

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, rather than mandatory, impoundment  
6 of dogs that cause severe injuries to humans;  
7 specifying circumstances under which a dangerous dog  
8 that has caused severe injuries to a human may be  
9 euthanized or returned to its owner; transferring,  
10 renumbering, and amending a provision of s. 767.13,  
11 F.S.; repealing a requirement for automatic euthanasia  
12 for unclassified dogs that cause severe injuries to  
13 humans; deleting a criminal penalty related to severe  
14 injuries or death caused by a dog; creating s.  
15 767.136, F.S.; re-creating an existing criminal  
16 penalty related to severe injuries or death caused by  
17 a dog in a new statutory section; amending s. 767.14,  
18 F.S.; authorizing local governments to adopt certain  
19 ordinances pertaining to dogs that have bitten or  
20 attacked persons or domestic animals; amending s.  
21 767.16, F.S.; exempting law enforcement dogs from  
22 dangerous dog law; providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26 Section 1. The Division of Law Revision and Information is

27 directed to designate ss. 767.01-767.07, Florida Statutes, as  
28 part I of chapter 767, Florida Statutes, entitled "Damage By  
29 Dogs," and ss. 767.10-767.16, Florida Statutes, as part II of  
30 that chapter, entitled "Dangerous Dogs."

31 Section 2. Section 767.12, Florida Statutes, is amended to  
32 read:

33 767.12 Classification of dogs as dangerous; certification  
34 of registration; notice and hearing requirements; confinement of  
35 animal; exemption; appeals; unlawful acts.-

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

42 (a) An animal that is the subject of a dangerous dog  
43 investigation because of severe injury to a human being may be  
44 immediately confiscated by an animal control authority, placed  
45 in quarantine, if necessary, for the proper length of time, or  
46 impounded and held pending the outcome of the investigation and  
47 any hearings related to the determination of a dangerous dog  
48 classification. In the event that the dog is to be destroyed,  
49 the dog may not be destroyed while an appeal is pending.  
50 However, the owner is responsible for payment of all boarding  
51 costs and other fees as may be required to humanely and safely  
52 keep the animal during any appeal procedure.

53        (b) Any animal that is the subject of a dangerous dog  
54 investigation, that is not impounded with the animal control  
55 authority, shall be humanely and safely confined by the owner in  
56 a securely fenced or enclosed area pending the outcome of the  
57 investigation and resolution of any hearings related to the  
58 dangerous dog classification. The address of where the animal  
59 resides shall be provided to the animal control authority. No  
60 dog that is the subject of a dangerous dog investigation may be  
61 relocated or ownership transferred pending the outcome of an  
62 investigation or any hearings related to the determination of a  
63 dangerous dog classification. In the event that a dog is to be  
64 destroyed, the dog shall not be relocated or ownership  
65 transferred.

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

67        (a) The threat, injury, or damage was sustained by a  
68 person who, at the time, was unlawfully on the property or,  
69 while lawfully on the property, was tormenting, abusing, or  
70 assaulting the dog or its owner or a family member.

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

74        (3) ~~(e)~~ After the investigation, the animal control  
75 authority shall make an initial determination as to whether  
76 there is sufficient cause to classify the dog as dangerous and  
77 shall afford the owner an opportunity for a hearing prior to  
78 making a final determination. The animal control authority shall

79 provide written notification of the sufficient cause finding, to  
80 the owner, by registered mail, certified hand delivery, or  
81 service in conformance with the provisions of chapter 48  
82 relating to service of process. The owner may file a written  
83 request for a hearing within 7 calendar days from the date of  
84 receipt of the notification of the sufficient cause finding and,  
85 if requested, the hearing shall be held as soon as possible, but  
86 not more than 21 calendar days and no sooner than 5 days after  
87 receipt of the request from the owner. Each applicable local  
88 governing authority shall establish hearing procedures that  
89 conform to this subsection ~~paragraph~~.

90 (4) ~~(d)~~ Once a dog is classified as a dangerous dog, the  
91 animal control authority shall provide written notification to  
92 the owner by registered mail, certified hand delivery or  
93 service, and the owner may file a written request for a hearing  
94 in the county court to appeal the classification within 10  
95 business days after receipt of a written determination of  
96 dangerous dog classification and must confine the dog in a  
97 securely fenced or enclosed area pending a resolution of the  
98 appeal. Each applicable local governing authority must establish  
99 appeal procedures that conform to this subsection ~~paragraph~~.

100 (5) Except as otherwise provided in subsection (6), the  
101 owner of a dog classified as a dangerous dog shall comply with  
102 this subsection:

103 (a) ~~(2)~~ Within 14 days after a dog has been classified as  
104 dangerous by the animal control authority or a dangerous dog

105 classification is upheld by the county court on appeal, the  
106 owner of the dog must obtain a certificate of registration for  
107 the dog from the animal control authority serving the area in  
108 which he or she resides, and the certificate shall be renewed  
109 annually. Animal control authorities are authorized to issue  
110 such certificates of registration, and renewals thereof, only to  
111 persons who are at least 18 years of age and who present to the  
112 animal control authority sufficient evidence of:

113 1.~~(a)~~ A current certificate of rabies vaccination for the  
114 dog.

115 2.~~(b)~~ A proper enclosure to confine a dangerous dog and  
116 the posting of the premises with a clearly visible warning sign  
117 at all entry points that informs both children and adults of the  
118 presence of a dangerous dog on the property.

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

121

122 The appropriate governmental unit may impose an annual fee for  
123 the issuance of certificates of registration required by this  
124 section.

125 (b)~~(3)~~ The owner shall immediately notify the appropriate  
126 animal control authority when a dog that has been classified as  
127 dangerous:

128 1.~~(a)~~ Is loose or unconfined.

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

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

131 4.~~(d)~~ Is moved to another address.

132

133 Prior to a dangerous dog being sold or given away, the owner  
134 shall provide the name, address, and telephone number of the new  
135 owner to the animal control authority. The new owner must comply  
136 with all of the requirements of this section ~~act~~ and  
137 implementing local ordinances, even if the animal is moved from  
138 one local jurisdiction to another within the state. The animal  
139 control officer must be notified by the owner of a dog  
140 classified as dangerous that the dog is in his or her  
141 jurisdiction.

142 (c)~~(4)~~ It is unlawful for the owner of a dangerous dog to  
143 permit the dog to be outside a proper enclosure unless the dog  
144 is muzzled and restrained by a substantial chain or leash and  
145 under control of a competent person. The muzzle must be made in  
146 a manner that will not cause injury to the dog or interfere with  
147 its vision or respiration but will prevent it from biting any  
148 person or animal. The owner may exercise the dog in a securely  
149 fenced or enclosed area that does not have a top, without a  
150 muzzle or leash, if the dog remains within his or her sight and  
151 only members of the immediate household or persons 18 years of  
152 age or older are allowed in the enclosure when the dog is  
153 present. When being transported, such dogs must be safely and  
154 securely restrained within a vehicle.

155 (6) If a dog is classified as a dangerous dog as the  
156 result of an incident that causes severe injury to a human

157 being, based upon the nature and circumstances of the injury and  
158 the likelihood of a future threat to the public safety, health,  
159 and welfare, the dog may be destroyed in an expeditious and  
160 humane manner, or, alternatively, the owner shall be required to  
161 comply with subsection (5). The animal control authority shall  
162 inform the owner of the penalty imposed within the notice of  
163 sufficient cause. If the owner requests a hearing under  
164 subsection (3), the hearing officer may review the penalty  
165 imposed by the animal control authority and rule upon the proper  
166 penalty under this subsection.

167 (7)-(5) Hunting dogs are exempt from ~~the provisions of this~~  
168 section ~~act~~ when engaged in any legal hunt or training  
169 procedure. Dogs engaged in training or exhibiting in legal  
170 sports such as obedience trials, conformation shows, field  
171 trials, hunting/retrieving trials, and herding trials are exempt  
172 from the provisions of this section ~~act~~ when engaged in any  
173 legal procedures. However, such dogs at all other times in all  
174 other respects shall be subject to this and local laws. Dogs  
175 that have been classified as dangerous shall not be used for  
176 hunting purposes.

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

179 (8)-(7) Any person who violates any provision of this  
180 section commits ~~is guilty of~~ a noncriminal infraction,  
181 punishable by a fine not exceeding \$500.

182 Section 3. Subsection (2) of section 767.13, Florida

183 Statutes, is transferred, renumbered as section 767.135, Florida  
 184 Statutes, and amended, to read:

185 767.135 ~~767.13~~ Attack or bite by ~~dangerous~~ dog that has  
 186 not been declared dangerous; penalties; confiscation;  
 187 destruction.-

188 ~~(2)~~ If a dog that has not been declared dangerous attacks  
 189 and causes the ~~severe injury to or~~ death of any human, the dog  
 190 shall be immediately confiscated by an animal control authority,  
 191 placed in quarantine, if necessary, for the proper length of  
 192 time or held for 10 business days after the owner is given  
 193 written notification under s. 767.12, and thereafter destroyed  
 194 in an expeditious and humane manner. This 10-day time period  
 195 shall allow the owner to request a hearing under s. 767.12. If  
 196 the owner files a written appeal under s. 767.12 or this  
 197 section, the dog must be held and may not be destroyed while the  
 198 appeal is pending. The owner shall be responsible for payment of  
 199 all boarding costs and other fees as may be required to humanely  
 200 and safely keep the animal during any appeal procedure. ~~In~~  
 201 ~~addition, if the owner of the dog had prior knowledge of the~~  
 202 ~~dog's dangerous propensities, yet demonstrated a reckless~~  
 203 ~~disregard for such propensities under the circumstances, the~~  
 204 ~~owner of the dog is guilty of a misdemeanor of the second~~  
 205 ~~degree, punishable as provided in s. 775.082 or s. 775.083.~~

206 Section 4. Section 767.136, Florida Statutes, is created  
 207 to read:

208 767.136 Attack or bite by unclassified dog that causes

209 severe injury or death; penalties.—

210 (1) If the owner of a dog that has not been declared  
211 dangerous, but which attacks and causes severe injury to, or the  
212 death of, a human, had knowledge of the dog's dangerous  
213 propensities, yet demonstrated a reckless disregard for such  
214 propensities under the circumstances, the owner of the dog  
215 commits a misdemeanor of the second degree, punishable as  
216 provided in s. 775.082 or s. 775.083.

217 (2) If the dog attacks or bites a person who is engaged in  
218 or attempting to engage in a criminal activity at the time of  
219 the attack, the owner is not guilty of any crime under this  
220 section.

221 Section 5. Section 767.14, Florida Statutes, is amended to  
222 read:

223 767.14 Additional local restrictions authorized.—Nothing  
224 in this act shall limit any local government from adopting an  
225 ordinance to address the safety and welfare concerns caused by  
226 attacks on persons or domestic animals, placing further  
227 restrictions or additional requirements on owners of ~~dangerous~~  
228 dogs that have bitten or attacked persons or domestic animals,  
229 or developing procedures and criteria for the implementation of  
230 this act, provided that no such regulation is specific to breed  
231 and that the provisions of this act are not lessened by such  
232 additional regulations or requirements. This section shall not  
233 apply to any local ordinance adopted prior to October 1, 1990.

234 Section 6. Section 767.16, Florida Statutes, is amended to

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235 read:

236 767.16 ~~Bite by a~~ Police or service dog; exemption ~~from~~  
237 ~~quarantine.~~—

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

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

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