

AN ACT

relating to dog attacks on persons; creating an offense.

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

SECTION 1. This Act may be cited as "Lillian's Law" in memory of Mrs. Lillian Stiles. 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. The heading to Subchapter A, Chapter 822, Health and Safety Code, is amended to read as follows:

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

SECTION 3. Section 822.001, Health and Safety Code, is amended by adding Subdivisions (3) and (4) to read as follows:

(3) "Dangerous dog," "dog," "owner," and "secure enclosure" have the meanings assigned by Section 822.041.

(4) "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.

SECTION 4. Subchapter A, Chapter 822, Health and Safety Code, is amended by adding Section 822.0011 to read as follows:

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

1 agreement.

2 SECTION 5. Section 822.005, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 822.005. ATTACK BY DOG. (a) A person commits an
5 offense if the person is the owner of a dog and the person:

6 (1) with criminal negligence, as defined by Section
7 6.03, Penal Code, fails to secure the dog and the dog makes an
8 unprovoked attack on another person that occurs at a location other
9 than the owner's real property or in or on the owner's motor vehicle
10 or boat and that causes serious bodily injury, as defined by Section
11 1.07, Penal Code, or death to the other person; or

12 (2) knows the dog is a dangerous dog by learning in a
13 manner described by Section 822.042(g) that the person is the owner
14 of a dangerous dog, and the dangerous dog makes an unprovoked attack
15 on another person that occurs at a location other than a secure
16 enclosure in which the dog is restrained in accordance with
17 Subchapter D and that causes serious bodily injury, as defined by
18 Section 822.001, or death to the other person.

19 (b) An offense under this section is a felony of the third
20 degree unless the attack causes death, in which event the offense is
21 a felony of the second degree.

22 (c) If a person is found guilty of an offense under this
23 section, the court may order the dog destroyed by a person listed in
24 Section 822.004.

25 (d) A person who is subject to prosecution under this
26 section and under any other law may be prosecuted under this
27 section, the other law, or both. [~~PROVOCATION OR LOCATION OF ATTACK~~

1 ~~IRRELEVANT. Except as provided by Section 822.003(f), this~~
2 ~~subchapter applies to any dog that causes a person's death or~~
3 ~~serious bodily injury by attacking, biting, or mauling the person,~~
4 ~~regardless of whether the dog was provoked and regardless of where~~
5 ~~the incident resulting in the person's death or serious bodily~~
6 ~~injury occurred.]~~

7 SECTION 6. Subchapter A, Chapter 822, Health and Safety
8 Code, is amended by adding Sections 822.006 and 822.007 to read as
9 follows:

10 Sec. 822.006. DEFENSES. (a) It is a defense to prosecution
11 under Section 822.005(a) that the person is a veterinarian, a
12 veterinary clinic employee, a peace officer, a person employed by a
13 recognized animal shelter, or a person employed by this state or a
14 political subdivision of this state to deal with stray animals and
15 has temporary ownership, custody, or control of the dog in
16 connection with that position.

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

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

27 (d) It is a defense to prosecution under Section 822.005(a)

1 that the person is disabled and uses the dog to provide assistance,
2 the dog is trained to provide assistance to a person with a
3 disability, and the person is using the dog to provide assistance in
4 connection with the person's disability.

5 (e) It is a defense to prosecution under Section 822.005(a)
6 that the person attacked by the dog was at the time of the attack
7 engaged in conduct prohibited by Chapters 19, 20, 21, 22, 28, 29,
8 and 30, Penal Code.

9 (f) It is an affirmative defense to prosecution under
10 Section 822.005(a) that, at the time of the conduct charged, the
11 person and the dog are participating in an organized search and
12 rescue effort at the request of law enforcement.

13 (g) It is an affirmative defense to prosecution under
14 Section 822.005(a) that, at the time of the conduct charged, the
15 person and the dog are participating in an organized dog show or
16 event sponsored by a nationally recognized or state-recognized
17 kennel club.

18 (h) It is an affirmative defense to prosecution under
19 Section 822.005(a) that, at the time of the conduct charged, the
20 person and the dog are engaged in:

21 (1) a lawful hunting activity; or

22 (2) a farming or ranching activity, including herding
23 livestock, typically performed by a working dog on a farm or ranch.

24 (i) It is a defense to prosecution under Section 822.005(a)
25 that, at the time of the conduct charged, the person's dog was on a
26 leash and the person:

27 (1) was in immediate control of the dog; or

1 (2) if the person was not in control of the dog, the
2 person was making immediate and reasonable attempts to regain
3 control of the dog.

4 Sec. 822.007. LOCAL REGULATION OF DOGS. This subchapter
5 does not prohibit a municipality or county from adopting leash or
6 registration requirements applicable to dogs.

7 SECTION 7. Sections 822.044(b) and (c), Health and Safety
8 Code, are amended to read as follows:

9 (b) An offense under this section is a Class C misdemeanor [~~7~~
10 ~~unless the attack causes serious bodily injury or death, in which~~
11 ~~event the offense is a Class A misdemeanor]~~.

12 (c) If a person is found guilty of an offense under this
13 section, the court may order the dangerous dog destroyed by a person
14 listed in Section 822.004 [~~822.003~~].

15 SECTION 8. Section 822.044(d), Health and Safety Code, is
16 repealed.

17 SECTION 9. (a) The change in law made by this Act applies
18 only to an offense committed on or after the effective date of this
19 Act. For purposes of this section, an offense is committed before
20 the effective date of this Act if any element of the offense occurs
21 before that date.

22 (b) An offense committed before the effective date of this
23 Act is covered by the law in effect when the offense was committed,
24 and the former law is continued in effect for that purpose.

25 SECTION 10. This Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 1355 was passed by the House on April 25, 2007, by the following vote: Yeas 140, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1355 on May 21, 2007, by the following vote: Yeas 135, Nays 5, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1355 was passed by the Senate, with amendments, on May 17, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor