

ASSEMBLY, No. 2401

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

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District 35 (Bergen and Passaic)

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

SYNOPSIS

“Responsible Dog Ownership Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/25/2021)

A2401 WIMBERLY, LOPEZ

2

1 AN ACT concerning the control of dogs, supplementing Title 4 of
2 the Revised Statutes, and amending N.J.S.2C:24-4.

3

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

6

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

9

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

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

31

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

40 (1) the size of dog that would constitute a large dog
41 necessitating fencing for the protection and well being of the public
42 at large;

43 (2) the appropriate height and dimensions of an enclosed fenced
44 area for such large dogs so as to properly protect the public and
45 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.

1 (3) standards for leashing, restraining, and otherwise restricting
2 the free movement of a dog when it is off the property of its owner;
3 and

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

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

11

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

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

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

26

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

36

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

43

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

1 continuance of the violation shall constitute a separate and distinct
2 violation.

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

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

9

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

11 2C:24-4. Endangering Welfare of Children.

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

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

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

38 b. (1) As used in this subsection:

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

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

45 "File-sharing program" means a computer program, application,
46 software or operating system that allows the user of a computer on
47 which such program, application, software or operating system is
48 installed to designate files as available for searching by and copying

1 to one or more other computers, to transmit such designated files
2 directly to one or more other computers, and to request the
3 transmission of such designated files directly from one or more
4 other computers. The term "file-sharing program" includes but is
5 not limited to a computer program, application or software that
6 enables a computer user to participate in a peer-to-peer network.

7 "Internet" means the international computer network of both
8 federal and non-federal interoperable packet switched data
9 networks.

10 "Item depicting the sexual exploitation or abuse of a child"
11 means a photograph, film, video, an electronic, electromagnetic or
12 digital recording, an image stored or maintained in a computer
13 program or file or in a portion of a file, or any other reproduction or
14 reconstruction which:

15 (a) depicts a child engaging in a prohibited sexual act or in the
16 simulation of such an act; or

17 (b) portrays a child in a sexually suggestive manner.

18 "Peer-to-peer network" means a connection of computer systems
19 through which files are shared directly between the systems on a
20 network without the need of a central server.

21 "Portray a child in a sexually suggestive manner" means:

22 (a) to depict a child's less than completely and opaquely covered
23 intimate parts, as defined in N.J.S.2C:14-1, in a manner that, by
24 means of the posing, composition, format, or animated sensual
25 details, emits sensuality with sufficient impact to concentrate
26 prurient interest on the child; or

27 (b) to depict any form of contact with a child's intimate parts, as
28 defined in N.J.S.2C:14-1, in a manner that, by means of the posing,
29 composition, format, or animated sensual details, emits sensuality
30 with sufficient impact to concentrate prurient interest on the child;
31 or

32 (c) to otherwise depict a child for the purpose of sexual
33 stimulation or gratification of any person who may view the
34 depiction where the depiction does not have serious literary, artistic,
35 political, or scientific value.

36 "Prohibited sexual act" means

37 (a) Sexual intercourse; or

38 (b) Anal intercourse; or

39 (c) Masturbation; or

40 (d) Bestiality; or

41 (e) Sadism; or

42 (f) Masochism; or

43 (g) Fellatio; or

44 (h) Cunnilingus; or

45 (i) Nudity, if depicted for the purpose of sexual stimulation or
46 gratification of any person who may view such depiction; or

47 (j) Any act of sexual penetration or sexual contact as defined in
48 N.J.S.2C:14-1.

1 "Reproduction" means, but is not limited to, computer generated
2 images.

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

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

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

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

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

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

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

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

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

45 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-
46 6, a person whose offense under this subparagraph involved at least
47 25 but less than 1,000 items depicting the sexual exploitation or
48 abuse of a child shall be sentenced to a mandatory minimum term of

1 imprisonment, which shall be fixed at, or between, one-third and
2 one-half of the sentence imposed by the court or five years,
3 whichever is greater, during which the defendant shall be ineligible
4 for parole.

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

12 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-
13 6, a person convicted of a second or subsequent offense under this
14 subparagraph shall be sentenced to an extended term of
15 imprisonment as set forth in N.J.S.2C:43-7. For the purposes of this
16 subparagraph, an offense is considered a second or subsequent
17 offense if the actor has at any time been convicted pursuant to
18 paragraph (3), (4), or (5) of this subsection, or under any similar
19 statute of the United States, this State, or any other state for an
20 offense that is substantially equivalent to paragraph (3), (4), or (5)
21 of this subsection.

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

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

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

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

38 Notwithstanding the provisions of subsection e. of N.J.S.2C:44-
39 1, in any instance where a person was convicted of an offense under
40 this subparagraph that involved 100 or more items depicting the
41 sexual exploitation or abuse of a child, the court shall impose a
42 sentence of imprisonment unless, having regard to the character and
43 condition of the defendant, it is of the opinion that imprisonment
44 would be a serious injustice which overrides the need to deter such
45 conduct by others.

46 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-
47 6, a person convicted of a second or subsequent offense under this
48 subparagraph shall be sentenced to an extended term of

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

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

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

23 (7) For aggregation purposes, each depiction of the sexual
24 exploitation or abuse of a child shall be considered a separate item,
25 provided that each depiction that is in the form of a photograph,
26 picture, image, or visual depiction of a similar nature shall be
27 considered to be one item and each depiction that is in the form of a
28 film, video, video-clip, movie, or visual depiction of a similar
29 nature shall be considered to be 10 separate items, and each
30 individual act of distribution of an item depicting the sexual
31 exploitation or abuse of a child shall be considered a separate item.
32 For purposes of determining the number of items depicting the
33 sexual exploitation or abuse of a child for purposes of sentencing
34 pursuant to subparagraph (a) of paragraph (5) of this subsection, the
35 court shall aggregate all items involved, whether the act or acts
36 constituting the violation occurred at the same time or at different
37 times and, with respect to distribution, whether the act or acts of
38 distribution were to the same person or several persons or occurred
39 at different times, provided that each individual act was committed
40 within the applicable statute of limitations. For purposes of
41 determining the number of items depicting the sexual exploitation
42 or abuse of a child for purposes of sentencing pursuant to
43 subparagraph (b) of paragraph (5) of this subsection, the court shall
44 aggregate all items involved, whether the possession of such items
45 occurred at the same time or at different times, provided that each
46 individual act was committed within the applicable statute of
47 limitations.

48 (cf: P.L.2017, c.141, s.1)

1 9. This act shall take effect immediately.

2

3

4

STATEMENT

5

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