

By the Committee on Judiciary; and Senator Montford

590-01777-16

2016334c1

1                                   A bill to be entitled  
2       An act relating to severe injuries caused by dogs;  
3       providing a directive to the Division of Law Revision  
4       and Information; amending s. 767.12, F.S.; providing  
5       for discretionary quarantine or impoundment of dogs  
6       that cause severe injuries to humans; specifying  
7       responsibility for payment of boarding and other  
8       costs; revising the hearing and final order  
9       procedures, and related confinement requirements, for  
10      dangerous dog actions; specifying circumstances under  
11      which a dangerous dog that has caused severe injury to  
12      a human may be euthanized; deleting an exception;  
13      transferring, renumbering, and amending s. 767.13(2),  
14      F.S.; revising a requirement for automatic euthanasia  
15      for certain dogs that cause severe injury to humans;  
16      deleting a criminal penalty related to severe injury  
17      or death caused by a dog; creating s. 767.136, F.S.;  
18      re-creating an existing criminal penalty related to  
19      severe injury or death caused by a dog in a new  
20      statutory section; amending s. 767.14, F.S.;  
21      authorizing local governments to adopt certain  
22      ordinances pertaining to dogs that have bitten or  
23      attacked persons or domestic animals; amending s.  
24      767.16, F.S.; exempting law enforcement dogs from  
25      regulation under Part II of ch. 767, F.S.; providing  
26      an effective date.

27  
28   Be It Enacted by the Legislature of the State of Florida:  
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590-01777-16

2016334c1

30           Section 1. The Division of Law Revision and Information is  
31 directed to designate ss. 767.01-767.07, Florida Statutes, as  
32 part I of chapter 767, Florida Statutes, entitled "Damage by  
33 Dogs," and ss. 767.10-767.16, Florida Statutes, as part II of  
34 that chapter, entitled "Dangerous Dogs."

35           Section 2. Section 767.12, Florida Statutes, is amended to  
36 read:

37           767.12 Classification of dogs as dangerous; certification  
38 of registration; notice and hearing requirements; confinement of  
39 animal; exemption; appeals; unlawful acts.-

40           (1) ~~(a)~~ An animal control authority shall investigate  
41 reported incidents involving any dog that may be dangerous and  
42 ~~shall~~, if possible, shall interview the owner and require a  
43 sworn affidavit from any person, including any animal control  
44 officer or enforcement officer, desiring to have a dog  
45 classified as dangerous.

46           (a) An animal that is the subject of a dangerous dog  
47 investigation because of severe injury to a human may be  
48 immediately confiscated by an animal control authority and  
49 placed in quarantine, if necessary, for the proper length of  
50 time, or may be impounded and held pending the outcome of the  
51 investigation and any related hearings or appeals regarding the  
52 determination of a dangerous dog classification and the  
53 assessment of any penalty under this section. If the dog is to  
54 be destroyed, the dog may not be destroyed while an appeal is  
55 pending. The owner is responsible for payment of all boarding  
56 costs and other fees as required to humanely and safely keep the  
57 animal pending any hearing or appeal.

58           (b) An ~~Any~~ animal that is the subject of a dangerous dog

590-01777-16

2016334c1

59 investigation ~~which, that~~ is not impounded with the animal  
 60 control authority, must ~~shall~~ be humanely and safely confined by  
 61 the owner in a securely fenced or enclosed area pending the  
 62 outcome of the investigation and resolution of any hearings or  
 63 appeals related to the dangerous dog classification and any  
 64 penalty imposed under this section. The address at which ~~of~~  
 65 ~~where~~ the animal resides shall be provided to the animal control  
 66 authority. A ~~no~~ dog that is the subject of a dangerous dog  
 67 investigation may not be relocated and its ~~or~~ ownership may not  
 68 be transferred pending the outcome of the ~~an~~ investigation and  
 69 ~~or~~ any hearings or appeals related to the determination of a  
 70 dangerous dog classification and any penalty imposed under this  
 71 section. ~~If in the event that~~ a dog is to be destroyed, the dog  
 72 may ~~shall~~ not be relocated and its ~~or~~ ownership may not be  
 73 transferred.

74 ~~(2)(b)~~ A dog may ~~shall~~ not be declared dangerous if:

75 (a) The threat, injury, or damage was sustained by a person  
 76 who, at the time, was unlawfully on the property or, who, while  
 77 lawfully on the property, was tormenting, abusing, or assaulting  
 78 the dog or its owner or a family member.

79 ~~(b) No dog may be declared dangerous if~~ The dog was  
 80 protecting or defending a human ~~being~~ within the immediate  
 81 vicinity of the dog from an unjustified attack or assault.

82 ~~(3)(e)~~ After the investigation, the animal control  
 83 authority shall make an initial determination as to whether  
 84 there is sufficient cause to classify the dog as dangerous and,  
 85 if sufficient cause is found, as to the proposed requirements  
 86 under subsection (5). The animal control authority shall afford  
 87 the owner an opportunity for a hearing prior to making a final

590-01777-16

2016334c1

88 determination regarding the classification or requirement. The  
89 animal control authority shall provide written notification to  
90 the owner of the sufficient cause finding and proposed  
91 requirements, ~~to the owner~~, by registered mail, certified hand  
92 delivery, or service in conformance with the provisions of  
93 chapter 48 relating to service of process. The owner may file a  
94 written request for a hearing regarding the dangerous dog  
95 classification or the proposed requirements, or both, within 7  
96 calendar days after ~~from the date of receipt~~ of the notification  
97 of the sufficient cause finding and proposed requirements. ~~and~~  
98 If the owner requests a hearing, it requested, ~~the hearing~~ shall  
99 be held as soon as possible, but not longer ~~more~~ than 21  
100 calendar days and not ~~no~~ sooner than 5 days after receipt of the  
101 request from the owner. If a hearing is not timely requested  
102 regarding the classification or proposed requirements, the  
103 determination by the animal control authority as to such issue  
104 shall become final. Each applicable local governing authority  
105 shall establish hearing procedures that conform to this  
106 subsection ~~paragraph~~.

107 (4)(d) ~~Once a dog is classified as a dangerous dog~~, The  
108 animal control authority shall provide to the owner a written  
109 final order, ~~notification to the owner~~ by registered mail or  
110 certified hand delivery or service, after a dangerous dog  
111 classification or requirement becomes final, after a hearing or  
112 by operation of law pursuant to subsection (3). ~~and~~ The owner  
113 may ~~file a written request for a hearing in the county court to~~  
114 appeal the classification or requirement, or both, by filing a  
115 written request for a hearing in the circuit court within 10  
116 business days after receipt of the final order. The owner ~~a~~

590-01777-16

2016334c1

117 ~~written determination of dangerous dog classification and must~~  
118 confine the dog in a securely fenced or enclosed area pending a  
119 resolution of the appeal. Each applicable local governing  
120 authority must establish appeal procedures that conform to this  
121 subsection ~~paragraph~~.

122 (5) (a) Except as otherwise provided in paragraph (b), the  
123 owner of a dog classified as a dangerous dog shall:

124 1. ~~(2)~~ Within 14 days after the issuance of the final order  
125 classifying the dog as dangerous or the conclusion of any appeal  
126 that affirms the final order ~~a dog has been classified as~~  
127 ~~dangerous by the animal control authority or a dangerous dog~~  
128 ~~classification is upheld by the county court on appeal, the~~  
129 ~~owner of the dog must~~ obtain a certificate of registration for  
130 the dog from the animal control authority serving the area in  
131 which he or she resides, and renew the certificate ~~shall be~~  
132 ~~renewed~~ annually. Animal control authorities are authorized to  
133 issue such certificates of registration, and renewals thereof,  
134 only to persons who are at least 18 years of age and who present  
135 to the animal control authority sufficient evidence of:

136 a. ~~(a)~~ A current certificate of rabies vaccination for the  
137 dog.

138 b. ~~(b)~~ A proper enclosure to confine a dangerous dog and the  
139 posting of the premises with a clearly visible warning sign at  
140 all entry points which ~~that~~ informs both children and adults of  
141 the presence of a dangerous dog on the property.

142 c. ~~(c)~~ Permanent identification of the dog, such as a tattoo  
143 on the inside thigh or electronic implantation.

144  
145 The appropriate governmental unit may impose an annual fee for

590-01777-16

2016334c1

146 the issuance of certificates of registration required by this  
147 section.

148 2.~~(3)~~ The owner shall Immediately notify the appropriate  
149 animal control authority when a dog that has been classified as  
150 dangerous:

151 a.~~(a)~~ Is loose or unconfined.

152 b.~~(b)~~ Has bitten a human ~~being~~ or attacked another animal.

153 c.~~(c)~~ Is sold, given away, or dies.

154 d.~~(d)~~ Is moved to another address.

155

156 Prior to a dangerous dog being sold or given away, the owner  
157 shall provide the name, address, and telephone number of the new  
158 owner to the animal control authority. The new owner must comply  
159 with all of the requirements of this section ~~act~~ and  
160 implementing local ordinances, even if the animal is moved from  
161 one local jurisdiction to another within the state. The animal  
162 control officer must be notified by the owner of a dog  
163 classified as dangerous that the dog is in his or her  
164 jurisdiction.

165 3.~~(4)~~ Not ~~It is unlawful for the owner of a dangerous dog~~  
166 ~~to~~ permit the dog to be outside a proper enclosure unless the  
167 dog is muzzled and restrained by a substantial chain or leash  
168 and under control of a competent person. The muzzle must be made  
169 in a manner that will not cause injury to the dog or interfere  
170 with its vision or respiration but will prevent it from biting a  
171 ~~any~~ person or animal. The owner may exercise the dog in a  
172 securely fenced or enclosed area that does not have a top,  
173 without a muzzle or leash, if the dog remains within his or her  
174 sight and only members of the immediate household or persons 18

590-01777-16

2016334c1

175 years of age or older are allowed in the enclosure when the dog  
176 is present. When being transported, such dogs must be safely and  
177 securely restrained within a vehicle.

178 (b) If a dog is classified as a dangerous dog as the result  
179 of an incident that causes severe injury to a human being, based  
180 upon the nature and circumstances of the injury and the  
181 likelihood of a future threat to the public safety, health, and  
182 welfare, the dog may be destroyed in an expeditious and humane  
183 manner.

184 (6)~~(5)~~ Hunting dogs are exempt from ~~the provisions of this~~  
185 section ~~act~~ when engaged in any legal hunt or training  
186 procedure. Dogs engaged in training or exhibiting in legal  
187 sports such as obedience trials, conformation shows, field  
188 trials, hunting/retrieving trials, and herding trials are exempt  
189 from ~~the provisions of this section act~~ when engaged in any  
190 legal procedures. However, such dogs at all other times in all  
191 other respects shall be subject to this and local laws. Dogs  
192 that have been classified as dangerous may ~~shall~~ not be used for  
193 hunting purposes.

194 ~~(6) This section does not apply to dogs used by law~~  
195 ~~enforcement officials for law enforcement work.~~

196 (7) A ~~Any~~ person who violates ~~any provision of~~ this section  
197 commits ~~is guilty of~~ a noncriminal infraction, punishable by a  
198 fine not to exceed exceeding \$500.

199 Section 3. Subsection (2) of section 767.13, Florida  
200 Statutes, is transferred, renumbered as section 767.135, Florida  
201 Statutes, and amended, to read:

202 767.135 ~~767.13~~ Attack or bite by unclassified ~~dangerous~~ dog  
203 that causes death; penalties; confiscation; destruction.-

590-01777-16

2016334c1

204       ~~(2) If a dog that has not been declared dangerous attacks~~  
205 and causes the severe injury to or death of a any human, the dog  
206 shall be immediately confiscated by an animal control authority,  
207 placed in quarantine, if necessary, for the proper length of  
208 time, or held for 10 business days after the owner is given  
209 written notification under s. 767.12, and thereafter destroyed  
210 in an expeditious and humane manner. This 10-day time period  
211 shall allow the owner to request a hearing under s. 767.12. If  
212 the owner files a written appeal under s. 767.12 or this  
213 section, the dog must be held and may not be destroyed while the  
214 appeal is pending. The owner is ~~shall be~~ responsible for payment  
215 of all boarding costs and other fees as may be required to  
216 humanely and safely keep the animal during any appeal procedure.  
217 ~~In addition, if the owner of the dog had prior knowledge of the~~  
218 ~~dog's dangerous propensities, yet demonstrated a reckless~~  
219 ~~disregard for such propensities under the circumstances, the~~  
220 ~~owner of the dog is guilty of a misdemeanor of the second~~  
221 ~~degree, punishable as provided in s. 775.082 or s. 775.083.~~

222       Section 4. Section 767.136, Florida Statutes, is created to  
223 read:

224       767.136 Attack or bite by unclassified dog that causes  
225 severe injury or death; penalties.—

226       (1) If a dog that has not been declared dangerous attacks  
227 and causes severe injury to, or the death of, a human, and the  
228 owner of the dog had knowledge of the dog's dangerous  
229 propensities but demonstrated a reckless disregard for those  
230 propensities under the circumstances, he or she commits a  
231 misdemeanor of the second degree, punishable as provided in s.  
232 775.082 or s. 775.083.



590-01777-16

2016334c1

233       (2) If the dog attacks or bites a person who is engaged in  
234 or attempting to engage in a criminal activity at the time of  
235 the attack, the owner of the dog is not criminally liable under  
236 this section.

237       Section 5. Section 767.14, Florida Statutes, is amended to  
238 read:

239       767.14 Additional local restrictions authorized. ~~Nothing in~~  
240 This act does not shall limit any local government from adopting  
241 an ordinance to address the safety and welfare concerns caused  
242 by attacks on persons or domestic animals, placing further  
243 restrictions or additional requirements on owners of ~~dangerous~~  
244 dogs that have bitten or attacked persons or domestic animals,  
245 or developing procedures and criteria for the implementation of  
246 this act, provided that no such regulation is specific to breed  
247 and that the provisions of this act are not lessened by such  
248 additional regulations or requirements. This section does shall  
249 not apply to any local ordinance adopted prior to October 1,  
250 1990.

251       Section 6. Section 767.16, Florida Statutes, is amended to  
252 read:

253       767.16 ~~Bite by a~~ Police or service dog; exemption ~~from~~  
254 ~~quarantine.~~

255       (1) Any dog that is owned, or the service of which is  
256 employed, by a law enforcement agency, is exempt from this part.

257       (2) or Any dog that is used as a service dog for blind,  
258 hearing impaired, or disabled persons, ~~and~~ that bites another  
259 animal or a human is exempt from any quarantine requirement  
260 following such bite if the dog has a current rabies vaccination  
261 that was administered by a licensed veterinarian.

590-01777-16

2016334c1

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Section 7. This act shall take effect upon becoming a law.