

By: Smithee

H.B. No. 1436

A BILL TO BE ENTITLED

AN ACT

relating to appeals regarding dangerous dogs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 822.042(e), Health and Safety Code, is amended to read as follows:

(e) The court shall order the animal control authority to humanely destroy the dog if the owner has not complied with Subsection (a) 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. The court shall 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. Section 822.0421, Health and Safety Code, is amended to read as follows:

Sec. 822.0421. DETERMINATION THAT DOG IS DANGEROUS. (a) If a person reports an incident described by Section 822.041(2), the animal control authority may investigate the incident. If, after receiving the sworn statements of any witnesses, the animal control authority determines the dog is a dangerous dog, the animal control authority ~~it~~ shall notify the owner in writing of the determination ~~that fact~~.

1 (b) Notwithstanding any other law, including a municipal
2 ordinance, an [An] owner, not later than the 15th day after the date
3 the owner is notified that a dog owned by the owner is a dangerous
4 dog, may appeal the determination of the animal control authority
5 to a justice, county, or municipal court of competent jurisdiction.

6 (c) To file an appeal under Subsection (b), the owner must:

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

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

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

14 (d) An owner may appeal the decision of the justice[~~r~~
15 ~~county,~~] or municipal court under Subsection (b) in the [~~same~~
16 ~~manner described by Section 822.0424 [as appeal for other cases~~
17 ~~from the justice, county, or municipal court].~~

18 SECTION 3. Section 822.0423, Health and Safety Code, is
19 amended by adding Subsection (c-1) and amending Subsection (d) to
20 read as follows:

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

25 (d) An owner or person filing the action may appeal the
26 decision of the municipal or [court,] justice court[~~, or county~~
27 ~~court]~~ in the manner described by Section 822.0424 [provided for

1 ~~the appeal of cases from the municipal, justice, or county court].~~

2 SECTION 4. Subchapter D, Chapter 822, Health and Safety
3 Code, is amended by adding Section 822.0424 to read as follows:

4 Sec. 822.0424. APPEAL. (a) A party to an appeal under
5 Section 822.0421(d) or a hearing under Section 822.0423 may appeal
6 the decision to a county court or county court at law in the county
7 in which the justice or municipal court is located and is entitled
8 to a jury trial on request.

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

14 (c) Notwithstanding Section 30.00014, Government Code, or
15 any other law, a person filing an appeal from a municipal court
16 under Subsection (a) is not required to file a motion for a new
17 trial to perfect an appeal.

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

21 (e) Notwithstanding any other law, a county court or a
22 county court at law has jurisdiction to hear an appeal filed under
23 this section.

24 SECTION 5. The change in law made by this Act applies only
25 to a determination, decision, or hearing under Section 822.0421 or
26 822.0423, Health and Safety Code, as amended by this Act, or Section
27 822.0424, Health and Safety Code, as added by this Act, that occurs

1 on or after the effective date of this Act. A determination,
2 decision, or hearing that occurs before the effective date of this
3 Act is governed by the law in effect on the date the determination,
4 decision, or hearing occurred, and the former law is continued in
5 effect for that purpose.

6 SECTION 6. This Act takes effect September 1, 2015.