

SECOND REGULAR SESSION

HOUSE BILL NO. 2163

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HADEN.

4578H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 322.140 and 491.725, RSMo, and to enact in lieu thereof four new sections relating to animals, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 322.140 and 491.725, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 67.142, 322.082, 322.140, and 491.725, to read as follows:

67.142. 1. Nothing in this chapter shall be construed to limit in any manner the authority of any village; town; city, including any home rule city; or county to prohibit dogs from running at large or to further control or regulate dogs within its boundaries, provided that no such ordinance, order, policy, or regulation is specific to breed.

2. The general assembly hereby occupies and preempts the entire field of legislation regarding in any way the control or regulation of specific breeds of dogs to the complete exclusion of any order, ordinance, policy, or regulation by any village; town; city, including any home rule city; or county in this state. Except as provided in subsection 3 of this section, any existing or future order, ordinance, policy, or regulation in this field shall be null and void.

3. Any village; town; city, including any home rule city; or county with an existing breed-specific order, ordinance, policy, or regulation in effect on or before August 28, 2024, shall have until February 28, 2025, to bring such order, ordinance, policy, or regulation into compliance with this section. After February 28, 2025, all noncompliant breed-specific orders, ordinances, policies, and regulations shall be unenforceable.

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **4. Nothing in this chapter shall infringe the ability of any village; town; city,**
18 **including any home rule city; or county to enact and enforce a vicious dog order,**
19 **ordinance, policy, or regulation if the order, ordinance, policy, or regulation is not**
20 **specific to breed.**

322.082. Whenever a peace officer responds to an incident where an animal bites
2 **or otherwise possibly transmits rabies or any zoonotic disease, the peace officer shall**
3 **report the incident to the local public health agency.**

 322.140. 1. If a county does not adopt rules and regulations pursuant to sections
2 322.090 to 322.130, whenever an animal bites or otherwise possibly transmits rabies or any
3 zoonotic disease, the incident shall be immediately reported to the county health department.
4 The county health department shall immediately report the incident to the department of
5 health and senior services and shall cooperate fully with the department of health and senior
6 services in its investigation.

7 2. Upon receipt of an incident report where an animal bites or otherwise possibly
8 transmits rabies or any zoonotic disease, the department of health and senior services shall
9 investigate the incident and shall have discretion to order the animal quarantined, isolated,
10 impounded, tested, immunized or disposed of to prevent and control rabies or zoonotic
11 disease.

12 3. With regard to exposure to rabies or zoonotic disease the department of health and
13 senior services shall, in its investigation and issuance of its order, consider the following:

14 (1) Prior vaccinations for rabies or zoonotic disease;

15 (2) The degree of exposure to rabies or zoonotic disease;

16 (3) The history and prior behavior of the animal prior to exposure;

17 (4) The availability and effectiveness of human postexposure immunization for rabies
18 or zoonotic disease;

19 (5) The willingness of the individual so exposed to submit to postexposure
20 immunization for rabies or zoonotic disease; and

21 (6) Any other relevant information.

22 4. It shall be unlawful for the owner of an animal that bites or otherwise possibly
23 transmits rabies or any zoonotic disease to knowingly fail or refuse to comply with a lawful
24 order of the department of health and senior services declaring a quarantine, isolation,
25 impounding, testing, immunization or disposal of an animal. It shall also be unlawful for an
26 owner of an animal that bites or otherwise possibly transmits rabies or any zoonotic disease to
27 sell, give away, transfer, transport to another area or otherwise dispose of an animal until the
28 animal has been released by the department of health and senior services. A violation of this
29 subsection shall be a class A misdemeanor.

30 5. The owner of an animal that bites or otherwise possibly transmits rabies or any
31 zoonotic disease shall be responsible for all costs associated with the incident, including:

- 32 (1) The cost to test the animal for rabies or zoonotic disease;
33 (2) The cost to test the exposed person for rabies or zoonotic disease; and
34 (3) The cost to treat the person exposed to rabies or zoonotic disease.

35 6. **In addition to reporting incidents to the department of health and senior**
36 **services under subsection 1 of this section, the county health department shall contact**
37 **the county sheriff after receiving two separate reports of an animal bite by the same**
38 **animal. The provisions of this subsection shall apply to all counties, including those that**
39 **have adopted rules and regulations pursuant to sections 322.090 to 322.130.**

40 7. The department of health and senior services shall have authority to promulgate
41 rules and regulations concerning the classification of disease as a zoonotic disease. Any rule
42 or portion of a rule, as that term is defined in section 536.010, that is created under the
43 authority delegated in this section shall become effective only if it complies with and is
44 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
45 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
46 pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule
47 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
48 proposed or adopted after August 28, 2001, shall be invalid and void.

 491.725. 1. This section shall be known and may be cited as the "Child Witness
2 Protection Act".

3 2. As used in this section, the following terms shall mean:

4 (1) **"Certified therapeutic dog", a dog that has received the requisite training or**
5 **certification from an organization that places dogs in hospitals, nursing homes, and**
6 **other facilities where the emotional benefits of therapy through the use of dogs is**
7 **recognized;**

8 (2) "Child", a person fourteen years of age or under[;] or, at the discretion of the
9 court, a person fifteen to seventeen years of age[;] who is a witness in any judicial proceeding
10 under chapter 452 or 453, [ø] the alleged victim or witness in any judicial proceeding under
11 chapter 455, 565, 566, or 568, **or a witness in any judicial proceeding for purposes of**
12 **subsection 4 of this section.** The court shall make written findings on the record when a
13 child fifteen to seventeen years of age is included under this subdivision. "Victim" or
14 "witness" shall not include any child accused of committing a felony; however, these terms
15 may, in the court's discretion, include:

16 (a) A child where such child's participation in a felony appears to have been induced,
17 coerced, or unwilling; or

18 (b) A child who has participated in the felony, but who has subsequently and
19 voluntarily agreed to testify on behalf of the state;

20 ~~[(2)]~~ (3) "Support person", an adult, designated by the court to serve as a support
21 person, who is known to the child victim or witness and who has no direct legal or pecuniary
22 interest in the outcome of the judicial proceeding;

23 (4) **"Vulnerable person", a person who, as a result of an inadequately developed
24 or impaired intelligence or a psychiatric disorder that materially affects ability to
25 function, lacks the mental capacity to consent or whose developmental level does not
26 exceed that of an ordinary child of fourteen years of age.**

27 3. In order to facilitate testimony that is fair and accurate, for the benefit of all parties,
28 and in order to protect all parties from the risks of a child becoming confused while testifying
29 in a judicial proceeding, the following child witness protection act shall apply to all children
30 testifying in court:

31 (1) Whether at a competency hearing or trial itself, the judge shall ensure that any
32 oath that is required of a child shall be administered in such a manner that the child may fully
33 understand his or her duty to tell the truth;

34 (2) The court shall take care to ensure that questions are stated in a form which is
35 appropriate to the age of the child. The court shall explain to the child that if he or she does
36 not understand a question, the child has the right to say that he or she does not understand the
37 question and to have the question restated in a form that the child does understand;

38 (3) In the court's discretion, the taking of testimony from a child victim or witness
39 may be limited in duration or limited to normal school hours. The court may order a recess
40 when the energy, comfort, or attention span of the child warrants;

41 (4) Upon motion made by the child, his or her representative, or any party to the
42 judicial proceeding, at least thirty days in advance of the judicial proceeding, the court may
43 allow the child to have a toy, blanket, or similar item in his or her possession while testifying,
44 but such item shall only be allowed if:

45 (a) All parties agree; or

46 (b) If the movant shows the court by a preponderance of evidence that:

47 a. The child in question cannot reliably testify without the item in his or her
48 possession; and

49 b. Allowing the item is not likely to prejudice the trier of fact in hearing and
50 evaluating the child's testimony;

51 (5) Upon motion made by the child, his or her representative, or any party to the
52 judicial proceeding, at least thirty days in advance of the judicial proceeding, the court may
53 designate a support person, who shall be present in the courtroom, in view of the child

54 witness. The court may allow the support person to remain in close proximity to the child
55 during the child's testimony, but such action shall only be allowed if:

56 (a) All parties agree; or

57 (b) If the movant shows the court by a preponderance of the evidence that:

58 a. The child in question cannot reliably testify without the support person in close
59 proximity during the testimony; and

60 b. Allowing the support person to be in close proximity to the child during testimony
61 is not likely to prejudice the trier of fact in hearing and evaluating the child's testimony.

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63 The support person shall not obscure the child from the view of the defendant or the trier of
64 fact. A support person shall not provide the child with an answer to any question directed to
65 the child during the course of the child's testimony or otherwise prompt the child or otherwise
66 influence the testimony of the child. If the support person attempts to influence or affect in
67 any manner the testimony of the child victim or witness during the giving of testimony or at
68 any other time, the court shall exclude that support person, refer the matter of misconduct of
69 the support person to the prosecuting attorney, and designate an alternative support person;

70 (6) The court shall prevent intimidation or harassment of the child witness by the
71 parties or their attorneys. Insofar as it is consistent with the constitutional rights of the parties
72 to confront and cross-examine adverse witnesses, the judge may rephrase any questions in
73 order to prevent any such intimidation or harassment; and

74 (7) Upon its own motion or the motion of any party to the judicial proceeding, at least
75 thirty days in advance of the judicial proceeding, the court may order such accommodations
76 as are appropriate under the circumstances to ensure the comfort of the child victim or
77 witness, including the following measures:

78 (a) Adjusting the layout of the courtroom;

79 (b) Conducting the proceedings outside the normal courtroom; or

80 (c) Relaxing the formalities of the proceedings;

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82 provided that, such measures are consistent with the rights of all parties under the constitution
83 and laws of the United States and the state of Missouri.

84 **4. A child or vulnerable person testifying in a judicial proceeding shall be**
85 **entitled to have in close proximity a certified therapeutic dog accompanied by the**
86 **certified therapeutic dog's handler in lieu of a support person as provided by**
87 **subdivision (5) of subsection 3 of this section.**

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