

- SUBJECT:** Modifying the criminal offense of the unlawful restraint of a dog
- COMMITTEE:** Criminal Jurisprudence — committee substitute recommended
- VOTE:** *After recommitted:*
7 ayes — Collier, K. Bell, Cook, Crockett, Hinojosa, A. Johnson, Vasut

1 nay — Cason

1 absent — Murr
- WITNESSES:** *March 8 public hearing:*
For — Shannon Sims, City of San Antonio Animal Care Services; Brian Hawthorne, Sheriffs Association of Texas; Jamey Cantrell, Texas Animal Control Association; Robyn Katz; Art Munoz; (*Registered, but did not testify:* Ian Randolph, Animal Legal Defense Fund; TJ Patterson, City of Fort Worth; Jamaal Smith, City of Houston Office of the Mayor; Jennifer Szimanski, CLEAT; Daniel Collins, County of El Paso; M. Paige Williams (for Dallas County Criminal District Attorney John Creuzot; Stacy Smith, Humane Tomorrow; Shelby Bobosky, Julie Cassidy, Rankin, Stacy Sutton Kerby, Texas Humane Legislation Network; Mitch Landry, Texas Municipal Police Association; Elizabeth Choate, Texas Veterinary Medical Association; Katy Fendrich-Turner, The Hailey Foundation; and 31 individuals)

Against — None

On — Shannon Edmonds, Texas District and County Attorneys Association
- BACKGROUND:** Some have suggested that current statute governing the unlawful restraint of a dog are ineffective and should be revised to achieve their original intended purpose, especially as the law relates to cruel and inhumane tethering.
- DIGEST:** CSHB 873 would make it a crime for an owner to knowingly leave a dog

outside and unattended by use of a restraint unless the owner provided access to adequate shelter, an area that allowed the dog to avoid standing water and any other substance that could cause harm to the health of the dog, shade from direct sunlight, and potable water.

It also would be an offense to knowingly restrain a dog outside and unattended by use of a chain or a restraint that was weighted, shorter than the greater of five times the length of the dog or 10 feet, unattached to a properly fitted harness or collar, or that caused pain or injury to the dog. This provision would not apply to a restraint attached to a trolley system that allowed a dog to move along a running line for a distance equal to or greater than those specified lengths.

An offense would be a class C misdemeanor (maximum fine of \$500), except it would be a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) if the owner had previously been convicted under the bill's provisions.

The bill would define "adequate shelter" as a sturdy structure that allowed a dog protection from certain weather conditions and that had dimensions that allowed a dog to stand erect, sit, turn around, and lie down in a normal position. "Properly fitted" would mean an appropriately sized collar or harness that did not choke a dog or impede its normal breathing or swallowing and was attached around a dog in a manner that did not allow for escape or cause pain or injury.

Exceptions. The bill would not prohibit a person from a walking a dog with a handheld leash. The bill would not apply to the use of a restraint on a dog:

- in a public camping or recreational area in compliance with the area's requirements as defined by a federal, state, or local authority or jurisdiction;
- while the owner and dog engaged in or trained for an activity under a valid state-issued license, provided the activity was associated with the use or presence of a dog;

- while the owner and dog engaged in conduct directly related to the business of shepherding or herding cattle or livestock; or
- while the owner and dog engaged in conduct directly related to the business of cultivating agricultural products.

The bill also would not apply to:

- leaving a dog unattended in an open-air truck bed only for the time necessary for the owner to complete a temporary task that required the dog to be left unattended;
- a dog taken by the owner, or another person with the owner's permission, from the owner's residence or property and restrained for not longer than the time necessary for the owner to engage in activity that required the dog to be temporarily restrained; or
- a dog restrained while the owner and dog were engaged in or training for hunting or field trialing.

Applicability. If conduct constituting an offense under the bill also constituted an offense under any other law, the actor could be prosecuted under either or both laws.

The bill would not preempt a local regulation relating to the restraint of a dog or affect the authority of a political subdivision to adopt or enforce an ordinance or requirement relating to the restraint of a dog if the regulation, ordinance, or requirement:

- was compatible with and equal to or more stringent than a requirement prescribed by the bill; or
- related to an issue not specifically addressed by the bill.

Repeal. The bill would repeal the existing statutes in the Health and Safety Code defining and addressing the unlawful restraint of a dog.

The bill would take effect September 1, 2021, and would apply only to an offense committed on or after the effective date.