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H.B. No. 1355

A BILL TO BE ENTITLED

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.

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. Section 822.005, Health and Safety Code, is amended to read as follows:

Sec. 822.005. ATTACK BY DOG. (a) A person commits 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

1 serious bodily injury or death to the other person; or

2 (2) knows the dog is a dangerous dog and the dangerous  
3 dog makes an unprovoked attack on another person that occurs at a  
4 location other than a secure enclosure in which the dog is  
5 restrained in accordance with Subchapter D and that causes serious  
6 bodily injury or death to the other person.

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

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

13 (d) For purposes of this section, an owner knows a dog is a  
14 dangerous dog when the owner learns as described by Section  
15 822.042(g) the owner is the owner of a dangerous dog.

16 (e) A person who is subject to prosecution under this  
17 section and another law may be prosecuted under either or both this  
18 section and the other law. [~~PROVOCATION OR LOCATION OF ATTACK~~  
19 IRRELEVANT. Except as provided by Section 822.003(f), this  
20 subchapter applies to any dog that causes a person's death or  
21 serious bodily injury by attacking, biting, or mauling the person,  
22 regardless of whether the dog was provoked and regardless of where  
23 the incident resulting in the person's death or serious bodily  
24 injury occurred.]

25 SECTION 5. Subchapter A, Chapter 822, Health and Safety  
26 Code, is amended by adding Sections 822.006 and 822.007 to read as  
27 follows:

1       Sec. 822.006. DEFENSES. (a) It is a defense to prosecution  
2 under Section 822.005(a) that the person is a veterinarian, a peace  
3 officer, a person employed by a recognized animal shelter, or a  
4 person employed by this state or a political subdivision of this  
5 state to deal with stray animals and has temporary ownership,  
6 custody, or control of the dog in connection with that position.

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

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

17       (d) It is a defense to prosecution under Section 822.005(a)  
18 that the person is disabled and uses the dog to provide assistance,  
19 the dog is trained to provide assistance to a person with a  
20 disability, and the person is using the dog to provide assistance in  
21 connection with the person's disability.

22       (e) It is a defense to prosecution under Section 822.005(a)  
23 that the person attacked by the dog was at the time of the attack  
24 engaged in conduct prohibited by Section 30.02 or 30.05, Penal  
25 Code.

26       Sec. 822.007. LOCAL REGULATION OF DOGS. This subchapter  
27 does not prohibit a municipality or county from adopting leash or

1 registration requirements applicable to dogs.

2 SECTION 6. Sections 822.044(b) and (c), Health and Safety  
3 Code, are amended to read as follows:

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

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

10 SECTION 7. Section 822.044(d), Health and Safety Code, is  
11 repealed.

12 SECTION 8. (a) The change in law made by this Act applies  
13 only to an offense committed on or after the effective date of this  
14 Act. For purposes of this section, an offense is committed before  
15 the effective date of this Act if any element of the offense occurs  
16 before that date.

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

20 SECTION 9. This Act takes effect September 1, 2007.