

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 873 Dangerous Dogs

SPONSOR(S): Local Administration, Federal Affairs & Special Districts Subcommittee, Payne and others

TIED BILLS: IDEN./SIM. **BILLS:** SB 1156

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	14 Y, 0 N, As CS	Burgess	Darden
2) Agriculture & Natural Resources Appropriations Subcommittee	15 Y, 0 N	Byrd	Pigott
3) Judiciary Committee			

SUMMARY ANALYSIS

Local governments may adopt ordinances to address safety and welfare concerns stemming from dog attacks on people or domestic animals, placing restrictions and additional requirements on owners of dangerous dogs, provided that no regulations may be specific to breed, weight, or size.

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

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. An animal that is the subject of a dangerous dog investigation because of a severe injury to a human being may be immediately confiscated by an animal control authority, may be placed in quarantine, or impounded and held. A dog being investigated as a dangerous dog that is not impounded with the animal control authority must be humanely and safely confined by the owner pending the outcome of the investigation.

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 with an opportunity for a hearing before making a final determination regarding the classification or penalty. The owner has seven calendar days from receiving the notice to file a written request for a hearing. Within 14 days after the classification of the dog as dangerous by the animal control authority, the owner must register the dog with the animal control authority and renew the certification annually.

The bill creates the “Pam Rock Act,” revising provisions relating to dangerous dogs by requiring:

- A dog owner who has knowledge of a dog’s dangerous propensities to securely confine the dog in a proper enclosure as if the dog had been determined to be dangerous;
- Dogs to be held during the course of a dangerous dog investigation in certain instances;
- Dogs that have been declared dangerous to be spayed or neutered;
- The owner of a dangerous dog to obtain liability insurance.

The bill requires the Department of Agriculture and Consumer Services to create a statewide Dangerous Dog Registry and requires animal control authorities to provide specified information for inclusion in the database. The bill increases the maximum fine for violations of the dangerous dog statute to \$1,000.

The bill may have an indeterminate negative fiscal impact on state and local government.

FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives .

STORAGE NAME: h0873d.ANR

DATE: 1/31/2024

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Local governments may adopt ordinances to address safety and welfare concerns stemming from dog attacks on people or domestic animals, placing restrictions and additional requirements on owners of dangerous dogs, provided that no regulations may be specific to breed, weight, or size.¹

Current law defines a dangerous dog as any dog that, according to the records of the appropriate authority:

- Has aggressively bitten, attacked, endangered or inflicted severe injury² on a human being on public or private property;
- Has more than once severely injured or killed a domestic animal while off the owner's property; or
- Has, when unprovoked,³ chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority.⁴

Incidents involving a potentially dangerous dog are investigated by animal control officers.⁵ In areas unserved by an animal control authority, 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 The owner of the dog is responsible for all boarding costs and other fees required to humanely and safely keep the animal pending any appeal or hearing. A dog 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 owner must provide the address at which the animal resides to the animal control authority and may not relocate or transfer ownership of the animal pending the outcome of the investigation, including any hearing or appeals.

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

¹ S. 767.14, F.S.

² "Severe injury" is defined as any physical injury resulting in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery. S. 767.11(3), F.S.

³ "Unprovoked" is defined as a victim who conducted himself or herself peacefully and lawfully was bitten or chased in a menacing fashion or attacked by a dog. S. 767.11(2), F.S.

⁴ S. 767.11(1), F.S.

⁵ "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.

⁶ S. 767.11(5), F.S.

⁷ S. 767.12(1), F.S.

⁸ S. 767.12(1)(a), F.S.

⁹ S. 767.12(1)(b), F.S.

¹⁰ S. 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 with 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. If the owner requests a hearing, the hearing officer must hold the hearing as soon as possible, but no later than 21 calendar days and no sooner than five days after receiving the request for a hearing.¹² If a hearing is not timely requested, the authority's determination becomes final.

If a dog is classified as a dangerous dog due to an incident that causes severe injury to a human being, based upon the nature and circumstances of the injury and the likelihood of a future threat to public safety, health, and welfare, the dog may be destroyed in an expeditious and humane manner.¹³

Otherwise, within 14 days after the classification of the dog 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.¹⁴ An animal control authority may only issue a certificate or renewal to a person 18 years of age or older who provides sufficient evidence of:

- A current certificate of rabies vaccination;
- A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign at all entry points that informs both children and adults of the presence of a dangerous dog on the property; and
- Permanent identification of the dog, such as a tattoo on the inside thigh or electronic implantation.¹⁵

The owner must immediately notify the animal control authority if the dog:

- Is loose or unconfined;
- Bites a person or attacks another animal
- Is sold, given away, or dies; or
- Is moved to another address.¹⁶

If a dangerous dog is sold or given away, the owner must provide the name, address, and telephone number of the new owner to the animal control authority.¹⁷ The new owner must abide by these requirements. If the dog is moved to another jurisdiction, the owner is responsible for informing the local animal control officer.

A dangerous dog must remain in its enclosure at all times unless it is muzzled and restrained by a chain or leash.¹⁸

Any violation of these requirements is a noncriminal infraction punishable by a fine not to exceed \$500.¹⁹

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

- First degree misdemeanor, if the dog has previously been declared dangerous and attacks or bites a person or domestic animal without provocation.²⁰
- Second 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.²¹

¹¹ S. 767.12(3), F.S.

¹² S. 767.12(3), F.S.

¹³ S. 767.12(5)(b), F.S.

¹⁴ S. 767.12(5)(a)1., F.S.

¹⁵ *Id.*

¹⁶ S. 767.12(5)(a)2., F.S.

¹⁷ S. 767.12(5)(a), F.S.

¹⁸ S. 767.12(5)(a)3., F.S.

¹⁹ S. 767.12(7), F.S.

²⁰ S. 767.13(1), F.S.

- Third degree felony, if the dog has previously been declared dangerous, attacks and causes severe injury to or death of any human.²²

According to the Florida Department of Health, each year more than 600 Floridians are hospitalized because of injuries from dog bites, and about two people die from them. In August 2022, a postal worker was delivering mail when she was attacked by five dogs in Putnam County and died the next day.²³ An 86-year-old veteran had to have her leg amputated after being attacked by a neighbor's dog in early 2023 in Hawthorne.²⁴

Effect of Proposed Changes

Statewide Dangerous Dog Registry

The bill requires the Department of Agriculture and Consumer Services (DACS) to create and maintain a statewide Dangerous Dog Registry that provides the public with an online database of dogs declared dangerous by local authorities. The bill requires each animal control authority to report the following information concerning dangerous dogs within its jurisdiction to be listed in the registry:

- A current certificate of rabies vaccination for the dog;
- Evidence of a proper enclosure where the dog will be confined and the posting of a warning sign at all entry points that informs children and adults a dangerous dog is present on the property;
- Evidence of permanent identification of the dog, such as a tattoo on the inside thigh or an implantation of a microchip;
- Evidence of the dog having been spayed or neutered;
- Evidence that the owner has obtained the required liability insurance;
- The dog's name and a photograph of the dog;
- The county in which the dog is located;
- The owner's name and address.

The bill authorizes DACS to adopt rules to administer the statewide Dangerous Dog Registry.

Dangerous Dogs

The bill revises the definition of “proper enclosure” to include a locked, fenced yard suitable to prevent the entry of young children and designed to prevent the dog from escaping over, under, or through the fence. The bill provides that if a dog owner has knowledge of the dog's dangerous propensities, the owner must securely confine the dog in a proper enclosure as if the dog had been determined to be dangerous.

The bill requires dogs subject to a dangerous dog investigation for acts toward a person to be confiscated by the animal control authority, placed in quarantine as necessary, impounded, and held. The dog must be held until the conclusion of the investigation, including any hearings or appeals. The bill provides that the owner is responsible for all boarding costs and other fees required to humanely and safely keep the animal pending any investigation or appeal, unless it is determined the dog is not dangerous.

During a dangerous dog investigation arising from the severe injury or killing of a domestic animal while off the owner's property, the dog may be immediately confiscated by an animal control authority, placed

²¹ S. 767.136(1), F.S.

²² S. 767.13(2), F.S.

²³ Senait Gebregiorgis, *Florida bill aims to make 'dangerous dogs' registry, add tougher penalties for owners*, KTVZ News Channel 21, (Jan. 5, 2024), <https://ktvz.com/cnn-regional/2024/01/05/florida-bill-aims-to-make-dangerous-dogs-registry-add-tougher-penalties-for-owners/> (last visited Jan. 17, 2024).

²⁴ Anne Maxwell, *State senator's office drafting legislation to address dangerous dogs after attacks*, News4Jax, (July 18, 2023), <https://www.news4jax.com/news/local/2023/07/18/state-senators-office-drafting-legislation-to-address-dangerous-dogs-after-attacks/> (last visited Jan. 17, 2024).

in quarantine, impounded, and held. If the dog is not impounded, the owner must keep the dog within a proper enclosure pending the outcome of the investigation.

Once a dog is classified as dangerous, the animal control authority must provide DACS with the information for the dangerous dog's inclusion in the statewide Dangerous Dog Registry.

The bill removes the requirement that animal control authorities consider the nature and circumstances of the injury and the likelihood of a future threat to public safety, health, and welfare before humanely and expeditiously destroying a dog classified as dangerous due to an incident that caused severe injury to a human.

The bill requires the owner to obtain a registration certificate for a dog declared dangerous upon the issuance of the final order and requires:

- The dog to be spayed or neutered;
- The owner must obtain liability insurance coverage of at least \$100,000 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person; and
- Provide proof of insurance to the animal control authority.

The bill increases the maximum fine for violations of provisions relating to dangerous dogs to \$1,000.

The bill provides that the owner of a dog commits a second-degree misdemeanor if a dog that has not previously been declared dangerous causes severe injury to or death of any human, the owner had prior knowledge of the dog's dangerous propensities, and the owner failed to secure a dog in a proper enclosure.

B. SECTION DIRECTORY:

- Section 1: Provides the bill may be cited as the "Pam Rock Act."
- Section 2: Amends s. 767.01, F.S., concerning the dog owner's liability for damages to persons, domestic animals, or livestock.
- Section 3: Amends s. 767.10, F.S., concerning legislative findings relating to dangerous dogs.
- Section 4: Amends s. 767.11, F.S., defining and revising definitions.
- Section 5: Amends s. 767.12, F.S., revising stipulations regarding dangerous dogs.
- Section 6: Creates s. 767.125, F.S., relating to a statewide Dangerous Dog Registry.
- Section 7: Amends s. 763.13, F.S., to make conforming and technical changes.
- Section 8: Amends s. 763.135, F.S., to make conforming and technical changes.
- Section 9: Amends s. 767.136, F.S., relating to attack or bite by unclassified dog that causes severe injury of death.
- Section 10: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may increase expenditures by DACS to the extent additional resources are needed to create and maintain a statewide Dangerous Dog Registry. According to DACS, the cost of technology to support this new registration will depend on the quantity of registrant data. The department will need to develop a registration process and monitor the first year workload of the law's implementation to assess the level of technology and automation that may be required to support this new regulation. Future resources can be requested through the Legislative Budget Request process if needed.

The bill authorizes DACS to adopt rules in order to administer the statewide dangerous dog registry which may have an insignificant negative fiscal impact that can be absorbed by the department.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have a positive indeterminate fiscal impact resulting from an increase in the maximum fine for violations of provisions relating to dangerous dogs from \$500 to \$1,000.

2. Expenditures:

The bill may have an insignificant negative fiscal impact on local governments to implement new and revised criminal and civil provisions as well as costs related to providing information to DACS for the statewide Dangerous Dog Registry.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires DACS to adopt rules in order to administer the statewide dangerous dog registry.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 25, 2024, the Local Administration, Federal Affairs & Special Districts Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments

provide the bill may be cited as the “Pam Rock Act” and restore language from current law concerning hunting dogs and police canines.

This analysis is drafted to the committee substitute adopted by the Local Administration, Federal Affairs, & Special Districts Subcommittee.