

BILL ANALYSIS

H.B. 1355
By: Gattis
County Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Across Texas, there have been increasing accounts of domestic dogs severely mauling and/or killing innocent people, who did not provoke the dogs. In almost all instances the horrific attacks occurred somewhere other than the dog owner's property. Also, when most of these attacks occurred the dog's owner was absent. Texas Health and Safety Code provides that a person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person. If the attack causes serious bodily injury or death, the offense is a Class A misdemeanor. For a dog to meet the definition of a dangerous dog it has to have made a prior unprovoked attack. This is bad public policy because in many dog attacks the dogs had not been previously declared dangerous.

H.B. 1355 seeks to correct these concerns by increasing penalties to owners who fail to reasonably secure their dogs, resulting in serious bodily injury or death.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1355 adds the term "secure" and defines that "secure" means to take steps that a reasonable person would take to ensure a dog remains on the owner's property, including confining the dog in an enclosure that is capable of preventing the escape or release of the dog.

The bill creates a new offense entitled "Attack by Dog" and provides that a person commits such an offense if the person is the owner of a dog and the person: (1) with criminal negligence 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 property and that causes serious bodily injury or death to the other person; or (2) knows the dog is 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 of Chapter 822, Health and Safety Code, and that causes serious bodily injury or death to the other person. The bill provides that an offense under amended Section 822.005, Health and Safety Code, is a felony of the third degree unless the attack causes death, in which event the offense is a felony of the second degree. The bill provides that if the owner is found guilty of an offense under amended Section 822.005, Health and Safety Code, the court may order the dog destroyed by a person listed in Section 822.004, Health and Safety Code. The bill further provides that an owner knows a dog is dangerous when the owner learns as described by Section 822.042(g), Health and Safety Code, the owner is the owner of a dangerous dog. The bill provides that a person subject to prosecution under Section 822.005, Health and Safety Code, and another law may be prosecuted under either or both this section and the other law.

The bill presents defenses to prosecution including: (a) that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter, or a person employed by this state or a political subdivision of this state to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with that position; (b) that the person is an employee of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs

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for law enforcement or corrections purposes and is training or using the dog in connection with the person's official capacity; (c) that the person is a dog trainer or an employee of a guard dog company under Chapter 1702, Occupations Code, and has temporary ownership, custody, or control of the dog in connection with that position; (d) that the person is disabled and uses the dog to provide assistance, the dog is trained to provide assistance to a person with a disability, and the person is using the dog to provide assistance in connection with the person's disability; (e) that the person attacked by the dog was at the time of the attack engaged in conduct prohibited by Section 30.02 or 30.05, Penal Code. (Section 30.02, Penal Code concerns the offense of burglary; Section 30.05, Penal Code concerns the offense of criminal trespass). This bill does not prohibit a municipality or county from adopting leash or registration requirements applicable to dogs.

The bill reads if a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed by a person listed in Section 822.004. The bill repeals language that provided for a civil penalty.

The bill provides that the change in law made by this Act applies only to an offense committed on or after the effective date of this Act

EFFECTIVE DATE

September 1, 2007.