

## SECOND READING SPEECH

### CRIMINAL CODE AMENDMENT (DANGEROUS DOGS) BILL 2013

Mr Speaker, I move that the Bill be now read a second time.

The purpose of this Bill is to introduce in to the *Criminal Code Act 1924* a new offence in relation to a dangerous or restricted breed dog that kills a person or causes grievous bodily harm to a person.

The offence is included in the *Criminal Code* to signify the seriousness of the crime – it will be an indictable offence and, like all other offences in the *Criminal Code*, subject to imprisonment of up to 21 years.

This is the Government's second legislative reform on this matter, the first being an amendment to the *Criminal Code Act* contained within the *Crime (Miscellaneous Amendments) Bill 2013* which was passed by this House in April of this year. That amendment sought to clarify that a "dangerous thing" in Section 150 of the *Criminal Code* could include an inanimate or animate object, such as a dog or other animal.

Today's amendment goes further by creating a specific offence in relation to attacks by dangerous or restricted breed dogs that result in the death of a person or cause grievous bodily harm to a person. This amendment forms part of a commitment that Tasmania made to the Standing Council on Law and Justice. The offence is similar to offences already in place in Victoria.

A number of tragic cases reported in the media over the last few years have highlighted the need for legislative reform in Tasmania. While the *Dog Control Act 2000* contains some

offences in relation to attacks by dogs, they only relate to more minor injuries and do not have significant penalties attached to them. Today's Bill will remedy this.

This amendment inserts a new section in to the *Criminal Code* which creates the offence “*causing death or grievous bodily harm by dangerous dog or restricted breed dog*”. The essential components of the offence are, as follows:

- The offence attaches to a person with care or charge of either:
  - A dog that is a restricted breed dog under the *Dog Control Act*; or
  - A dog that has been declared dangerous under the *Dog Control Act* by virtue of the dog causing serious injury to, or a likelihood that the dog will cause serious injury to, a person.
- At the time of the attack, the person with care or charge of the dog, knew, or must have been reckless about knowing, that the dog was a dangerous or restricted breed dog.
- The person with the care or charge of the dog at the time of the attack must have failed to take reasonable steps to ensure that the dog is under effective control.
- The dog has killed a person or the dog has caused grievous bodily harm to the person.

Pursuant to the Tasmanian *Criminal Code* ‘grievous bodily harm’ means any bodily injury of such a nature as to endanger or be likely to endanger life, or to cause or be likely to cause serious injury to health. It is differentiated from minor or non-trifling injuries and the injury would need to be very serious. It should be noted that there are other provisions in the *Dog Control Act* that cover the bad behaviour of dogs and their owners and can be applied to circumstances where a dog may have hurt a person but the injury is not so severe as to amount to grievous bodily harm.

The person with care or charge of a dog is defined to be: (a) the owner of the dog; (b) the person with control, possession or custody of the dog; or (c) the operator or manager of a premises where a dog is held for commercial purposes. These concepts are drawn from an existing definition in the *Animal Welfare Act 1993*.

It may be noted that the definition provides that one or more persons may have care or charge of a dog at any one time. This would cover scenarios where a dog is jointly owned or where someone who is not the owner of the dog has the dog in their custody at the time of the attack. This could allow for the prosecution of both the non-owner with custody and the owner of the dog if they have both acted in an irresponsible manner toward the care and charge of the dangerous or restricted breed dog. Conversely, if the owner of the dog does not have custody of the dog at the time of the attack, but the owner provided clear instructions to the person who was to take care of the dog with instructions as to the dangerousness of the dog, and perhaps even equipment such as a strong tether or muzzle, then it is not intended that the owner should be liable for the attack as the owner would have taken reasonable steps to ensure the dog was under effective control. If the owner simply handed their dangerous dog to an unknowing neighbour to take the dog for a walk and failed to alert that person to the dangerousness of the dog, then the owner could be liable for prosecution. The custodian of the dog in this situation, having no knowledge of the dangerousness of the dog, should not be liable for the offence.

Central to the offence is that the person with care or charge of the dog fails to keep the dog under effective control. The concept of effective control in this offence is drawn from provisions already existing in the *Dog Control Act*. This offence penalises owners who behave irresponsibly or without regard to the safety of others. If owners of dangerous or restricted

breed dogs act responsibly, they should not be liable for such an offence under the *Criminal Code*.

Further, this Bill makes a minor amendment to section 29 of the *Dog Control Act 2000* by inserting a new subsection in relation to the keeping of records by local councils in relation to dogs declared dangerous under the *Dog Control Act*.

Section 29 of the *Dog Control Act* allows a Council to declare a dog dangerous if the dog has caused serious injury to a person or another animal, or there is reasonable cause to believe that the dog is likely to cause serious injury to a person or another animal.

The new subsection added by this Bill specifies that where a dog has been declared dangerous because of actions against a person, or there is reasonable cause to believe that the animal will take action against a person, the information about the dog and events are to be recorded and kept by the Council for at least 15 years. This allows for a dog declared dangerous because of actions in relation to another animal to be clearly distinguished from a dog whose actions were directed towards a human. This is necessary because the new offences are only to apply to a dog that has been declared dangerous by a Council in relation to its actions against a person. This is because it cannot reasonably be said that the owner of a dog who may have attacked some chickens should be on notice that the dog may attack a person.

The Local Government Association of Tasmania, the Local Government Division of the Department of Premier and Cabinet and the Department of Police and Emergency Management have been consulted on the proposed new offence and the amendment to the *Dog Control Act* and are supportive.

In summary these new Criminal offences relate to dangerous breed dogs, or dogs that have been declared dangerous by a Local Council because of their behaviours, that have either killed a person or caused grievous bodily harm to a person. The change to law reflects contemporary community expectations in respect to the care and charge of dogs that live within the community.

I commend the Bill to the House.