Sponsored by:
Assemblyman BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)

SYNOPSIS
“Responsible Dog Ownership Act.”

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning the control of dogs, supplementing Title 4 of the Revised Statutes, and amending N.J.S.2C:24-4.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. (New section) This act shall be known and may be cited as the “Responsible Dog Ownership Act.”

2. (New section) The Legislature finds and declares that there is a need to focus attention on the behavior of, and safe interaction with, all dogs in the communities of the State; that children are at particular risk from confrontations with unrestrained dogs, due to the size of children in relation to many dogs, but also because of their innocence, inexperience, and emotional perceptions; that dog owners embrace their role as caretakers and trainers of their dogs and are likely to be the first to wish to curtail any negative interactions between themselves, their dogs, children, and any other members of the communities in which they live; and that any regulation of dog behavior must be implemented with consideration, forethought, and reasonableness for the good of both the public and dog owners in the State.

The Legislature therefore determines that it is in the public interest and for the well being of our children and our dogs that the State develop leashing and fencing requirements for dogs, to be implemented by the municipalities in the State, and establish penalties for certain violations that threaten the safety of our children and all members of our communities, all of which are in keeping with responsible dog ownership to which so many, if not all, dog owners in the State are committed and subscribe.

3. (New section) a. Within 180 days after the date of enactment of this act, the Department of Health, after consulting with the New Jersey Certified Animal Control Officers Association, the League of Municipalities, the New Jersey Veterinary Medical Association, and the New Jersey Society for the Prevention of Cruelty to Animals, shall adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations establishing:

(1) the size of dog that would constitute a large dog necessitating fencing for the protection and well being of the public at large;
(2) the appropriate height and dimensions of an enclosed fenced area for such large dogs so as to properly protect the public and ensure the well-being of the dog;

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
(3) standards for leashing, restraining, and otherwise restricting the free movement of a dog when it is off the property of its owner; and

(4) the appropriate requirements for the control and regulation of the free movement of dogs all sizes of dogs off the property of an owner in the State.

b. The department shall develop and adopt model ordinances providing for the standards and requirements established in the rules and regulations, which a municipality may enact in order to comply with the adopted standards and requirements.

4. (New section) a. Each municipality shall adopt a responsible dog ownership ordinance, resolution, or regulation providing for, at a minimum, the standards and requirements established in the rules and regulations adopted by the department pursuant to section 3 of this act.

b. A municipality may allocate a portion of the fees collected for the licensing of dogs in the municipality and any penalties collected pursuant to this act to pay for the enforcement of any such ordinance, resolution, or regulation, the posting of signs, or any other municipal expense incurred pursuant to this act.

c. Each municipality shall publicize a telephone number for reporting violations of this act. This telephone number shall be forwarded to the department and any changes in this number shall be reported immediately to the department.

5. (New section) Whenever a person registers or licenses a dog with a municipality pursuant to section 2, 3, 4, 5, or 6 of P.L.1941, c.151 (C.4:19-15.2, C.4:19-15.3, C.4:19-15.4, C.4:19-15.5, or C.4:19-15.6), or section 14 or 15 of P.L.1989, c.307 (C.4:19-30 or C.4:19-31), the municipal clerk shall provide the person with a copy of the leashing and fencing requirements in effect in the municipality and notification of the provisions of N.J.S.2C:24-4 and any other ordinance, resolution, or regulation concerning the free movement of dogs in the municipality.

6. (New section) Upon receipt of a registration application for a dog requiring specific large dog fencing in the municipality, the municipality shall issue a large dog registration number. The municipality shall issue an order to the owner of the dog with a schedule for compliance with the fencing requirements for the dog and the required specifications for the fencing to be installed.

7. (New section) a. The owner of a dog, for which specific fencing is required pursuant to this act, who is found by clear and convincing evidence to have violated the requirements established by the applicable municipality pursuant to this act, shall be subject to a fine of up to $500 per day of the violation, and each day’s
continuance of the violation shall constitute a separate and distinct violation.

b. The owner of a dog who is found by clear and convincing evidence to have violated a ordinance, resolution, or regulation concerning the leashing or other restraint of a dog shall be subject to a fine of up to $500.

c. Fines collected pursuant to this section shall be paid to the municipality in which the violation occurred.

8. N.J.S.2C:24-4 is amended to read as follows:


a. (1) Any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who engages in sexual conduct which would impair or debauch the morals of the child is guilty of a crime of the second degree. Any other person who engages in conduct or who causes harm as described in this paragraph to a child is guilty of a crime of the third degree.

(2) Any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who causes the child harm that would make the child an abused or neglected child as defined in R.S.9:6-1, R.S.9:6-3, and section 1 of P.L.1974, c.119 (C.9:6-8.21) is guilty of a crime of the second degree. Any other person who engages in conduct or who causes harm as described in this paragraph to a child is guilty of a crime of the third degree.

(3) Any person who purposely, knowingly, or recklessly allows a dog to roam without a leash or other restraint in a residential neighborhood, park, or other open space accessible to the public in which a child may be present, and the dog inflicts serious bodily injury upon, or kills, a child, the person is guilty of a crime of the third degree. If the dog inflicts any other bodily injury upon a child, the person is guilty of a crime of the fourth degree. If the dog is discovered loose or threatens a child, and does not inflict any bodily injury, the person is guilty of a disorderly persons offense. The provisions of this paragraph are in addition to any of P.L.1989, c.307 (C.4:19-17 et seq.) that may apply, and fines collected pursuant to this section shall be paid to the municipality in which the violation occurred.

b. (1) As used in this subsection:

"Child" means any person under 18 years of age.

"Distribute" means to sell, or to manufacture, give, provide, lend, trade, mail, deliver, publish, circulate, disseminate, present, exhibit, display, share, advertise, offer, or make available via the Internet or by any other means, whether for pecuniary gain or not. The term also includes an agreement or attempt to distribute.

"File-sharing program" means a computer program, application, software or operating system that allows the user of a computer on which such program, application, software or operating system is installed to designate files as available for searching by and copying
to one or more other computers, to transmit such designated files
directly to one or more other computers, and to request the
transmission of such designated files directly from one or more
other computers. The term "file-sharing program" includes but is
not limited to a computer program, application or software that
enables a computer user to participate in a peer-to-peer network.
"Internet" means the international computer network of both
federal and non-federal interoperable packet switched data
networks.
"Item depicting the sexual exploitation or abuse of a child"
means a photograph, film, video, an electronic, electromagnetic or
digital recording, an image stored or maintained in a computer
program or file or in a portion of a file, or any other reproduction or
reconstruction which:
(a) depicts a child engaging in a prohibited sexual act or in the
simulation of such an act; or
(b) portrays a child in a sexually suggestive manner.
"Peer-to-peer network" means a connection of computer systems
through which files are shared directly between the systems on a
network without the need of a central server.
"Portray a child in a sexually suggestive manner" means:
(a) to depict a child's less than completely and opaquely covered
intimate parts, as defined in N.J.S.2C:14-1, in a manner that, by
means of the posing, composition, format, or animated sensual
details, emits sensuality with sufficient impact to concentrate
prurient interest on the child; or
(b) to depict any form of contact with a child's intimate parts, as
defined in N.J.S.2C:14-1, in a manner that, by means of the posing,
composition, format, or animated sensual details, emits sensuality
with sufficient impact to concentrate prurient interest on the child;
or
(c) to otherwise depict a child for the purpose of sexual
stimulation or gratification of any person who may view the
depiction where the depiction does not have serious literary, artistic,
political, or scientific value.
"Prohibited sexual act" means
(a) Sexual intercourse; or
(b) Anal intercourse; or
(c) Masturbation; or
(d) Bestiality; or
(e) Sadism; or
(f) Masochism; or
(g) Fellatio; or
(h) Cunnilingus; or
(i) Nudity, if depicted for the purpose of sexual stimulation or
gratification of any person who may view such depiction; or
(j) Any act of sexual penetration or sexual contact as defined in
N.J.S.2C:14-1.
"Reproduction" means, but is not limited to, computer generated images.

(2) (Deleted by amendment, P.L.2001, c.291).

(3) A person commits a crime of the first degree if he causes or permits a child to engage in a prohibited sexual act or in the simulation of such an act or to be portrayed in a sexually suggestive manner if the person knows, has reason to know or intends that the prohibited act or portrayal may be photographed, filmed, reproduced, or reconstructed in any manner, including on the Internet, or may be part of an exhibition or performance.

(4) A person commits a crime of the second degree if he photographs or films a child in a prohibited sexual act or in the simulation of such an act or for portrayal in a sexually suggestive manner or who uses any device, including a computer, to reproduce or reconstruct the image of a child in a prohibited sexual act or in the simulation of such an act or for portrayal in a sexually suggestive manner.

(5) (a) A person commits a crime if, by any means, including but not limited to the Internet, he:

(i) knowingly distributes an item depicting the sexual exploitation or abuse of a child;

(ii) knowingly possesses an item depicting the sexual exploitation or abuse of a child with the intent to distribute that item; or

(iii) knowingly stores or maintains an item depicting the sexual exploitation or abuse of a child using a file-sharing program which is designated as available for searching by or copying to one or more other computers.

In a prosecution under sub-subparagraph (iii) of this subparagraph, the State shall not be required to offer proof that an item depicting the sexual exploitation or abuse of a child had actually been searched, copied, transmitted or viewed by another user of the file-sharing program, or by any other person, and it shall be no defense that the defendant did not intend to distribute the item to another user of the file-sharing program or to any other person. Nor shall the State be required to prove that the defendant was aware that the item depicting the sexual exploitation or abuse of a child was available for searching or copying to one or more other computers, and the defendant shall be strictly liable for failing to designate the item as not available for searching or copying by one or more other computers.

A violation of this subparagraph that involves 1,000 or more items depicting the sexual exploitation or abuse of a child is a crime of the first degree; otherwise it is a crime of the second degree.

Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, a person whose offense under this subparagraph involved at least 25 but less than 1,000 items depicting the sexual exploitation or abuse of a child shall be sentenced to a mandatory minimum term of
imprisonment, which shall be fixed at, or between, one-third and
one-half of the sentence imposed by the court or five years,
whichever is greater, during which the defendant shall be ineligible
for parole.

Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, a person whose offense under this subparagraph involved 1,000
or more items depicting the sexual exploitation or abuse of a child
shall be sentenced to a mandatory minimum term of imprisonment,
which shall be fixed at, or between, one-third and one-half of the
sentence imposed by the court or 10 years, whichever is greater,
during which the defendant shall be ineligible for parole.

Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, a person convicted of a second or subsequent offense under this
subparagraph shall be sentenced to an extended term of
imprisonment as set forth in N.J.S.2C:43-7. For the purposes of this
subparagraph, an offense is considered a second or subsequent
offense if the actor has at any time been convicted pursuant to
paragraph (3), (4), or (5) of this subsection, or under any similar
statute of the United States, this State, or any other state for an
offense that is substantially equivalent to paragraph (3), (4), or (5)
of this subsection.

For purposes of this subparagraph, the term "possess" includes
receiving, viewing, or having under one's control, through any
means, including the Internet.

(b) (i) A person commits a crime of the first degree if he
knowingly possesses, knowingly views, or knowingly has under his
control, through any means, including the Internet, 100,000 or more
items depicting the sexual exploitation or abuse of a child.

(ii) A person commits a crime of the second degree if he
knowingly possesses, knowingly views, or knowingly has under his
control, through any means, including the Internet, at least 1,000
but less than 100,000 items depicting the sexual exploitation or
abuse of a child.

(iii) A person commits a crime of the third degree if he
knowingly possesses, knowingly views, or knowingly has under his
control, through any means, including the Internet, less than 1,000
items depicting the sexual exploitation or abuse of a child.

Notwithstanding the provisions of subsection e. of N.J.S.2C:44-1, in any instance where a person was convicted of an offense under
this subparagraph that involved 100 or more items depicting the
sexual exploitation or abuse of a child, the court shall impose a
sentence of imprisonment unless, having regard to the character and
condition of the defendant, it is of the opinion that imprisonment
would be a serious injustice which overrides the need to deter such
conduct by others.

Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, a person convicted of a second or subsequent offense under this
subparagraph shall be sentenced to an extended term of
imprisonment as set forth in N.J.S.2C:43-7. For the purposes of this
subparagraph, an offense is considered a second or subsequent
offense if the actor has at any time been convicted pursuant to
paragraph (3), (4), or (5) of this subsection, or under any similar
statute of the United States, this State, or any other state for an
offense that is substantially equivalent to paragraph (3), (4), or (5)
of this subsection.

Nothing in this subparagraph shall be construed to preclude or
limit any prosecution or conviction for the offense set forth in
subparagraph (a) of this paragraph.

(6) For purposes of this subsection, a person who is depicted as
or presents the appearance of being under the age of 18 in any
photograph, film, videotape, computer program or file, video game,
or any other reproduction or reconstruction shall be rebuttably
presumed to be under the age of 18. If the child who is depicted as
engaging in, or who is caused to engage in, a prohibited sexual act
or simulation of a prohibited sexual act or portrayed in a sexually
suggestive manner is under the age of 18, the actor shall be strictly
liable and it shall not be a defense that the actor did not know that
the child was under the age of 18, nor shall it be a defense that the
actor believed that the child was 18 years of age or older, even if
such a mistaken belief was reasonable.

(7) For aggregation purposes, each depiction of the sexual
exploitation or abuse of a child shall be considered a separate item,
provided that each depiction that is in the form of a photograph,
picture, image, or visual depiction of a similar nature shall be
considered to be one item and each depiction that is in the form of a
film, video, video-clip, movie, or visual depiction of a similar
nature shall be considered to be 10 separate items, and each
individual act of distribution of an item depicting the sexual
exploitation or abuse of a child shall be considered a separate item.
For purposes of determining the number of items depicting the
sexual exploitation or abuse of a child for purposes of sentencing
pursuant to subparagraph (a) of paragraph (5) of this subsection, the
court shall aggregate all items involved, whether the act or acts
constituting the violation occurred at the same time or at different
times and, with respect to distribution, whether the act or acts of
distribution were to the same person or several persons or occurred
at different times, provided that each individual act was committed
within the applicable statute of limitations. For purposes of
determining the number of items depicting the sexual exploitation
or abuse of a child for purposes of sentencing pursuant to
subparagraph (b) of paragraph (5) of this subsection, the court shall
aggregate all items involved, whether the possession of such items
occurred at the same time or at different times, provided that each
individual act was committed within the applicable statute of
limitations.

(cf: P.L.2017, c.141, s.1)
9. This act shall take effect immediately.

STATEMENT

This bill, to be known as the “Responsible Dog Ownership Act,” requires the establishment of leashing and fencing requirements by the Department of Health, to be implemented by municipalities throughout the State, that provide for the protection of the public, especially children, from unrestrained dogs. The bill also establishes penalties for violations of the act, and crimes of endangerment of a child by purposely, knowingly, or recklessly allowing a dog to roam without a leash or other restraint in a residential neighborhood, park, or other open space accessible to the public in which a child may be present.