

BILL ANALYSIS

Senate Research Center
80R18602 YDB-D

C.S.H.B. 1355
By: Gattis et al. (Shapleigh)
Criminal Justice
5/10/2007
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, a person commits an offense if the person does not properly secure a dog that has been declared a dangerous dog and that dog injures a person. A dog can be declared a dangerous dog by animal control authorities only after there is evidence produced that a dog is aggressive or has injured someone in the past. If a dog is declared a dangerous dog, it is the responsibility and duty of the owner to properly secure the dog, post warnings, and obtain insurance. The current criminal penalties are a Class C misdemeanor if a dangerous dog injures a person and a Class A misdemeanor if the dog causes serious bodily injury or death. In addition, the dog may be ordered destroyed. Because current statute requires "dangerous dog" to be officially declared, irresponsible owners allow their dogs to roam loose without recourse by simply stating "my dog has never been deemed to be a dangerous dog." Dog attacks have been taking lives in the State of Texas at an alarming rate. In order to prevent these occurrences, punishment should be given out the first time an attack occurs.

C.S.H.B. 1355 requires all dog owners to properly secure their dogs on their property, regardless of whether the dog has been declared a "dangerous dog" in the past. The bill provides that the dog owner can be held criminally responsible if the dog causes serious bodily injury or death at a location other than the owner's property in an unprovoked attack and if the owner, by criminal negligence, failed to secure the dog. This bill provides that the crime is punishable as a third degree felony for serious bodily injury and as a second degree felony for death. The bill also provides defenses to prosecution for many professionals who deal with dogs on a regular basis.

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. Authorizes this Act to be cited as "Lillian's Law" in memory of Mrs. Lillian Stiles. Provides that this Act is also dedicated to the memory of Mrs. Fannie Pearl Pharms, Ms. Cheryl Marie Floyd, and all other victims of unprovoked dog attacks.

SECTION 2. Amends the heading to Subchapter A, Chapter 822, Health and Safety Code, to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS; DOGS THAT ATTACK PERSONS OR ARE
A DANGER TO PERSONS

SECTION 3. Amends Section 822.001, Health and Safety Code, by adding Subdivisions (3) and (4) to define "dangerous dog," "dog," "owner," "secure enclosure," and "secure."

SECTION 4. Amends Subchapter A, Chapter 822, Health and Safety Code, by adding Section 822.0011, as follows:

Sec. 822.0011. APPLICATION TO CERTAIN PROPERTY. Provides that, for purposes of this subchapter, a person's property includes property the person is entitled to possess or occupy under a lease or other agreement.

SECTION 5. Amends Section 822.005, Health and Safety Code, as follows:

Sec. 822.005. **ATTACK BY DOG.** (a) Provides that a person commits an offense if the person is the owner of a dog and the person with criminal negligence, as defined by Section 6.03, Penal Code, fails to secure the dog and the dog makes an unprovoked attack on another person that occurs at a location other than the owner's real property or in or on the owner's motor vehicle or boat and that causes serious bodily injury, as defined by Section 1.07, Penal Code, or death to the other person; or the owner of the dog knows the dog is a dangerous dog by learning in a manner described by Section 822.042(g) (relating to the owner learning he or she owns a dangerous dog after an attack occurs, certain courts send notice regarding the danger of the dog, or animal control informs the owner of the dog that the dog is dangerous) that the person is the owner of a dangerous dog, and the dangerous dog makes an unprovoked attack on another person that occurs at a location other than a secure enclosure in which the dog is restrained in accordance with Subchapter D (Dangerous Dogs) and that causes serious bodily injury, as defined by Section 822.001, or death to the other person.

(b) Provides that an offense under this section is a felony of the third degree unless the attack causes death, in which event the offense is a felony of the second degree.

(c) Authorizes the court to order that the dog be destroyed by a person listed in Section 822.004 (Destruction of Dog) if a person is found guilty of an offense under this section.

(d) Provides that a person who is subject to prosecution under this section and authorizes another law to be prosecuted under either or both this section and the other law. Deletes existing text providing that, except as provided by Section 822.003(f) (relating to the circumstances in which the court is prohibited from ordering the dog be destroyed), this subchapter applies to any dog that causes a person's death or serious bodily injury by attacking, biting, or mauling the person, regardless of whether the dog was provoked and regardless of where the incident resulting in the person's death or serious bodily injury occurred.

SECTION 6. Amends Subchapter A, Chapter 822, Health and Safety Code, by adding Sections 822.006 and 822.007, as follows:

Sec. 822.006. **DEFENSES.** Sets forth certain defenses and affirmative defenses to prosecution under Section 822.005(a) applicable to certain persons and certain circumstances.

Sec. 822.007. **LOCAL REGULATION OF DOGS.** Provides that this subchapter does not prohibit a municipality or county from adopting leash or registration requirements applicable to dogs.

SECTION 7. Amends Sections 822.044(b) and (c), Health and Safety Code, as follows:

(b) Deletes existing text that provides the offense is a Class A misdemeanor if the attack causes serious bodily injury or death.

(c) Authorizes the court to order that the dangerous dog be destroyed by a person listed in Section 822.004, rather than 822.003, if a person is found guilty of an offense under this section (Attack by Dangerous Dog).

SECTION 8. Repealer: Section 822.044(d) (relating to a civil penalty for a person who commits an offense under this section), Health and Safety Code.

SECTION 9. Makes application of this Act prospective.

SECTION 10. Effective date: September 1, 2007.