

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4075 Dangerous Dogs

SPONSOR(S): Garcia, and others

TIED BILLS: None **IDEN./SIM. BILLS:** SB 722

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|-----------|------------|--|
| 1) Agriculture & Natural Resources Subcommittee | 15 Y, 0 N | Cunningham | Blalock |
| 2) Community & Military Affairs Subcommittee | | | |
| 3) State Affairs Committee | | | |

SUMMARY ANALYSIS

Many dog shelters will not adopt out dogs that are deemed dangerous, and some insurance companies will not provide coverage to homeowners with a "dangerous dog."

Under current law, dangerous dog is defined as any dog, that according to the appropriate records, has:

- Aggressively bitten, attacked, endangered, or severely injured a human being on private or public property;
- Severely injured or killed a domestic animal while off the owner's property;
- Been used primarily or in part for dog fighting or has been trained for dog fighting; or
- When unprovoked, chased or approached a person on the street or other public place in a menacing fashion or apparent attitude of attack (such actions must be attested to).

This bill repeals the language classifying any dog used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting within the definition of "dangerous dog." Shelters will be allowed to voluntarily examine dogs on a case by case basis to determine whether the dog is adoptable or if the dog can be rehabilitated.

This bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Many dog shelters will not adopt out dogs that are deemed dangerous, and many insurance companies will not provide coverage to homeowners with a "dangerous dog."

A dangerous dog is defined as any dog that, according to the appropriate records, has:

- Aggressively bitten, attacked, endangered, or severely injured a human being on private or public property;
- Severely injured or killed a domestic animal while off the owner's property;
- Been used primarily or in part for dog fighting or has been trained for dog fighting; or
- When unprovoked, chased or approached a person on the street or other public place in a menacing fashion or apparent attitude of attack (such actions must be attested to).

Section 767.12, F.S., requires animal control authorities to investigate reported incidents involving dogs that may be dangerous. During the time of investigation, dogs are impounded with the authorities or securely confined by the owner pending the outcome. After an investigation, the animal control authority makes an initial determination regarding whether there is enough information (sufficient cause) to classify the dog as dangerous. If so, the owner is afforded a hearing before final determination of the dog's status. The owner has seven days to request a hearing with the animal control authority. If the dog is classified as dangerous after the hearing, the owner may file a written request for a hearing in the county court to appeal the classification within 10 days after receipt of a written determination of the dangerous dog classification. Pending resolution of the appeal, the dog must be confined in a securely fenced or enclosed area.

An owner has 14 days to obtain a certificate of registration after a dog has been classified as dangerous. This certificate must be renewed annually and can only be issued to persons at least 18 years old who have presented evidence of the following:

- Current rabies vaccination;
- Confinement in a proper enclosure and the premises has warning signs at all entry points; and
- Permanent identification, such as a tattoo.

An annual fee is authorized to be imposed for the issuance of registration certificates.

If a dog is classified as a dangerous dog, the owner must immediately notify the authorities when the dog:

- Is loose or unconfined;
- Has bitten a human or attacked an animal;
- Has been sold, given away or dies; or
- Is moved to a new location.

Prior to a dangerous dog being sold or given away, several things must first occur. The owner must give the animal control authority information regarding the new owner. Secondly, the new owner must comply with all statutory and local provisions relating to dangerous dogs, even if the dog is being moved to another jurisdiction within the state. The new owner must also notify the local animal control authority that a dangerous dog is now in his jurisdiction.

A dangerous dog is not permitted to be outside its proper enclosure unless it is muzzled, restrained by a substantial chain or leash, and under control of a competent person. The dog may be exercised in an

enclosure or area without a top, only if the dog is never out of the owner's sight. When being transported, the dog must be securely restrained in the vehicle.

Hunting dogs are exempt from the provisions of section 767.12, F.S., while engaged in any legal hunt or training exercise. However, at all other times, hunting dogs are subject to section 767.12, F.S. Dangerous dogs may not be used for hunting purposes. In addition, this section is not applicable to law enforcement dogs.

A person who violates any provision relating to the certification, confinement of the dog, or unlawful acts is guilty of a noncriminal infraction and may be fined up to \$500.

The classification "dangerous dog" may mean life or death for the dog if the dog ever bites a human or animal. If a dog that has been classified as a dangerous dog bites a person or domestic animal without provocation, then the dog is immediately confiscated and placed in quarantine or impounded. The dog is held for 10 business days from notification of its owner, and then destroyed. During the 10 days, the owner may request a hearing. If an appeal is filed, the dog may not be destroyed pending the appeal. In addition, the owner is guilty of a misdemeanor of the first degree if the owner had prior knowledge of the dog's dangerous propensities, yet demonstrated a reckless disregard for such propensities under the circumstances.¹ The owner is liable for boarding costs and fees arising from the holding of the dog during any appeal procedure. A similar scenario occurs when a dog that has not been classified as a dangerous dog, attacks and causes severe injury to or death of any human. A dog that has not been classified as dangerous will not be destroyed if it causes harm to a domestic animal. However, the attack may lead to the classification of the dog as a dangerous dog.

Section 767.14, F.S., allows local governments to adopt additional ordinances and restrictions relating to dangerous dogs. However, these restrictions may not be breed specific. In addition, these restrictions may not lessen the provisions of chapter 767, F.S. This breed specific restriction does not apply to any ordinance adopted prior to October 1, 1990.²

Effect of Proposed Changes

This bill repeals the language classifying any dog used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting within the definition of "dangerous dog." Shelters will be allowed to voluntarily examine dogs on a case by case basis to determine whether the dog is adoptable or if the dog can be rehabilitated.

B. SECTION DIRECTORY:

Section 1: Amends s. 767.11, F.S., deleting language that classifies any dog used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting within the definition of "dangerous dog."

Section 2: Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

¹ Section 767.13(2), F.S.

² Section 767.14, F.S., further providing that this section does not apply to any local ordinance adopted prior to October 1, 1990.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to affect counties or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES