

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 942

INTRODUCER: Senators Calatayud and others

SUBJECT: Authorization of Restrictions Concerning Dogs

DATE: April 4, 2023

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------|----------------|-----------|------------------|
| 1. | <u>Hunter</u> | <u>Ryon</u> | <u>CA</u> | Favorable |
| 2. | <u>Becker</u> | <u>Becker</u> | <u>AG</u> | Favorable |
| 3. | <u>Hunter</u> | <u>Twogood</u> | <u>RC</u> | Favorable |

I. Summary:

SB 942 makes changes to Florida’s “Dangerous Dogs” law. Currently a county or municipality may address safety and welfare concerns caused by attacks on persons or domestic animals by dogs by ordinance as long as such ordinance is not breed specific. The bill adds weight and size as prohibited ordinance topics in addition to breed.

The bill also incorporates “public housing authorities” into the statute, authorizing a public housing authority to enact policies pertaining to dangerous dogs, but such policy may not be specific to breed, size, or weight. This change effectively nullifies any existing restrictions imposed by housing authorities pertaining to specific breeds and sizes of dogs on housing authority property.

Finally, the bill removes the grandfather provision in statute which allows local governments to enforce dog breed-specific regulations if the ordinance enacting such regulations was adopted before October 1, 1990. This change effectively nullifies Miami-Dade County’s and the City of Sunrise’s existing regulations and restrictions on owners of “pit bull dogs.”

The bill takes effect October 1, 2023.

II. Present Situation:

Dangerous Dogs

Part II of ch. 767, F.S., outlines the state’s “Dangerous Dogs” provisions, originally enacted in 1990.¹ The Legislature found that “dangerous dogs are an increasingly serious and widespread threat to the safety and welfare of the people of this state because of unprovoked attacks which cause injury to persons and domestic animals; that such attacks are in part attributable to the failure

¹ Ch. 90-180, Laws of Fla.

of the owners to confine and properly train and control their dogs; that existing laws inadequately address this growing problem; and that it is appropriate and necessary to impose uniform requirements on the owners of dangerous dogs.”²

A “dangerous dog” is defined as a dog that:

- Has aggressively bitten, attacked, endangered or inflicted severe injury on a person on public or private property;
- Has more than one time severely injured or killed a domestic animal while the dog is off the owner’s property; or
- Has, when unprovoked, chased or approached a person in public in a menacing fashion, or with an attitude of attack.³

Process for Classification of Dogs as Dangerous

An animal control officer⁴ is typically the person who would investigate an incident involving a dog. In areas unserved by an animal control authority,⁵ the sheriff assumes the duties required of an animal control officer.⁶

Upon receiving a report of a potentially dangerous dog, the animal control authority must investigate the incident, interview the owner, and require a sworn affidavit from any person who seeks to have a dog classified as dangerous.⁷ An animal that is the subject of a dangerous dog investigation because of severe injury to a human being may be immediately confiscated by an animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and held.⁸ A dog that is being investigated as a dangerous dog that is not impounded with the animal control authority must be humanely and safely confined by the owner in a securely fenced or enclosed area pending the outcome of the investigation.⁹

The animal control authority may not declare a dog as dangerous if:

- The injured person was unlawfully on the property, or if lawfully on the property was tormenting, abusing, or assaulting the dog or its owner or a family member; or
- The dog was protecting a person within the immediate vicinity of the dog from an unjustified attack or assault.¹⁰

² Section 767.10, F.S.

³ Section 767.11(1), F.S., requires an appropriate authority to document a dog as a dangerous dog. Section 767.11(2), F.S., further defines what is meant by “unprovoked” as that the victim whom while acting peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog. A severe injury is any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery, pursuant to s. 767.11(3), F.S.

⁴ “Animal control officer” means any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve seizure and impoundment of any animal. See s. 767.11(6), F.S.

⁵ “Animal control authority” means an entity acting alone or in concert with other local governmental units and authorized by them to enforce the animal control law of the city, county, or state. See s. 767.11(5), F.S.

⁶ Section 767.11(5) and (6), F.S.

⁷ Section 767.12(1), F.S.

⁸ Section 767.12(1)(a), F.S.

⁹ Section 767.12(1)(b), F.S.

¹⁰ Section 767.12(2)(a-b), F.S.

After investigating, the animal control authority must initially determine whether sufficient cause exists to classify the dog as dangerous and if sufficient cause is found, provide the owner an opportunity for a hearing before making a final determination regarding the classification or penalty.¹¹ The animal control authority must provide written notice of sufficient cause and proposed penalty to the owner by registered mail, certified hand delivery, or service in conformity with how service of process is made.

The owner has seven calendar days from receiving the notice to file a written request for a hearing. The hearing officer must hold the hearing as soon as possible, no more than 21 calendar days, and no sooner than five days after receiving the request for hearing.¹² If a hearing is not timely requested the authority's determination becomes final.

Within 14 days after the classification as a dangerous dog by the animal control authority, the owner must register the dog with the animal control authority and renew the certification annually. Vaccination, enclosure, warning sign, and identification requirements must then be followed. The owner must immediately notify the animal control authority if the dog is loose, bites or attacks a person or another animal, or if there is any other change in status. A dangerous dog must remain in its enclosure at all times unless it is muzzled and restrained by a chain or leash. Any violation of these requirements is a noncriminal infraction punishable by a fine, not to exceed \$500.¹³

In addition to civil penalties, the owner of a dangerous dog can be charged with the following criminal violations:

- 1st degree misdemeanor if the dog has previously been declared "dangerous" and it attacks or bites a person or domestic animal without provocation.¹⁴
- 2nd degree misdemeanor if the dog has not previously been declared "dangerous" but causes severe injury to or death of any human and the owner had prior knowledge of, but recklessly disregarded, the dog's dangerous propensities.¹⁵
- 3rd degree felony if the dog has previously been declared "dangerous" and it attacks and causes severe injury to or death of any human.¹⁶

Local Government Regulation of Dangerous Dogs

Current law authorizes local governments to address safety and welfare concerns caused by attacks on persons or domestic animals, place further restrictions and additional requirements on owners of dogs that have bitten or attacked persons or domestic animals, and to develop procedures and criteria to implement the "dangerous dogs" provisions in ch. 767, F.S.¹⁷ However, no local regulation may be breed-specific, or lessen the provisions of ch. 767, F.S., unless the regulation was adopted prior to October 1, 1990.¹⁸ Breed-specific regulation is a term used for laws and ordinances that seek to reduce dog attacks on humans and other animals by regulating or banning

¹¹ Section 767.12(3), F.S.

¹² Section 767.12(3), F.S.

¹³ Section 767.12 (7), F.S.

¹⁴ Section 676.13(1), F.S.

¹⁵ Section 767.136(1), F.S.

¹⁶ Section 767.13(2), F.S.

¹⁷ Section 767.14, F.S.

¹⁸ Section 767.14, F.S.

a specific breed of dog.¹⁹ Florida is one of twenty-one states that prohibit local governments from enacting breed specific ordinances.²⁰

Because of the 1990 grandfather provision, Miami-Dade County²¹ and the City of Sunrise²² are known to be the only two local governments in Florida with breed specific ordinances currently in effect. Miami-Dade's ordinance provides that pit bull dogs are banned from purchase, from being brought into Miami-Dade County, or otherwise acquired and regulated due to unique history, nature and characteristics which require special regulation. The county defines "pit bull dog" with reference to the descriptions given by the American Kennel Club and the United Kennel Club. In 2012, Miami-Dade County held a referendum to gauge public opinion on keeping the ordinance in place. Over 63 percent of voters chose to keep the county's regulation of pit bull dogs in place.²³

Public Housing Authorities

The federal government has created programs to provide housing assistance to lower-income households since the 1930s. Public housing developments which provide low-rent opportunities are generally owned and operated by the local public housing authorities (PHAs) in each state and subsidized and regulated by the federal government. Families are eligible to live in public housing if they are low-income²⁴ but 40 percent of public housing units that become available in a year must be given to families that are extremely low-income.²⁵ Families living in public housing typically are required to pay 30 percent of their adjusted income toward rent.

PHAs receive several streams of funding from United States Department of Housing and Urban Development (HUD) to help make up the difference between what tenants pay in rent and what it costs to maintain public housing.²⁶ PHAs receive operating funds and capital funds through a formula allocation process; operating funds are used for management, administration and day-to-day costs of running a housing development, and capital funds are used for modernization needs (i.e., replacing a roof or heating and cooling system).²⁷ Most PHAs own and manage the public housing developments themselves, but some contract with private management companies or transfer ownership to a private subsidiary or another entity that operates the development under public housing rules.²⁸

¹⁹ ASPCA, *What Is Breed-Specific Legislation?* Available at: <https://www.asPCA.org/improving-laws-animals/public-policy/what-breed-specific-legislation> (last visited March 17, 2023).

²⁰ *Id.*

²¹ Ord. No. 89-22, § 2, 4-4-89

²² Ord. No. 251-A, § 2(4-17), 5-2-89. The ordinance is "designed to regulate pit bull dogs and to ensure responsible handling by their owners through registration and confinement."

²³ Miami-Dade County Supervisor of Elections, *2012 Primary Election Results* (see Repeal of County's Pit Bull Dog Ban results), available at <https://enr.electionsfl.org/DAD/3042/Summary/> (last visited March 17, 2023).

²⁴ Congressional Research Service, *Overview of Federal Housing Assistance Programs and Policy*, available at: <https://crsreports.congress.gov/product/pdf/RL/RL34591> (last visited March 17, 2023). Low-income is defined as earning at or below 80 percent of area median income for these purposes.

²⁵ *Id.* Extremely low-income is defined as earning at or below the greater of 30 percent of area median income or the federal poverty guidelines.

²⁶ *Id.*

²⁷ *Id.*

²⁸ Center on Budget and Policy Priorities, *Policy Basics: Public Housing*, available at: <https://www.cbpp.org/research/public-housing> (last visited March 17, 2023).

There are 99 active HUD-registered PHAs in Florida,²⁹ of which 91 are special districts.³⁰ PHAs are created pursuant to Florida law at municipal, county, and regional levels, and become active through resolution by the applicable governing body. The powers of each authority are vested in housing authority commissioners and action may be taken upon a majority vote of the commissioners.³¹ Housing authorities have the power to:

- Acquire, lease, and operate housing projects.
- Provide for the construction, reconstruction, improvement, alteration, or repair of any housing project.
- Lease or rent dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project.
- Invest funds held in reserves or sinking funds.³²

Pet Regulation in Public Housing Authorities

HUD regulations permit public housing tenants to own common household pets.³³ However, HUD allows local PHAs to enforce reasonable restrictions on the types of common household pets allowed in their rules and policies.³⁴ A tenant in public housing must maintain each pet responsibly, in accordance with relevant state and local public health, animal control and anti-cruelty laws, and in accordance with the policies established in the PHA's Annual Plan.³⁵

A PHA's reasonable requirements for pet policies in general occupancy developments may include but are not limited to tenant and pet density; size, weight, and type of pets; pet fees and deposits; pet care and handling; and pet registration. PHAs have discretion to consider additional factors if reasonable and consistent with state or local law.³⁶

Currently, some PHAs include provisions in their policies prohibiting pets based on breed, size, weight, behavior, or training of the pet.³⁷ However, some regulations based on breed do not depend on a finding that the pet is vicious or dangerous. Additionally, the definition of "dangerous dog" under Florida law is not uniformly applied in all PHA policies.³⁸

²⁹ HUD, *Public Housing Authority Contact Information*, available at:

https://www.hud.gov/sites/dfiles/PIH/documents/PHA_Contact_Report_FL.pdf (last visited March 17, 2023).

³⁰ Florida Department of Economic Opportunity, *Official List of Special Districts*, available at:

<https://specialdistrictreports.floridajobs.org/OfficialList/CustomList> (last visited March 17, 2023). To generate the special district list, select "Housing Authority" from the "Option 7: Select Special Purposes" field.

³¹ Section 421.05(2), F.S.

³² Section 421.08, F.S.

³³ See HUD's *Public Housing Occupancy Guidebook: Pet Ownership in Public Housing*, (Dec. 2020), available at:

<https://www.hud.gov/sites/dfiles/PIH/documents/PHOGPetOwnership.pdf> (last visited March 17, 2023).

³⁴ 24 CFR § 5.318(a); § 960.707(b)

³⁵ 24 CFR § 960.707(a)

³⁶ 24 CFR § 960.707

³⁷ See e.g., Tampa Housing Authority, <https://www.thafl.com/Departments/Real-Estate-Development/library/PHA-PLAN.pdf> (last visited March 27, 2023) (forbidding certain breeds and regulating weight of dog); St. Petersburg Housing Authority, https://www.stpeteha.org/plugins/show_image.php?id=1912 (last visited March 17, 2023) (certain breeds may be prohibited at the discretion of [St. Petersburg Housing Authority]); Key West Housing Authority, https://www.kwha.org/egov/documents/1614973714_73249.pdf (last visited March 17, 2023) (prohibiting certain breeds of dog and regulating weight).

³⁸ See s. 767.11(1), F.S.

III. Effect of Proposed Changes:

SB 942 amends s. 767.14, F.S., to add size and weight to the prohibited topics which a local government may not use to regulate dogs in their jurisdiction. Currently only breed-specific ordinances are not allowable.

The bill also authorizes PHAs to adopt rules or policies imposing restrictions or further requirements on owners of dogs, as long as such requirements are not specific to breed, weight, or size. This change effectively nullifies any existing restrictions imposed by housing authorities pertaining to specific breeds or sizes of dogs for housing authority tenants.

The bill also removes a provision that exempts local ordinances adopted before October 1, 1990, from the prohibition on enacting ordinances that are specific to certain breeds of dogs. This change nullifies any breed-specific local ordinances currently in place.

The bill takes effect on October 1, 2023.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 767.14 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.