attests that the dog is not a dangerous dog. The written waiver form shall include all of the following:

- (1) The veterinarian's license number and current business address;
- (2) The number of the license of the dog if the dog is licensed;
- (3) A reasonable description of the age, coloring, and gender of the dog as well as any notable markings on the dog;
- (4) The signature of the owner of the dog attesting that the owner's dog is not a dangerous dog;
- (5) A statement that division (C) of Section 618.19.2 prohibits any person from doing any of the following:
 - (a) Debarking or surgically silencing a dog that the person knows or has reason to believe is a dangerous dog;
 - (b) Possessing a dangerous dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;
 - (c) Falsely attesting on a waiver form provided by the veterinarian under division (D) of Section 618.19.2 that the person's dog is not a dangerous dog or otherwise provide false information on that written waiver form.

(E) It is an affirmative defense to a charge of a violation of division (C) of this Section that the veterinarian who is charged with the violation obtained, prior to debarking or surgically silencing the dog, a written waiver form that complies with division (D) of this Section and that attests that the dog is not a dangerous dog.

(F) (1) The county auditor shall issue a dangerous dog registration certificate to a person who is the owner of a dog, who is eighteen years of age or older, and who provides the following to the county auditor:

- (a) A fee of fifty dollars;
- (b) The person's address, phone number, and other appropriate means for the local dog warden or county auditor to contact the person;
- (c) With respect to the person and the dog for which the registration is sought, all of the following:
 - (i) Either satisfactory evidence of the dog's current rabies vaccination or a statement from a licensed veterinarian that a rabies vaccination is medically contraindicated for the dog;
 - (ii) Either satisfactory evidence of the fact that the dog has been neutered or spayed or a statement from a licensed veterinarian that neutering or spaying of the dog is medically contraindicated;
 - (iii) Satisfactory evidence of the fact that the person has posted and will continue to post clearly visible signs at the person's residence warning both minors and adults of the presence of a dangerous dog on the property;
 - (iv) Satisfactory evidence of the fact that the dog has been permanently identified by means of a microchip and the dog's microchip number.

(2) Upon the issuance of a dangerous dog registration certificate to the owner of a dog, the county auditor shall provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall renew the certificate annually for the same fee and in the same manner as the initial certificate

was obtained. If a certificate holder relocates to a new county, the certificate holder shall follow the procedure in division (F)(3)(b) of this Section and, upon the expiration of the certificate issued in the original county, shall renew the certificate in the new county.

(3)(a) If the owner of a dangerous dog for whom a registration certificate has previously been obtained relocates to a new address within the same county, the owner shall provide notice of the new address to the county auditor within ten days of relocating to the new address.

(b) If the owner of a dangerous dog for whom a registration certificate has previously been obtained relocates to a new address within another county, the owner shall do both of the following within ten days of relocating to the new address:

(i) Provide written notice of the new address and a copy of the original dangerous dog registration certificate to the county auditor of the new county;

(ii) Provide written notice of the new address to the county auditor of the county where the owner previously resided.

(4) The owner of a dangerous dog shall present the dangerous dog registration certificate upon being requested to do so by any law enforcement officer, dog warden, or public health official charged with enforcing this Section.

(5) The fees collected pursuant to this division shall be deposited in the dog and kennel fund of the county.

618.19.3

(A) The municipal court or county court that has territorial jurisdiction over the residence of the owner, keeper, or harbinger of a dog shall conduct any hearing concerning the designation of the dog as a nuisance dog, dangerous dog, or vicious dog.

(B) If a person who is authorized to enforce this chapter has reasonable cause to believe that a dog in the person's jurisdiction is a nuisance dog, dangerous dog, or vicious dog, the person shall notify the owner, keeper, or harbinger of that dog, by certified mail or in person, of both of the following:

(1) That the person has designated the dog a nuisance dog, dangerous dog, or vicious dog, as applicable;

(2) That the owner, keeper, or harbinger of the dog may request a hearing regarding the designation in accordance with this Section. The notice shall include instructions for filing a request for a hearing in the county in which the dog's owner, keeper, or harbinger resides.

(C) If the owner, keeper, or harbinger of the dog disagrees with the designation of the dog as a nuisance dog, dangerous dog, or vicious dog, as applicable, the owner, keeper, or harbinger, not later than ten days after receiving notification of the designation, may request a hearing regarding the determination. The request for a hearing shall be in writing and shall be filed with the municipal court or county court that has territorial jurisdiction over the residence of the dog's owner, keeper, or harbinger. At the hearing, the person who designated the dog as a nuisance dog, dangerous dog, or vicious dog has the burden of proving, by clear and convincing evidence, that the dog is a nuisance dog, dangerous dog, or vicious dog.

The owner, keeper, or harbinger of the dog or the person who designated the dog as a nuisance dog, dangerous dog, or vicious dog may appeal the court's final determination as in any other case filed in that court.

(D) A court, upon motion of an owner, keeper, or harbinger or an attorney representing the owner, keeper, or harbinger, may order that the dog designated as a nuisance dog, dangerous dog, or vicious dog be held in the possession of the owner, keeper, or harbinger until the court makes a final determination under this Section or during the pendency of an appeal, as applicable. Until the court makes a final determination and during the pendency of any appeal, the dog shall be confined or restrained in accordance with the provisions of division (A) of Section 618.19 that apply to dangerous dogs regardless of whether the dog has been designated as a vicious dog or a nuisance dog rather than a dangerous dog. The owner, keeper, or harbinger of the dog shall not be required to comply with any other requirements established in the Revised Code that concern a nuisance dog, dangerous dog, or vicious dog, as applicable, until the court makes a final determination and during the pendency of any appeal.

(E) If a dog is finally determined under this Section, or on appeal as described in this Section, to be a vicious dog, division (D) of Section 618.19.1 and divisions (A) to (F) of Section 618.19.2 apply with respect to the dog and the owner, keeper, or harbinger of the dog as if the dog were a dangerous dog, and Section 955.54 of the Revised Code applies with respect to the dog as if it were a dangerous dog, and the court shall issue an order that specifies that those provisions apply with respect to the dog and the owner, keeper, or harbinger in that manner. As part of the order, the court shall require the owner, keeper, or harbinger to obtain the liability insurance required under division (B)(1) of Section 618.19.2 in an amount described in division (H)(2) of Section 955.99 of the Revised Code.

(F) As used in this Section, "nuisance dog," "dangerous dog," and "vicious dog" have the same meanings as in Section 618.19.1.

(G) Whoever violates any provision set forth in Sections 618.19.2 and/or 618.19.3 is guilty of a first degree misdemeanor and shall be subject to the penalties set forth in Section 698.02 of this code.