

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 700

SPONSOR: Senator Forman

SUBJECT: Dangerous Dogs

DATE: April 12, 2000 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Overcash</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This committee substitute authorizes local governments to adopt regulations specific to a breed of dog, that are applicable to certain public places such as parks, public beaches, public events in public parks or facilities, provided the provisions of chapter 767, Florida Statutes, are not lessened by the act. This authorization is not limited to dogs that have been classified as dangerous.

This bill provides that, once owners of alleged dangerous dogs are notified of a finding of sufficient cause, they have ten business days to request an evidentiary hearing in county court to challenge the hearing. If no hearing is requested, the animal is automatically classified as dangerous.

The bill further provides that, except for requiring a proper enclosure for an alleged dangerous dog, impounding the animal, and prohibiting the relocation or transfer of the animal, the animal control authority may not impose other requirements until the county court case is settled. The court, however, may impose additional requirements it deems appropriate during the pendency of an appeal.

The bill provides penalty provisions for culpable negligence for anyone who knowingly permits dogs to run at large in a pack, if the pack of dogs causes the bodily harm or death of a person. A "pack of dogs" is defined as more than two dogs engaged in the same activity.

This bill creates section 767.06, Florida Statutes, and amends sections 767.12, 767.14, and 784.05, Florida Statutes.

## II. Present Situation:

Chapter 90-180, L.O.F., imposed uniform requirements for the owners of dangerous dogs, provided procedures for certain dogs to be classified as dangerous, established requirements for

control and confinement of dangerous dogs, and provided for the imposition of fines and penalties for violations of this act.

Under the provisions of the act, “a dangerous dog” is defined under s.767.11, F.S., as a dog that according to the records of the appropriate authority:

- Has aggressively bitten, attacked, endangered, or inflicted severe injury on a human being;
- Has killed, or more than once severely injured, a domestic animal while off its owner’s property;
- Has been used in dog fighting or is trained for dog fighting; or
- Has, unprovoked, chased or approached a person in a menacing fashion or in apparent attitude of attack, if sworn to by one or more persons.

Section 767.12, F.S., provides that an animal control authority is to investigate reported incidents involving a suspected dangerous dog. A dog that is the subject of such an investigation is to be kept confined by the owner and may not be relocated or have its ownership transferred pending the outcome of the investigation. This section provides an exclusion from the classification if the threat, injury or damage was sustained by a person who was unlawfully on the property, harassing the dog or its owner, or if the dog was protecting a human from an unjustified attack.

After investigation, the animal control authority is to make an initial determination (a “sufficient cause finding”) whether to classify the dog as dangerous. The animal control authority is to provide written notice to the owner, and the owner may request a hearing, the procedures of which are to be established by the local governing authority. After the hearing, if the dog is classified as a dangerous dog, the animal control authority must provide written notice to the owner, and the owner may file a written request for a hearing in the county court to appeal the classification.

Within 14 days after the classification as a dangerous dog by the animal control authority or the classification is upheld by the county court on appeal, the owner must register the dog and renew the certificate annually. A fee may be imposed for the certificate, and to obtain a certificate, an owner must show that: the owner is 18 years of age; the dog is currently vaccinated for rabies; the owner has a proper enclosure to confine the dog and has posted warning signs; and the dog has permanent identification (such as a tattoo or electronic implantation).

The owner is to notify the animal control authority if the dangerous dog is loose, has bitten a human or attacked another animal, is sold, dies, or moved. If sold or given away, the owner is to provide the animal control authority with the name address and telephone number of the new owner. The new owner must comply with all requirements of this statute, and must notify the animal control authority in the new jurisdiction. The dangerous dog must remain in its enclosure at all times unless it is muzzled and restrained by a chain or leash.

Any violation of this section is a noncriminal infraction, punishable by a fine of not more than \$500. Exemptions are provided for: hunting dogs, when engaged in any legal hunt or training procedure; dogs engaged in training or exhibiting in legal sports, such as obedience trials, conformation shows, field trials, hunting/retrieving trials, and herding trials; and dogs used for law enforcement work.

Section 767.13, F.S., provides that a dog owner is guilty of a first degree misdemeanor if the owner's dog has been previously declared dangerous and the dog attacks or bites a person or a domestic animal without provocation, and that a dog owner is guilty of a third degree felony if the dog has previously been declared dangerous and attacks and causes severe injury to or the death of any human. In either of the above circumstances, such a dog is to be immediately confiscated by an animal control authority, placed in quarantine, if necessary, or impounded for 10 business days after the owner is given written notification, during which time the owner may request a hearing under s. 767.12, F.S. A dog may not be destroyed while an appeal is pending. However, the owner must pay for all boarding costs and other fees to maintain the dog during any appeal process.

In addition, this section provides that, even if a dog that has not been declared dangerous, but causes severe injury to or death of any human, the dog will be confiscated by an animal control authority and held for 10 business days pending the owner's request for a hearing. An owner is guilty of a second degree misdemeanor if the owner had prior knowledge of the animal's dangerous propensities, yet "demonstrated a reckless disregard" for such propensities.

Section 767.13, F.S., further provides that, if a dog attacks or bites a person who is engaged in or attempting to engage in a criminal activity at the time of the attack, the owner is not guilty of any crime under this section.

Pursuant to section 767.14, F.S., local governments are authorized to place further restrictions and additional requirements relating to dangerous dogs. However, no local regulation may be breed-specific, or lessen the provisions of chapter 767, F.S. An exemption is provided for local ordinances adopted prior to October 1, 1990.

Subsection (1) of s. 784.05, F.S., provides that anyone who, through culpable negligence, exposes another person to personal injury commits a second-degree misdemeanor.

### III. Effect of Proposed Changes:

**Section 1.** Creates s. 767.06, F.S., to authorize local governments to adopt regulations specific to a breed of dog, that are applicable to certain public places such as parks, public beaches, public events in public parks or facilities, provided the provisions of chapter 767, F.S., are not lessened by the additional regulations or requirements.

**Section 2.** Amends s. 767.12, F.S., to eliminate the dog owner's hearing before the animal control authority after an initial determination of sufficient cause is made, and provide that the dog owner may file a request for an evidentiary hearing in county court within 10 business days after being notified of the animal control authority's finding of sufficient cause. Clarifies that, if requested, a hearing shall be held as soon thereafter as possible, but no sooner than five business days after the owner's request. Provides that, if no request is filed, the animal is automatically classified as dangerous.

Provides that the animal control authority may not impose requirements on the owner, other than requiring a proper enclosure, impounding the animal, or prohibiting the relocation or transfer of

the animal, until the county court case is settled. Authorizes the county court to impose additional requirements during the pendency of an appeal.

**Section 3.** Amends s. 767.14, F.S., to remove the provision that prohibits local governments from enacting breed-specific regulations regarding dangerous dogs.

Removes the exemption which allows breed-specific local ordinances adopted prior to October 1, 1990, to remain valid. With removal of the prohibition against local breed-specific regulations, this exemption is no longer necessary.

**Section 4.** Amends s. 784.05, F.S., to provide penalty provisions for culpable negligence for persons knowingly permitting dogs to run at large in packs, if it results in the bodily harm or death of a person. Defines the term “pack of dogs” as more than two dogs engaged in the same activity.

**Section 5.** Provides that this act shall take effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

Owners of specific breeds of dogs may be impacted by this bill as they may be required by the individual counties to abide by further restrictions and requirements.

##### **C. Government Sector Impact:**

There may be an indeterminate increase in local government expenditures depending on the ordinances local governments adopt which are breed-specific.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

---

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

---