

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0088-21_

SPONSOR: Eugene Tso

**TITLE: An Action Relating to an Emergency for the Navajo Nation Council;
Amending Title 17 of the Navajo Nation Code to Address Dogs Running at Large
and to Establish Criminal Penalties for Vicious Dog Attacks**

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0088-21

DATE: June 2, 2021

TITLE OF RESOLUTION: AN ACTION RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL; AMENDING TITLE 17 OF THE NAVAJO NATION CODE TO ADDRESS DOGS RUNNING AT LARGE AND TO ESTABLISH CRIMINAL PENALTIES FOR VICIOUS DOG ATTACKS

PURPOSE: The purpose of this emergency legislation is for the Navajo Nation to approve amendments to Title 17 of the Navajo Nation Code (the Criminal section of the Code), which would make it a criminal nuisance for a person to allow a dog to run at large if that dog injures or kills someone, and would give Animal Control Officers the authority to destroy dogs that are running at large and are deemed a danger to the public. The amendments would enact penalties of a minimum of 30 days in jail and a \$1000 fine for each offense, and would require the offender to pay \$3000 for the victim's funeral expenses.

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24rd NAVAJO NATION COUNCIL – Third Year, 2021

INTRODUCED BY



(Prime Sponsor)

TRACKING NO. 0088-21

AN ACTION

RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL; AMENDING
TITLE 17 OF THE NAVAJO NATION CODE TO ADDRESS DOGS RUNNING AT
LARGE AND TO ESTABLISH CRIMINAL PENALTIES FOR VICIOUS DOG ATTACKS

BE IT ENACTED:

SECTION 1. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102 (A).
- B. The Navajo Nation Code provides, “[m]atters constituting an emergency shall be limited to the cessation of law enforcement services, and disaster relief services, fire protection services or other direct services required as an entitlement under Navajo Nation or federal law, or which directly threaten the sovereignty of the Navajo Nation.” 2 N.N.C. § 164(A)(16).
- C. This legislation is offered as an emergency measure because of the recent death by an apparent vicious dog attack of a young Navajo Nation tribal member in the Fort Defiance community of the Navajo Nation. This unfortunate tragedy has brought to the forefront the longstanding and widespread problem of attacks and killings by vicious dogs running at large on the Navajo Nation.

1 D. This tragedy demonstrates the current danger to Navajo Nation residents and visitors
2 alike, presented by dog packs that are running at large on the Navajo Nation. All people
3 on the Navajo Nation are entitled to government services that protect the public's
4 health, safety, and welfare, and the lack of such services is a direct threat to the
5 sovereignty of the Navajo Nation.

6
7 **SECTION 2. FINDINGS.**

8 A. Due to the COVID-19 pandemic of the past 18 months, enforcement of the Navajo
9 Nation's animal control laws has been nearly eliminated, with several animal control
10 facilities forced to close down. As well, the pandemic has severely reduced the Navajo
11 Nation's efforts at spaying and neutering the dog population. Both circumstances have
12 resulted in an unprecedented number of dogs running at large on the Navajo Nation.

13 B. In April 2021, Navajo Nation Animal Control manager Kevin Gleason reported to the
14 Associated Press that the reservation dog population is back up to about 250,000 dogs.

15 C. According to the website for the Navajo Nation's Animal Control Program: "[t]he
16 Navajo Nation currently lacks an effective Animal Control Program and adequate
17 Animal Shelters. Because of this, we are unable to provide services in a variety of areas
18 such as: aggressive enforcement of laws, vaccinations, livestock damage investigations,
19 animal-bite investigations, quarantines, adoptions, pick-up of stray/unwanted animals,
20 dead animal disposal, and assisting with spay/neuter clinics. As a result, over 3,000
21 individuals are treated each year at hospitals and clinics for animal attacks and bites.
22 The majority of victims are children and elderly. Some of these victims are transported
23 to other hospitals for special treatment." **Exhibit A.**

24 D. The website continues: "[c]urrently there are only five Animal Control Officers
25 employed to address animal control issues for the entire Navajo Nation. These Officers
26 can only provide services that have been determined as priority, such as bite cases and
27 livestock damage. Officers are stationed in each of the five agencies (Ft. Defiance,
28 Chinle, Shiprock, Tuba City and Crownpoint). Without an adequate Animal Control
29 Program, we place the public's health and safety at risk." **Exhibit A.**

30 E. According to the Navajo Times (May 18, 2021 issue), if the most recent death is

1 confirmed to be the result of a dog attack, the victim will be the fifth person killed by
2 dogs on the Navajo Nation since 2010. The victims include a 56-year-old man near
3 Gallup, New Mexico in 2010, an 8-year-old boy in Pine Hill, New Mexico in 2012, a 3-
4 year-old boy in Seba Dalkai, Arizona in 2016, and a Kayenta woman last fall.

5 F. The most recent comprehensive study on this problem was addressed in a White Paper
6 Analysis done in January of 2017 by the Navajo Nation Animal Control Program. In
7 this paper, the Program stated: “[o]ver the last five years there has been increase in the
8 severity of dog bite cases. The Animal Control Officers agree that the dogs are
9 becoming more vicious and aggressive.” **Exhibit B.** This White Paper was attached as
10 an Exhibit to Resolution No. CJY-64-18, adopted in the Summer of 2018, that amended
11 Title 3 and Title 13 of the Navajo Nation Code to address the roaming dog problem on
12 the Navajo Nation. However, CJY-64-18 did not amend the Navajo Nation’s criminal
13 code to address the problem.

14 G. Tragic deaths from dog attacks are avoidable, if the Navajo Nation implements severe
15 penalties that would discourage the keeping and breeding of vicious dogs. Severe
16 penalties would also deter offenders from allowing their potentially dangerous dogs to
17 run at large. Animal Control Officers should be given the authority to shoot on site
18 vicious and dangerous dogs that are running at large.

19 H. Currently, Navajo Nation law does not provide any criminal penalties that would deter
20 offenders from keeping vicious dogs that attack persons. Neither does the Navajo
21 Nation make it a crime to allow vicious dogs to run at large with resulting injuries or
22 deaths to persons. Therefore, an amendment to the Navajo Nation Criminal Code is
23 urgently needed to protect the public and ensure that no one is ever mauled to death by
24 dogs running at large on the Navajo Nation.

25
26 **SECTION 3. AMENDING TITLE 17 OF THE NAVAJO NATION CODE.**

27 The Navajo Nation Council hereby amends Title 17 of the Navajo Nation Code, as follows:

28
29 TITLE 17 NAVAJO CODE § 486
30 **§ 486. Criminal nuisance; Vicious dogs**

1 * * * *

2 A. Offense. A person commits criminal nuisance if:

3 1. By conduct either unlawful in itself or unreasonable under all the circumstances, he or
4 she knowingly or recklessly creates or maintains a condition which endangers the
5 safety or health of others; or

6 2. He or she knowingly conducts or maintains any premises, place or resort where
7 persons gather for purposes of engaging in unlawful conduct; or

8 3. He or she knowingly or recklessly allows a dog to run at large, and while running at
9 large such dog physically inflicts bodily injury or death upon any person.

10 (a) Criminal nuisance may be charged against the person who allowed the dog to run
11 at large or against the owner of the dog, or both, as the circumstances warrant.

12 (b) Provocation of the dog by the injured person shall not be a defense to the charge
13 of criminal nuisance.

14 (c) A separate offense of criminal nuisance shall be charged for each separate event
15 in which an injury or injuries or death are suffered by a person, and for each
16 separate person injured during a single event.

17 (d) At the discretion of the Prosecutor, the offense of criminal nuisance may be
18 charged in lieu of, or in addition to, the civil offenses provided for in 13 N.N.C.
19 §§1702-1715.

20 (e) Any dog running at large that an Animal Control Officer determines has
21 physically inflicted any such injury or, in his/her discretion, deems a danger to the
22 health, safety, or welfare of other persons, may be immediately destroyed by the
23 Officer. The cost of destruction and disposal shall be charged to the offender or
24 the owner of the dog, or both, as circumstances warrant.

25 (f) For purposes of this Section a dog "running at large" means a dog that is without
26 adequate and secure control, by fence, kennel, leash, chain or other tie-up or other
27 secure tethering method, while off the property (including a vehicle) of the dog's
28 owner or the dog owner's designee.

29 B. Sentence.

30 1. The trial court shall review all charges to ascertain whether there is a personal victim

1 of the offense(s) and whether restitution or nályééh shall be paid to the victim(s).

2 2. The trial court may utilize the services of the Navajo Peacemaker Court to determine
3 nályééh and make a sentencing recommendation regarding that sentence, and the trial
4 court may require the defendant to pay the fee of the peacemaker.

5 3. The trial court may consider the imposition of a peace or security bond upon the
6 defendant, including the pledges of family or clan sureties.

7 4. Upon the imposition of a bond or security pledges, the district Office of Probation and
8 Parole shall counsel the sureties of the consequences of breach of the bond or pledge.

9 5. The trial court shall consider the utility of labor or community service sentences,
10 under the supervision of the Navajo Nation Department of Public Safety or a public
11 or private organization, including the chapter in which the defendant resides.

12 6. Any person found guilty of criminal nuisance pursuant to § 486(A)(3) shall be
13 sentenced, for each offense, to imprisonment for a term of incarceration not less than
14 30 days and not more than 365 days, or shall be ordered to pay a fine not less than
15 one-thousand-dollars (\$1000) and not more than five-thousand-dollars (\$5,000), or
16 both. The minimum sentencing provisions herein shall be imposed notwithstanding §
17 486(B)(1-5), and notwithstanding any civil fines provided for in 13 N.N.C. §§1702-
18 1715. For multiple separate offenses, the trial court shall impose the imprisonment
19 terms consecutively and the fines cumulatively. If the criminal nuisance has resulted
20 in death, the dog's owner or the dog owner's designee shall pay \$3000 for the
21 victim's funeral expenses. The \$3000 payment will not shield any offender found
22 guilty under this Section to damages in a civil complaint.

23 * * * *

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25 **SECTION 4. CODIFICATION**

26 The provisions of this resolution that amend or adopt new sections of the Navajo Nation
27 Code shall be codified by the Office of Legislative Counsel. The Office of Legislative
28 Counsel shall incorporate such amended provisions in the next codification of the Navajo
29 Nation Code.

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SECTION 5. SAVINGS CLAUSE

Should any provision(s) of this Act be determined invalid by the Navajo Nation Supreme Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, the remainder of the Act shall remain the law of the Navajo Nation.

SECTION 6. EFFECTIVE DATE

The provisions of this Act shall become effective in accord with 2 N.N.C. § 221(B).