

# **“DANGEROUS DOGS”**

(“Perilous and Pernicious Pooches”)

William E. Ragsdale

Presiding Judge

Ingram, Texas

830.367.5115 Or

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## *Objectives*

*Participants will be able to:*

Recognize the authority of a court to seize a “Dangerous Dog”

Identify and apply procedural rules to make an appropriate disposition of “Dangerous Dogs”

Distinguish the “Dangerous Dog” Designation and the judicial appeal of that title

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## 822.041 Definitions

### **Dangerous Dog (A) :**

- Dog makes an UNPROVOKED on a PERSON
- Caused BODILY INJURY outside enclosure where the Dog was kept
- And enclosure was reasonably certain to contain the Dog on its own

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## Dangerous Dog (B)

- A Dog makes an UNPROVOKED on a PERSON
- Caused BODILY INJURY outside an enclosure where the Dog was kept
- Enclosure was reasonably to contain the on its own
- Acts cause a person to REASONABLY believe the Dog will attack and cause BODILY INJURY to that person

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SECURE ENCLOSURE Is a structure or fence that is:

- (1) Locked (2) Capable of preventing the entry of general public, including children,  
(3) Capable of keeping the Dog in (4) clearly marked as containing a Dangerous dog and in conformance with requirements of the local ACA

OWNER is the one who actually owns the Dog or has custody/ control over the Dog

“ACA” is the “Animal Control Authority”

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## Section 822 Describes TWO Enforcement Scenarios for DD's (822.0422)

Entities which HAVE NOT adopted this section by Order or Ordinance (822.0421)

**OR**

Entities which HAVE adopted this section by Order or Ordinance (822.0422)

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In Entities which HAVE NOT  
adopted this section

What Happens when Someone  
HAS DD (defined by 822.0421 ) ?

(1) When ANYONE reports an incident  
described by 822.041 (2) [defines a DD] :

(2) The ACA MAY investigate the incident  
( Gives jurisdiction to conduct the investigation )

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The ACA investigates and gathers SWORN  
statements and IF the ACA determines the  
Dog IS a DD, they SHALL notify the  
OWNER in writing

If the Owner complies with ACA designation  
within 30 days, the court will never hear  
anything about it

This will be Restraint, Insurance and  
Registration

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BTW .....

822.042 (g) says a person learns they are  
the Owner of a DD when:

(1) they are aware of an attack in  
822.041 (A) or (B)

(2) They receive notice a Justice ,  
County, or Municipal Court has  
determined the dog is a DD ... OR

(3) The Owner is informed by an ACA  
the dog is a DD

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An OWNER may APPEAL the DD DESIGNATION by ACA 822.0421

The OWNER may appeal the ACA designation no later than 15 days from the notification the Dog is dangerous.

The Appeal is to Justice, Municipal or a County Court of competent jurisdiction

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To File an Appeal of the DD Designation the OWNER must:

File notice of appeal of the designation with the court

Attach a copy of the designation notice to the filing

\* (NEW) Serve a copy of the "Notice of Appeal" on the ACA by mailing the papers through the USPS

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Appeal of the Appeal of DDD (Rules found in 822.0424)

OWNER may appeal the appeal as any other appeal from that court and may have a jury

Must file the Notice of Appeal within 10 calendar days and make a bond if required

NO need for a Motion for New Trial

Appeal from a CC or CCL is in the same manner as any other appeal

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What Does an Owner of a DD Have to Do? (822.042) *or*

WHY would anyone Appeal a DD designation?

A DD Owner **MUST** :

1. REGISTER with the ACA
2. Restrain the Dog at all times and have Insurance of at LEAST \$100K
3. Comply with Municipal or County regulations or legal restriction for DD's

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4. (b) OR in lieu of compliance, Surrender the Dog

**BTW:** Registration means

- (1) Visit Annually
- (2) Submit proof of the Liability Insurance, Proper Enclosure, Current Vaccination and pay a \$50 Fee
- (3) RE-register if they or the Dog moves , and pay another \$25 fee
- (4) Report any other attacks which have occurred

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822.0422 - IF a County (with a pop. Greater than 2.8 M) or any Municipality by Ordinance **HAVE ADOPTED** this Section ...

A person files a report of DD incident with a Justice or Municipal Court

The OWNER must deliver the Dog to the ACA no later than 5 days after the OWNER has received notice of the report being filed

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The ACA may provide for impoundment until the Court makes a disposition of the Dog.

*IF* the Owner doesn't surrender the Dog the Court SHALL Issue a warrant to seize and impound the Dog until a disposition is made

The Court provides Written Notice to the Owner and Complainant of the time and place of the hearing **WHICH** will be held no later than (10) ten days from the date the Dog was Seized or delivered

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ANY interested person may present evidence Including the State's attorney

If a DD determination is made , the animal may be impounded, returned or if appropriate , destroyed

If NO DDD is made the animal should be returned

The Court determines estimated costs of Seizure and impoundment if an appeal is made and sets appeal bond in that amount

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Appeal is in the manner set out in 822.0424

The Owner pays all fees

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Rule 822.0424 - Appeal of Appeal of DDD of 822.0421 or Appeal Hearing under 822.0423; (DDD by the entity which adopted the "Section")

The Owner may appeal the hearing to the County Court or CCL and is entitled to a jury trial there

To perfect the appeal, not later than the 10<sup>th</sup> calendar Day after the decision was made, the Appellant must :

File a Notice of Appeal and make an Appeal Bond if Required, (No Motion for New Trial req'd )

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An appeal of a decision of a county court or CCL is appealed in the manner of any other appeal

**\*NEW**, The Court may not order destruction during the pendency of an appeal under 822.0424 (This is found in 822.042 (e) ]

822.047 Provides for Cities and Counties to make the Additional requirements (more than the HSC) for DD's

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**If DD Owner Fails to comply with DD Requirements? 822.042 (c):**

ANYONE applies in JP, Municipal or CC for hearing as provided by 822.0423 the owner of the DD hasn't complied with 822.042 (a) or (b)

The Court SHALL issue a warrant to seize and impound the DD, the Owner paying costs of seizure through possible destruction

The Court SHALL order the DD destroyed if Owner does not comply with (a) before the 11<sup>th</sup> day

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**BUT WAIT.....**

The court SHALL order return of the Dog if Owner complies before the 11th day of the seizure

The Court MAY order a DD destroyed if Owner isn't found before the 15<sup>th</sup> day after the seizure

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*THE END*

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**Post Presentation  
BONUS INFORMATION**

822.047 Provides for Cities and Counties to make the Additional requirements (more than the HSC) for DD's

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**DD OFFENSES**

**822.044 ATTACK by a DD**

It is a Class C if a DD makes an unprovoked attack on a person outside the DD's enclosure and causes BI,

**822.045 VIOLATIONS**

It is a Class Misdemeanor if a person who owns, keeps or controls a DD fails to comply with 822.042 or 822.0422 (b) or applicable municipal or county regulations

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**When a Dog caused Death or "SBI" of a PERSON 822.002 & .003**

Any Person, State's Atty or Peace Officer Files a SWORN COMPLAINT Alleging Death or SBI of a PERSON by ATTACK, BITE, or MAULING

The Court SHALL issue a warrant to seize and impound the Dog

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If a Dog is seized a hearing **MUST** be held no later than 10 days after the warrant was issued.

The COURT must give written notice to The Owner and the Complainant Which provides the time and place of the hearing

Any interested Party , Including the State may present evidence

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**Findings of the Hearing**

If the Dog caused death to a person by attacking, biting or mauling, Destruction

NOT a finding of death to a person? The Court SHALL release the Dog :

To Its Owner...

To the one whom the Dog was seized from...

OR any person who is authorized to take possession of the Dog

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**IF** the Dog caused "Serious Bodily Injury" to a person by attacking, biting or mauling, the Court MAY order the Dog destroyed

No SBI finding? The Court SHALL release the Dog

To the Owner...

To Whom it was seized from...

OR person authorized to take the Dog

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The Court may NOT order destruction *IF* The Dog causing the SBI :

Was being used to protect a person's property and the Dog was enclosed

The enclosure was reasonably certain to contain the Dog on its own

There was notice of the Dog

The injured was greater than 8 years old and was trespassing

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*OR*

*WASNT* being used to protect a person's property *BUT* the Dog was in an enclosure when and where the injury occurred

And the injured was greater than 8 years old and was trespassing

While the Dog was being used by the police for police purposes

The Dog was defending a person from assault, from property damage or theft by the injured person

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The injured person was *YOUNGER* than 8, The injury occurred in an enclosure and the enclosure was reasonably certain to have kept a person younger than 8 from entering.

**822.004 ACTUAL DESTRUCTION**

Must be performed by a Licensed Vet, Trained Animal Control Authority, Shelter or Society personnel trained in Humane Destruction of animals

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For **MORE** Dangerous Pooch Information See the TMCEC "Recorder" Volume 20 , May 2011. Article by Katie Teft, former Program Atty., TMCEC. Also, TMCEC "Recorder" Volume 20, January, 2011 by Cathy Riedel, former Program Director, TMCEC

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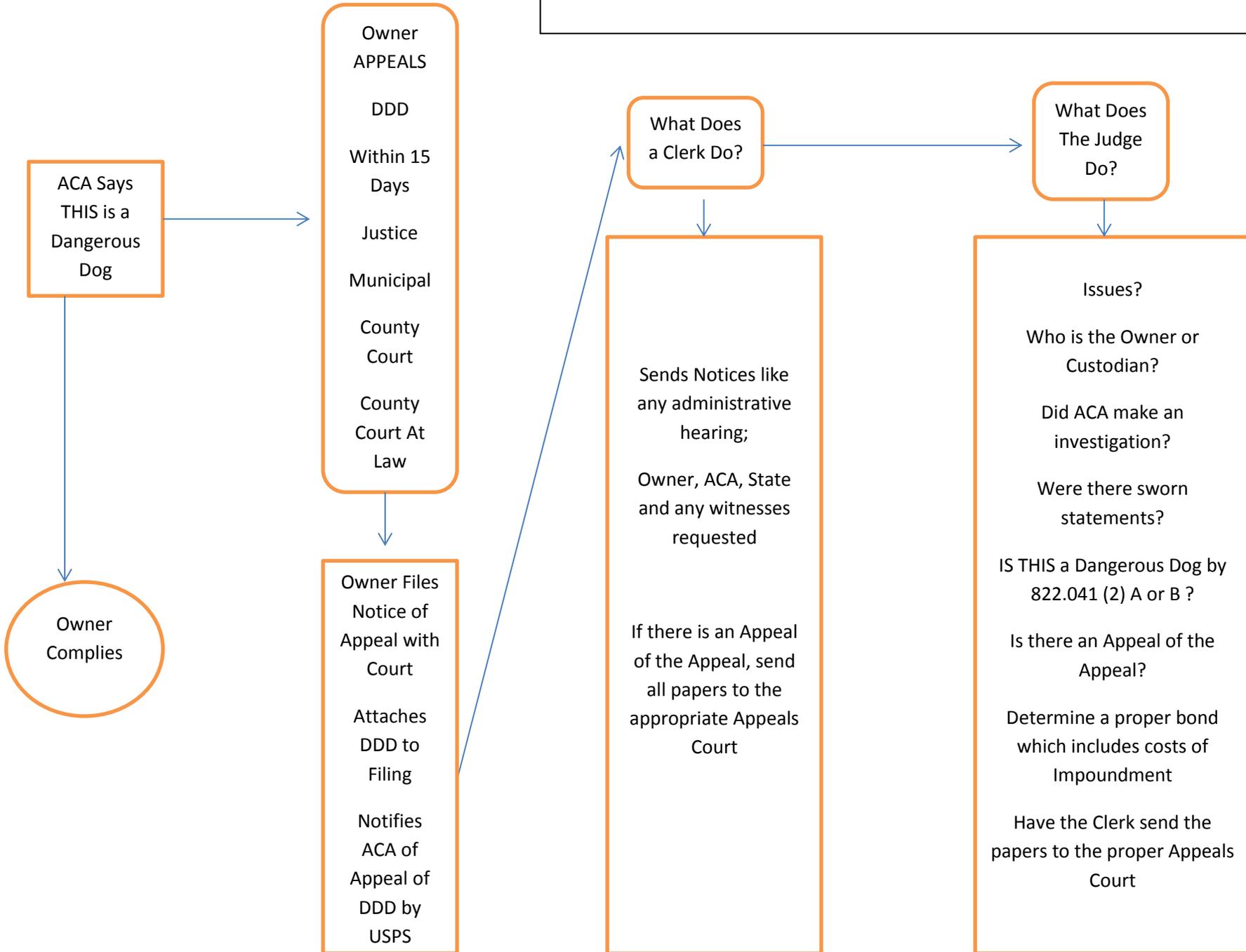
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For Those entities Which Have **NOT** Adopted the Dangerous Dog Statute by Ordinance or Order (822.0421)



ACA Says  
THIS is a  
Dangerous  
Dog

Owner  
APPEALS

DDD  
Within 15  
Days  
Justice  
Municipal  
County  
Court  
County  
Court At  
Law

Owner  
Complies

Owner Files  
Notice of  
Appeal with  
Court  
Attaches  
DDD to  
Filing  
Notifies  
ACA of  
Appeal of  
DDD by  
USPS

What Does  
a Clerk Do?

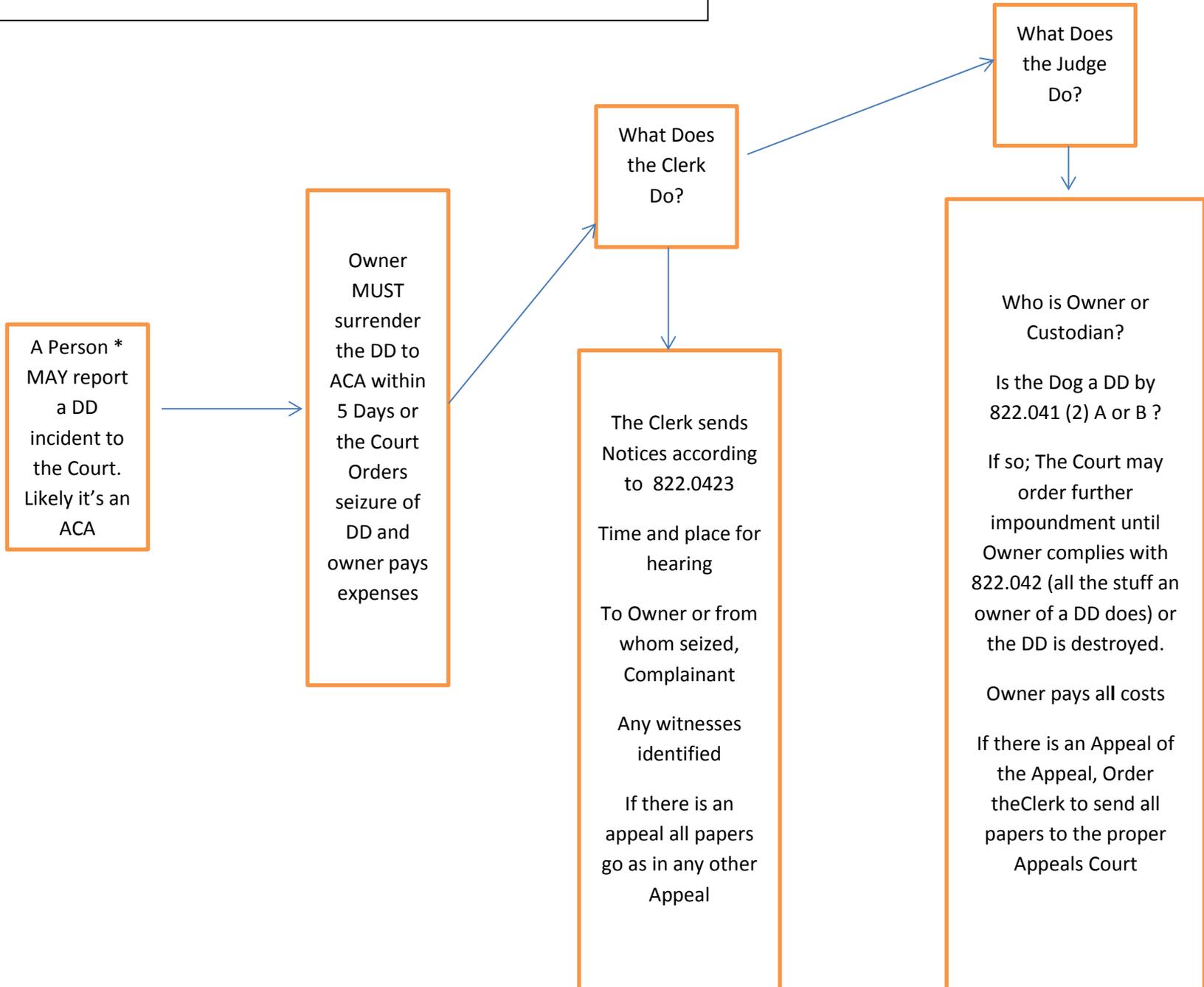
Sends Notices like  
any administrative  
hearing;  
Owner, ACA, State  
and any witnesses  
requested

If there is an Appeal  
of the Appeal, send  
all papers to the  
appropriate Appeals  
Court

What Does  
The Judge  
Do?

Issues?  
Who is the Owner or  
Custodian?  
Did ACA make an  
investigation?  
Were there sworn  
statements?  
IS THIS a Dangerous Dog by  
822.041 (2) A or B ?  
Is there an Appeal of the  
Appeal?  
Determine a proper bond  
which includes costs of  
Impoundment  
Have the Clerk send the  
papers to the proper Appeals  
Court

For Those entities Which **HAVE** Adopted the Dangerous Dog Statute by Ordinance or Order (822.0422)



# The Owner of a DD Does NOT Comply With DD Restrictions?

