

BILL ANALYSIS

Senate Research Center

H.B. 991
By: Wohlgemuth (Lindsay)
Intergovernmental Relations
4-18-97
Engrossed

DIGEST

Currently, municipal, justice, and county courts are prohibited from ordering the destruction of a dog that attacks and causes serious bodily injury to a human being. Some individuals may be unnecessarily exposed to attacks which could lead to serious injuries or deaths. This bill permits the destruction of certain dogs after an attack that results in serious bodily injury.

PURPOSE

As proposed, H.B. 991 permits the destruction of certain dogs after an attack that results in serious bodily injury.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 822A, Health and Safety Code, as follows:

SUBCHAPTER A. DOGS THAT ARE A DANGER TO PERSONS

Sec. 822.001. DEFINITIONS. Defines "animal control authority" and "serious bodily injury."

Sec. 822.002. New heading: SEIZURE OF A DOG CAUSING DEATH OF OR SERIOUS BODILY INJURY TO A PERSON. Requires a justice court, county court, or municipal court (court) to order the animal control authority (authority), rather than the sheriff, to seize a dog. Requires a warrant to be issued on the sworn complaint of certain persons, including the city attorney, that the dog has caused the death of or serious bodily injury to a person. Makes conforming changes.

Sec. 822.003. HEARING. Requires the court to set a hearing to establish whether the dog caused the death of or serious bodily injury to a person by attack. Authorizes interested parties, including the city attorney, to present evidence at the hearing. Authorizes the court to order the dog destroyed if the court finds that the dog caused serious bodily injury to the person. Requires the court to order the dog released to certain persons if the finding is not made. Prohibits the court from destroying the dog if the court finds that the dog caused serious bodily injury to a person under certain conditions. Makes conforming changes.

Sec. 822.004. DESTRUCTION OF DOG. Makes a conforming change.

Sec. 822.005. PROVOCATION OR LOCATION OF ATTACK IRRELEVANT. Provides that this subchapter applies to any dog that causes a person's death or serious bodily injury through attack, except as provided by Subsection 822.003(f). Makes conforming changes.

SECTION 2. Amends Chapter 822D, Health and Safety Code, by amending Sections 822.042 and 822.045, and by adding Sections 822.0421, 822.0422, and 822.0423, as follows:

Sec. 822.042. REQUIREMENTS FOR OWNER OF DANGEROUS DOG. Requires a person who learns of the ownership of a dangerous dog to provide proof of the required coverage to the authority and to comply with an applicable municipal or county regulation, requirement, or restriction on dangerous dogs. Requires the owner of a dangerous dog who does not comply with Subsection (a) to deliver the dog to the authority by the 30th day after the owner learns that the dog is dangerous. Requires the court to order the authority to seize the dog and to issue a warrant for seizure, if it is found that the owner of a dangerous dog has failed to comply with Subsection (a) or (b). Requires the authority to seize the dog and to provide for the impoundment of the dog. Requires the owner to pay for seizure of dog. Sets forth requirements for the court for handling of the dog based on owner compliance or noncompliance. Authorizes the court to order the humane destruction of a dog if the owner of the dog has not been located before the 15th day after the seizure and impoundment of the dog. Provides that a person learns who the owner of a dangerous dog is when the owner receives notice that a court has found that the dog is dangerous or when the owner is informed by the authority that the dog is a dangerous dog under Section 822.0421. Makes conforming changes.

Sec. 822.0421. DETERMINATION THAT A DOG IS DANGEROUS. Sets forth a provision authorizing the owner of a dangerous dog to appeal the determination by the 15th, rather than the 30th, day the determination is made. Makes conforming changes.

Sec. 822.0422. REPORTING OF INCIDENT IN CERTAIN COUNTIES AND MUNICIPALITIES. Provides that this section applies only to a county with a population of more than 2,800,000, to a county in which the commissioners court has entered an order electing to be governed by this section, and to a municipality in which the governing body has adopted an ordinance electing to be governed by this section. Authorizes a person to report an incident described by Section 822.041(2) to a court. Requires the owner of the dog to deliver the dog to the authority by the fifth day the owner receives notice of the report. Requires the court to order the authority to seize the dog and to issue a warrant for seizure, if the owner fails to deliver the dog as required by Subsection (b). Requires the authority to seize the dog and to provide for impoundment until the court orders the disposition of the dog. Requires the court to determine if the dog is dangerous.

Sec. 822.0423. HEARING. Requires the court to set a time for a hearing to determine whether the dog is dangerous or if the owner has complied with Section 822.042(c). Requires the hearing to be held by the 10th day the after dog is seized. Requires the court to give notice of the hearing to the owner of the dog and to the person who made the complaint. Authorizes interested parties to present evidence at the hearing. Authorizes an owner or a person filing the action to appeal the decision of the court.

Sec. 822.045. VIOLATIONS. Provides that a person who keeps custody of a dangerous dog commits an offense if the person fails to comply with an applicable municipal or county regulation relating to dangerous dogs. Provides that an offense under this section is a Class C misdemeanor, except as provided by Subsection (c). Provides that an offense under this section is a Class B misdemeanor if it is shown on the trial of the offense that the defendant has previously been convicted under this section.

SECTION 3. Effective date: September 1, 1997.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Emergency clause.