

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0002-22_

SPONSOR: Eugene Tso

TITLE: An Action Relating to the Resources and Development, the Health, Education, and Human Services, The Law and Order, and the Naabik'iyáti' Committees, and to the Navajo Nation Council; Amending Title 17 of the Navajo Nation Code to Establish Criminal Penalties for Vicious Dog and Other Animal Attacks

Date posted: January 07, 2022 at 4:50PM

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LEGISLATION SUMMARY SHEET

TRACKING NO. 0002-22

DATE: January 6, 2022

TITLE OF LEGISLATION: AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT, THE HEALTH, EDUCATION, AND HUMAN SERVICES, THE LAW AND ORDER, AND THE NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL; AMENDING TITLE 17 OF THE NAVAJO NATION CODE TO ESTABLISH CRIMINAL PENALTIES FOR VICIOUS DOG AND OTHER ANIMAL ATTACKS

PURPOSE OF THIS LEGISLATION: to amend Title 17 of the Navajo Nation Code to specify a criminal nuisance offense and establish criminal penalties for vicious dogs and other dangerous animals running at large that cause injury or death.

OLC No. 22-003-1

5-DAY BILL HOLD PERIOD: Johnson
Website Posting Time/Date: _____
Posting End Date: 01-12-22
Eligible for Action: 01-13-22

Resources & Development Committee

Thence

Health Education & Human Services Committee

Thence

Law & Order Committee

Thence

Naabik'iyáti' Committee


Thence

Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION

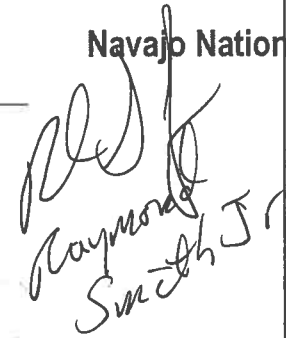
2 24th NAVAJO NATION COUNCIL - Fourth Year, 2022

3 Introduced by:

4 
5 _____
6 (Prime Sponsor)

7
8 Tracking No. 0002-22

9 



10 AN ACTION

11 RELATING TO THE RESOURCES AND DEVELOPMENT, THE HEALTH,
12 EDUCATION, AND HUMAN SERVICES, THE LAW AND ORDER, AND THE
13 NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL;
14 AMENDING TITLE 17 OF THE NAVAJO NATION CODE TO ESTABLISH
15 CRIMINAL PENALTIES FOR VICIOUS DOG AND OTHER ANIMAL ATTACKS

16
17 BE IT ENACTED:

18
19 SECTION ONE. AUTHORITY

20 A. The Resources and Development Committee is a Standing Committee of the Navajo Nation
21 Council with statutory authority over the Division of Natural Resources ("DNR"). 2 N.N.C.
22 §501(C). The Department of Fish and Wildlife is within the DNR and the Navajo Nation's
23 Animal Control Program is under the Department of Fish and Wildlife. 13 N.N.C.
24 §1700(B)(1), Resolution No. CJY-64-18. The Resources and Development Committee
25 recommends to the Navajo Nation Council the approval of resolutions that will accomplish
26 the Committee's purposes. 2 N.N.C. §501(B)(4)(f).

27 B. The Health, Education, and Human Services Committee is a Standing Committee of the
28 Navajo Nation Council authorized to provide oversight of, and to review and recommend
29 resolutions relating to, general governmental services and public health matters. 2 N.N.C.
30 §400(C)(1), §401(B)(6)(a).

1 C. The Law and Order Committee is a Standing Committee of the Navajo Nation Council
2 with statutory oversight of law enforcement and public safety services on the Navajo
3 Nation. 2 N.N.C. §600(C)(6). The Law and Order Committee is authorized to make
4 recommendations to the Navajo Nation Council concerning amendments to the Navajo
5 Nation Code. 2 N.N.C. §601(B)(14).

6 D. The Naabik'iyáti' Committee is a Standing Committee of the Navajo Nation Council that
7 reviews legislations requiring final action by the Navajo Nation Council. 2 N.N.C.
8 §164(A)(9), 2 N.N.C. §701(A)(3).

9 E. The Navajo Nation Council is the governing body of the Navajo Nation with the authority
10 to review and approve amendments to Navajo Nation laws. 2 N.N.C. §102(A), 2 N.N.C.
11 §164(A).

12
13 **SECTION TWO. FINDINGS**

14 A. The purpose of the Navajo Nation's Animal Control Program ("NNACP"), among others,
15 is to enforce the Navajo Nation's animal control laws by: (1) responding to complaints
16 regarding dog bites and animal attacks; (2) investigating such incidents; (3) patrolling
17 Navajo Nation communities; and (4) issuing citations for violations; all to protect the
18 health, safety, and property of the Navajo People and their animals. **Exhibit A, Exhibit B.**

19 B. Unfortunately, injuries to persons from dog bites and incidents of livestock injury from
20 attacks by dogs and other animals consumes up to 85% of NNACP field officers' time; and
21 the number of dogs running at large is alarming within all Navajo Nation communities.
22 **Exhibit B.**

23 C. Because of the COVID-19 pandemic, enforcement of the Navajo Nation's animal control
24 laws has been severely impeded since the Spring of 2020, with several NNACP facilities
25 closing. As well, the pandemic has reduced NNACP's efforts at spaying and neutering the
26 dog population. Both circumstances have resulted in an unprecedented number of dogs
27 running at large on the Navajo Nation.

28 D. According to NNACP's website: "[t]he Navajo Nation currently lacks an effective Animal
29 Control Program and adequate Animal Shelters. Because of this, we are unable to provide
30 services in a variety of areas such as: aggressive enforcement of laws, vaccinations,

1 livestock damage investigations, animal-bite investigations, quarantines, adoptions, pick-up
2 of stray/unwanted animals, dead animal disposal, and assisting with spay/neuter clinics. As
3 a result, over 3,000 individuals are treated each year at hospitals and clinics for animal
4 attacks and bites. The majority of victims are children and elderly. Some of these victims
5 are transported to other hospitals for special treatment.” **Exhibit C.**

6 E. The NNACP website continues: “[c]urrently there are only five Animal Control Officers
7 employed to address animal control issues for the entire Navajo Nation. These Officers can
8 only provide services that have been determined as priority, such as bite cases and livestock
9 damage. Officers are stationed in each of the five agencies (Ft. Defiance, Chinle, Shiprock,
10 Tuba City and Crownpoint). Without an adequate Animal Control Program, we place the
11 public’s health and safety at risk.” **Exhibit C.**

12 F. According to the Navajo Times, the death of a teenage girl in Fort Defiance in May of 2021
13 was the fifth person killed by vicious dogs running at large on the Navajo Nation since
14 2010. The victims include a 56-year-old man near Gallup, New Mexico in 2010, an 8-year-
15 old boy in Pine Hill, New Mexico in 2012, a 3-year-old boy in Seba Dalkai, Arizona in
16 2016, and a Kayenta woman in the fall of 2020.

17 G. The most recent comprehensive study on this problem was addressed in a White Paper
18 Analysis issued in January 2017 by NNACP. In this paper, NNACP reported: “[o]ver the
19 last five years there has been increase in the severity of dog bite cases. The Animal Control
20 Officers agree that the dogs are becoming more vicious and aggressive.” **Exhibit B.** This
21 White Paper was attached as an Exhibit to Resolution No. CJY-64-18, adopted in the
22 Summer of 2018, that amended Title 3 and Title 13 of the Navajo Nation Code to address
23 the roaming dog problem on the Navajo Nation. However, CJY-64-18 did not amend the
24 Navajo Nation’s criminal code to address the problem.

25 H. In February of 2021, Navajo Nation President Jonathan Nez recognized that roaming dog
26 attacks on the Navajo Nation have resulted in injuries and death to Navajo elderly folks and
27 children, and present a serious danger to the general public. **Exhibit D.**

28 I. Tragic deaths and injuries from dog attacks are avoidable, if the Navajo Nation implements
29 severe penalties that would discourage the keeping and breeding of vicious dogs. Severe
30 penalties would also deter persons from allowing their ferocious dogs and other dangerous

1 animals to run at large. Animal Control Officers should be given the authority to shoot on
2 site those vicious dogs running at large, and other dangerous animals, that they determine
3 to be a risk to the public's health, safety, or welfare.

4 J. At this time, Navajo Nation law does not provide any criminal penalties that would deter
5 persons from keeping vicious dogs or other dangerous animals that may attack. Neither
6 does the Navajo Nation make it a crime for a person to allow their vicious dog or other
7 dangerous animal to run at large, posing the danger of injuries or death to innocent persons.
8 Therefore, an amendment to the Navajo Nation Criminal Code is needed to protect the
9 public and to ensure that no one is ever again mauled to death or severely injured by a
10 vicious dog, or other dangerous animal, that is running at large on the Navajo Nation.

11 K. The purpose of the amendments to Title 17 approved herein is to better protect the public's
12 health, safety, and welfare by defining a specific criminal offense and establishing certain
13 criminal penalties for incidents involving injury or death as a result of an attack by a dog or
14 other animal running at large.

15 L. The Navajo Nation finds it in the best interest of the Navajo Nation and the Diné People to
16 amend Title 17 of the Navajo Nation Code, as set forth herein.

17
18 **SECTION THREE. AMENDING TITLE 17 OF THE NAVAJO NATION CODE.**

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

20
21 **TITLE 17. LAW AND ORDER**

22 * * * *

23 **§ 486. Criminal nuisance; Vicious dogs and other dangerous animals**

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

- 25 1. By his or her conduct, activity, or behavior, whether by act or omission, which is either
26 inherently unlawful in itself or unreasonable under all the circumstances, he or she
27 knowingly, negligently, or recklessly creates, allows, facilitates, encourages, or
28 maintains any condition, situation, incident, or occurrence that poses a risk to which
29 endangers the safety, or health, or well-being of others any person(s) or the general
30 public; or

1 2. He or she knowingly, ~~conducts or maintains any premises, place or resort where persons~~
2 negligently, or recklessly engages in, facilitates, or encourages in any manner, any
3 gather for purposes of engaging in unlawful conduct., activity, or behavior, whether by
4 act or omission, that poses a risk to the safety, health, or well-being of any person(s) or
5 the general public; or

6 3. He or she knowingly, negligently, or recklessly allows a dog or other animal to run at
7 large, and while running at large such dog or other animal lunges at, chases, or attacks in
8 any manner, any other person and such person suffers any physical or mental injury
9 and/or death.

10 (a) At the discretion of the Navajo Nation Prosecutor, a criminal nuisance violation
11 under this §486(A)(3) may be charged against each and every person who allowed
12 the dog or animal to run at large, or charged against each and every owner of the dog
13 or animal, or charges may be brought against both.

14 (b) At the discretion of the Navajo Nation Prosecutor, a separate violation under this
15 §486(A)(3) may be charged for each separate incident or occurrence resulting in any
16 injury and/or death suffered by any person other than the alleged offender, and a
17 separate violation may be charged for each person, other than the alleged offender,
18 who suffers any injury and/or death as a result of such incident or occurrence.

19 (c) Teasing or provocation of the dog or animal in any manner by any person(s) shall
20 not be a defense under this §486(A)(3), and shall not mitigate any penalty imposed
21 for a conviction under this §486(A)(3).

22 (d) At the discretion of the Navajo Nation Prosecutor, a criminal nuisance violation
23 under this §486(A)(3) may be charged in lieu of, or in addition to, the civil offenses
24 established in 13 N.N.C. §§ 1702-1715, and the imposition of both civil and criminal
25 penalties may be requested.

26 (e) Any dog or other animal running at large that any Navajo Nation Peace Officer
27 determines has physically inflicted any physical or mental injury or death upon any
28 person(s), or that the Officer in his/her discretion considers to be a risk to the health,
29 safety, or welfare of any person(s) or the general public, may be immediately
30 captured, contained, restrained, muzzled, and/or destroyed by the Officer. The cost

1 for impoundment and care, and/or the destruction and disposal, of such dog or
2 animal shall be charged to the person(s) convicted under this §486(A)(3).

3 (f) For purposes of this §486(A)(3), “running at large” means that the dog or other
4 animal is found or observed off the property of its owner and is not under the
5 immediate and secure control of its owner or other designated person age 12 years or
6 older, by chain or other tether, leash, fence, kennel, crate, or other adequate method.
7 A dog or animal within any automobile or other vehicle of its owner or designee age
8 12 or older, shall be deemed upon/within the owner’s or designee’s property.

9 B. Sentence.

- 10 1. Any person found guilty of criminal nuisance may be sentenced to a term of
11 imprisonment not to exceed 30 days, or be ordered to pay a fine not to exceed \$1,000, or
12 both.
- 13 2. The trial court shall review all charges to ascertain whether there is a personal victim of
14 the offense(s) and may order that restitution or nalyeeh shall be paid to the victim(s).
- 15 3. The trial court may utilize the services of the Navajo Peacemaking Program to
16 determine nalyeeh and make a sentencing recommendation regarding that sentence, and
17 the trial court may require the defendant to pay the fee of the peacemaker.
- 18 4. The trial court may impose a peace or security bond upon the defendant, including the
19 pledges of family or clan sureties.
- 20 5. Upon the imposition of a bond or security pledges, the district Office of Probation and
21 Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
- 22 6. The trial court may impose community service sentences, to be served under the
23 supervision of an organization or an individual designated by the court.
- 24 7. The punishment for each separate violation resulting in a conviction under §486(A)(3)
25 shall be: (1) a term of imprisonment not less than 30 days and not more than 365 days;
26 or (2) a fine not less than one-thousand-dollars (\$1000) and not more than five-
27 thousand-dollars (\$5,000); or (3) the trial court may impose both punishments
28 concurrently. The minimum sentencing provisions herein shall be imposed by the trial
29 court notwithstanding §486(B)(1-6), and notwithstanding any civil fines provided for in
30 13 N.N.C. §§ 1702-1715. For two or more violations resulting in convictions, the terms

1 of imprisonment shall be imposed consecutively and fines shall be imposed
2 cumulatively.

3 8. Those convicted under §486(A)(3) shall pay restitution for any costs incurred by the
4 victim(s) as a result of any physical or mental injury and/or death suffered. This
5 restitution payment shall not shield the person convicted from liability for civil fines
6 under 13 N.N.C. §§ 1702-1715 or civil damages in any statutory or common-law civil
7 action.

8 9. Those convicted under §486(A)(3) shall pay, in the event of death of the victim,
9 restitution for any and all costs incurred on behalf of the deceased, including but not
10 limited to, funeral and burial expenses. This restitution payment shall not shield the
11 person convicted from liability for civil fines under 13 N.N.C. §§ 1702-1715 or civil
12 damages in any statutory or common-law civil action.

13 * * * *

14
15 **SECTION FOUR. CODIFICATION**

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

19
20 **SECTION FIVE. SAVING CLAUSE**

21 If any portion of this Act is determined invalid by the Navajo Nation Supreme Court or by a
22 District Court of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, the
23 remainder of this Act shall remain the law of the Navajo Nation.

24
25 **SECTION SIX. EFFECTIVE DATE**

26 The provisions of this Act shall become effective according to 2 N.N.C. §221(B).
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29
30