BILL ANALYSIS

Senate Research Center

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C.S.S.B. 411

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Criminal Justice

4/21/2007

Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, a person commits an offense if the person is an owner of a dog that makes an unprovoked attack on another individual outside of the owner's home that causes physical injury. Such an offense is a Class C misdemeanor, unless the bodily injury to the victim is serious or fatal, in which case, the offense is a Class A misdemeanor. If a person is found guilty of such an offense, the person's animal may be ordered destroyed and the person may be ordered to pay a civil penalty not to exceed $10,000.

C.S.S.B. 411 increases the penalty to a state jail felony for an owner of a dangerous dog that makes an unprovoked attack that causes serious bodily injury. In the event that such an attack causes the victim's death, the penalty is increased to a third degree felony. In addition to criminal prosecution, the owner may be subject to a civil penalty not to exceed $10,000. This bill provides for a defense to prosecution if the person holds certain occupations.

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.

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, 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 the 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. New heading: ATTACK BY DOG. (a) Provides that a person commits an offense if the person is the owner of a dog and with criminal negligence fails to secure the dog and the dog makes an unprovoked attack on another person that causes serious bodily harm or death at a location other than the owner's property or if the person is the owner of a dog that the owner knows is dangerous and that dog makes an unprovoked attack on another person resulting in serious bodily harm or death if the attack occurs outside of a secure enclosure in which that dog is restrained.

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

(c) Authorizes the court to have the dog of an owner who is found guilty of an offense under this section destroyed by a person listed in Section 822.004.

(d) Provides that a person knows a person is the owner of a dangerous dog when the person learns that the person is the owner of a dangerous dog, as described under Section 822.042(g).

(e) Authorizes a person who is subject to prosecution under this section and another law to be prosecuted under either or both this section and the other law. Deletes existing text relating to the irrelevance of the provocation or location of an attack.

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. (a) Provides a defense to prosecution under Section 822.005(a) if the person is a veterinarian, peace officer, person employed by a recognized animal shelter, or a person employed by this state or a political subdivision thereof to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with that position.

(b) Provides a defense to prosecution under Section 822.005(a) if the person is an employee of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections and is training or using the dog in connection with the person's official capacity.

(c) Provides a defense to prosecution under Section 822.005(a) if the person is a dog trainer or an employee of a guard dog company under Chapter 1702, Occupations Code, and has temporary ownership, control, or custody of the dog in connection with that position.

(d) Provides a defense to prosecution under Section 822.005(a) if the person is disabled and uses the dog to provide assistance, the dog is trained to provide such assistance, and the person is using the dog to provide assistance in connection with the person's disability.

(e) Provides a defense to prosecution under Section 822.005(a) if the person who was attacked was engaged in prohibited conduct under Section 30.02 (Burglary) or 30.05 (Criminal Trespass), Penal Code.

(f) Provides a defense to prosecution under Section 822.005(a) if the person attacked by the dog was at the time of the attack engaged in conduct, other than the conduct described by Subsection (e), that constitutes an offense under the laws of this state or the United States.

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 Section 822.044(b) and (c), Health and Safety Code, as follows:

(b) Provides that an offense under this section is a Class C misdemeanor. Deletes existing text relating to a condition that the attack cause serious bodily harm or death, and providing for a Class A misdemeanor.

(c) Authorizes the court to order the dangerous dog destroyed by a person listed in Section 822.004, rather than 822.003.

SECTION 8. Repealer: Section 822.044(d) (relating to liability for a civil penalty), Health and Safety Code.

SECTION 9. Makes application of this Act prospective.

SECTION 10. Effective date: September 1, 2007.