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H.B. No. 4759

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to an attack by a dangerous dog; increasing criminal  
3 penalties.

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

5 SECTION 1. Section 822.001, Health and Safety Code, is  
6 amended by adding Subdivision (1-a) to read as follows:

7 (1-a) "Bodily injury" has the meaning assigned by  
8 Section 1.07, Penal Code.

9 SECTION 2. Sections 822.005(a) and (b), Health and Safety  
10 Code, are amended to read as follows:

11 (a) A person commits an offense if the person is the owner of  
12 a dog and the person:

13 (1) with criminal negligence, as defined by Section  
14 6.03, Penal Code, fails to secure the dog and the dog makes an  
15 unprovoked attack on another person that occurs at a location other  
16 than the owner's real property or in or on the owner's motor vehicle  
17 or boat and that causes bodily injury, serious bodily injury[7] as  
18 defined by Section 1.07, Penal Code, or death to the other person;  
19 or

20 (2) knows the dog is a dangerous dog by learning in a  
21 manner described by Section 822.042(g) that the person is the owner  
22 of a dangerous dog, and the dangerous dog makes an unprovoked attack  
23 on another person that occurs at a location other than a secure  
24 enclosure in which the dog is restrained in accordance with

1 Subchapter D and that causes bodily injury or serious bodily  
2 injury, as defined by Section 822.001, or death to the other person.

3 (b) An offense under this section is:

4 (1) a Class B misdemeanor if the attack causes bodily  
5 injury;

6 (2) a felony of the third degree if the attack causes  
7 serious bodily injury; or

8 (3) a felony of the second degree if [unless] the  
9 attack causes death[, in which event the offense is a felony of the  
10 second degree].

11 SECTION 3. Section 822.0421, Health and Safety Code, is  
12 amended by adding Subsection (e) to read as follows:

13 (e) The identifying information of a witness who gives a  
14 sworn statement under Subsection (a) is not subject to disclosure  
15 under Chapter 552, Government Code. In this subsection,  
16 "identifying information" has the meaning assigned by Section  
17 32.51, Penal Code.

18 SECTION 4. Subchapter D, Chapter 822, Health and Safety  
19 Code, is amended by adding Section 822.04215 to read as follows:

20 Sec. 822.04215. DETERMINATION THAT DOG IS DANGEROUS IN  
21 CERTAIN MUNICIPALITIES. (a) This section applies only to a  
22 municipality that contains more than 70 percent of the population  
23 of a county with a population of 1.5 million or more.

24 (b) Notwithstanding Section 822.0421(a), if a person  
25 reports an incident described by Section 822.041(2), the animal  
26 control authority shall investigate the incident. If after  
27 reviewing the sworn statements of any witness or reviewing any

1 other applicable reports or information, the animal control  
2 authority determines the dog is a dangerous dog, the animal control  
3 authority shall notify the owner in writing of the determination.

4 SECTION 5. Section 822.044, Health and Safety Code, is  
5 amended by amending Subsection (b) and adding Subsection (b-1) to  
6 read as follows:

7 (b) Except as provided by Subsection (b-1), an [An] offense  
8 under this section is a Class C misdemeanor.

9 (b-1) An offense under this section is a Class A misdemeanor  
10 if it is shown on trial of the offense that the defendant has been  
11 previously convicted of an offense under this section.

12 SECTION 6. The changes in law made by this Act to Sections  
13 822.005 and 822.044, Health and Safety Code, as amended by this Act,  
14 apply only to an offense committed on or after the effective date of  
15 this Act. An offense committed before the effective date of this  
16 Act is governed by the law in effect on the date the offense was  
17 committed, and the former law is continued in effect for that  
18 purpose. For purposes of this section, an offense was committed  
19 before the effective date of this Act if any element of the offense  
20 occurred before that date.

21 SECTION 7. Section 822.0421(e), Health and Safety Code, as  
22 added by this Act, applies to information contained in a sworn  
23 statement released on or after the effective date of this Act,  
24 regardless of whether the sworn statement was made before, on, or  
25 after that date.

26 SECTION 8. Section 822.04215, Health and Safety Code, as  
27 added by this Act, applies only to a determination based on an

1 incident that occurred on or after the effective date of this Act.  
2 An incident that occurred before the effective date of this Act is  
3 governed by the law in effect on the date the incident occurred, and  
4 the former law is continued in effect for that purpose.

5 SECTION 9. This Act takes effect September 1, 2023.