

BILL ANALYSIS

Senate Research Center

H.B. 1436
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Intergovernmental Relations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law allows a person to appeal a determination by an animal control authority (ACA) that the person's dog is dangerous at a justice of the peace court, municipal court, or country court. However, the law does not specify the proper procedures and relevant jurisdiction of higher courts necessary to pursue this appeal. As a result of these gaps in the law, a person who receives notice that the local ACA has determined his or her dog to be dangerous is denied an adequate opportunity to appeal such a determination as provided by law.

H.B. 1436 clarifies the appeals process intended under current law by: requiring ACAs to provide written notice of such a determination to the dog's owner; describing the proper process for filing an appeal; allowing dog owners appealing an ACA determination to request a trial by jury, which is provided for most minor alleged legal violations; and granting jurisdiction to county courts and county courts at law to hear an appeal from a municipal or justice of the peace court.

H.B. 1436 amends current law relating to appeals regarding dangerous dogs.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 822.042(e), Health and Safety Code, as follows:

(e) Requires the court to order the animal control authority to humanely destroy the dog if the owner has not complied with Subsection (a) (requiring a person to, not later than the 30th day after the person learns that the person is the owner of a dangerous dog, perform certain actions) before the 11th day after the date on which the dog is seized or delivered to the authority, except that, notwithstanding any other law or local regulation, the court may not order the destruction of a dog during the pendency of an appeal under Section 822.0424. Requires the court to order the authority to return the dog to the owner if the owner complies with Subsection (a) before the 11th day after the date on which the dog is seized or delivered to the authority.

SECTION 2. Amends Section 822.0421, Health and Safety Code, as follows:

Sec. 822.0421. DETERMINATION THAT DOG IS DANGEROUS. (a) Requires the animal control authority, if, after receiving the sworn statements of any witnesses, the animal control authority determines the dog is a dangerous dog, to notify the owner in writing of the determination, rather than notify the owner of that fact. Makes a nonsubstantive change and makes no further change to this subsection.

(b) Authorizes an owner, notwithstanding any other law, including a municipal ordinance, not later than the 15th day after the date the owner is notified that a dog owned by the owner is a dangerous dog, to appeal the determination of the

animal control authority to a justice, county, or municipal court of competent jurisdiction.

(c) Requires the owner, to file an appeal under Subsection (b), to:

(1) file a notice of appeal of the animal control authority's dangerous dog determination with the court;

(2) attach a copy of the determination from the animal control authority; and

(3) serve a copy of the notice of appeal on the animal control authority by mailing the notice through the United States Postal Service.

(d) Authorizes an owner to appeal the decision of the justice or municipal court under Subsection (b) in the manner described by Section 822.0424. Deletes existing text authorizing an owner to appeal the decision of the justice, county, or municipal court in the same manner as appeal for other cases from the justice, county, or municipal court.

SECTION 3. Amends Section 822.0423, Health and Safety Code, by adding Subsection (c-1) and amending Subsection (d), as follows:

(c-1) Requires the court to determine the estimated costs to house and care for the impounded dog during the appeal process and to set the amount of bond for an appeal adequate to cover those estimated costs.

(d) Authorizes an owner or person filing the action to appeal the decision of the municipal or justice court in the manner described by Section 822.0424. Deletes existing text authorizing an owner or person filing the action to appeal the decision of the municipal court, justice court, or county court in the manner provided for the appeal of cases from the municipal, justice, or county court.

SECTION 4. Amends Subchapter D, Chapter 822, Health and Safety Code, by adding Section 822.0424, as follows:

Sec. 822.0424. APPEAL. (a) Authorizes a party to an appeal under Section 822.0421(d) or a hearing under Section 822.0423 to appeal the decision to a county court or county court at law in the county in which the justice or municipal court is located.

(b) Requires the appellant, as a condition of perfecting an appeal, not later than the 10th calendar day after the date the decision is issued, to file a notice of appeal and, if applicable, an appeal bond in the amount determined by the court from which the appeal is taken.

(c) Provides that, notwithstanding Section 30.00014 (Appeal), Government Code, or any other law, a person filing an appeal from a municipal court under Subsection (a) is not required to file a motion for a new trial to perfect an appeal.

(d) Provides that a decision of a county court or county court at law under this section may be appealed in the same manner as an appeal for any other case in a county court or county court at law.

(e) Provides that, notwithstanding any other law, a county court or a county court at law has jurisdiction to hear an appeal filed under this section.

SECTION 5. Provides that the change in law made by this Act applies only to a determination, decision, or hearing under Section 822.0421 or 822.0423, Health and Safety Code, as amended by this Act, or Section 822.0424, as added by this Act, that occurs on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2015.