

1-1 By: Gattis, et al. (Senate Sponsor - Shapleigh) H.B. No. 1355
1-2 (In the Senate - Received from the House April 26, 2007;
1-3 April 27, 2007, read first time and referred to Committee on
1-4 Criminal Justice; May 11, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 May 11, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1355 By: Ellis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to dog attacks on persons; creating an offense.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. This Act may be cited as "Lillian's Law" in
1-13 memory of Mrs. Lillian Stiles. This Act is also dedicated to the
1-14 memory of Mrs. Fannie Pearl Pharms, Ms. Cheryl Marie Floyd, and all
1-15 other victims of unprovoked dog attacks.

1-16 SECTION 2. The heading to Subchapter A, Chapter 822, Health
1-17 and Safety Code, is amended to read as follows:

1-18 SUBCHAPTER A. GENERAL PROVISIONS; DOGS THAT ATTACK PERSONS OR
1-19 ARE A DANGER TO PERSONS

1-20 SECTION 3. Section 822.001, Health and Safety Code, is
1-21 amended by adding Subdivisions (3) and (4) to read as follows:

1-22 (3) "Dangerous dog," "dog," "owner," and "secure
1-23 enclosure" have the meanings assigned by Section 822.041.

1-24 (4) "Secure" means to take steps that a reasonable
1-25 person would take to ensure a dog remains on the owner's property,
1-26 including confining the dog in an enclosure that is capable of
1-27 preventing the escape or release of the dog.

1-28 SECTION 4. Subchapter A, Chapter 822, Health and Safety
1-29 Code, is amended by adding Section 822.0011 to read as follows:

1-30 Sec. 822.0011. APPLICATION TO CERTAIN PROPERTY. For
1-31 purposes of this subchapter, a person's property includes property
1-32 the person is entitled to possess or occupy under a lease or other
1-33 agreement.

1-34 SECTION 5. Section 822.005, Health and Safety Code, is
1-35 amended to read as follows:

1-36 Sec. 822.005. ATTACK BY DOG. (a) A person commits an
1-37 offense if the person is the owner of a dog and the person:

1-38 (1) with criminal negligence, as defined by Section
1-39 6.03, Penal Code, fails to secure the dog and the dog makes an
1-40 unprovoked attack on another person that occurs at a location other
1-41 than the owner's real property or in or on the owner's motor vehicle
1-42 or boat and that causes serious bodily injury, as defined by Section
1-43 1.07, Penal Code, or death to the other person; or

1-44 (2) knows the dog is a dangerous dog by learning in a
1-45 manner described by Section 822.042(g) that the person is the owner
1-46 of a dangerous dog, and the dangerous dog makes an unprovoked attack
1-47 on another person that occurs at a location other than a secure
1-48 enclosure in which the dog is restrained in accordance with
1-49 Subchapter D and that causes serious bodily injury, as defined by
1-50 Section 822.001, or death to the other person.

1-51 (b) An offense under this section is a felony of the third
1-52 degree unless the attack causes death, in which event the offense is
1-53 a felony of the second degree.

1-54 (c) If a person is found guilty of an offense under this
1-55 section, the court may order the dog destroyed by a person listed in
1-56 Section 822.004.

1-57 (d) A person who is subject to prosecution under this
1-58 section and under any other law may be prosecuted under this
1-59 section, the other law, or both. [PROVOCATION OR LOCATION OF ATTACK
1-60 IRRELEVANT. Except as provided by Section 822.003(f), this
1-61 subchapter applies to any dog that causes a person's death or
1-62 serious bodily injury by attacking, biting, or mauling the person,
1-63 regardless of whether the dog was provoked and regardless of where

2-1 ~~the incident resulting in the person's death or serious bodily~~
2-2 ~~injury occurred.]~~

2-3 SECTION 6. Subchapter A, Chapter 822, Health and Safety
2-4 Code, is amended by adding Sections 822.006 and 822.007 to read as
2-5 follows:

2-6 Sec. 822.006. DEFENSES. (a) It is a defense to prosecution
2-7 under Section 822.005(a) that the person is a veterinarian, a
2-8 veterinary clinic employee, a peace officer, a person employed by a
2-9 recognized animal shelter, or a person employed by this state or a
2-10 political subdivision of this state to deal with stray animals and
2-11 has temporary ownership, custody, or control of the dog in
2-12 connection with that position.

2-13 (b) It is a defense to prosecution under Section 822.005(a)
2-14 that the person is an employee of the Texas Department of Criminal
2-15 Justice or a law enforcement agency and trains or uses dogs for law
2-16 enforcement or corrections purposes and is training or using the
2-17 dog in connection with the person's official capacity.

2-18 (c) It is a defense to prosecution under Section 822.005(a)
2-19 that the person is a dog trainer or an employee of a guard dog
2-20 company under Chapter 1702, Occupations Code, and has temporary
2-21 ownership, custody, or control of the dog in connection with that
2-22 position.

2-23 (d) It is a defense to prosecution under Section 822.005(a)
2-24 that the person is disabled and uses the dog to provide assistance,
2-25 the dog is trained to provide assistance to a person with a
2-26 disability, and the person is using the dog to provide assistance in
2-27 connection with the person's disability.

2-28 (e) It is a defense to prosecution under Section 822.005(a)
2-29 that the person attacked by the dog was at the time of the attack
2-30 engaged in conduct prohibited by Chapters 19, 20, 21, 22, 28, 29,
2-31 and 30, Penal Code.

2-32 (f) It is an affirmative defense to prosecution under
2-33 Section 822.005(a) that, at the time of the conduct charged, the
2-34 person and the dog are participating in an organized search and
2-35 rescue effort at the request of law enforcement.

2-36 Sec. 822.007. LOCAL REGULATION OF DOGS. This subchapter
2-37 does not prohibit a municipality or county from adopting leash or
2-38 registration requirements applicable to dogs.

2-39 SECTION 7. Sections 822.044(b) and (c), Health and Safety
2-40 Code, are amended to read as follows:

2-41 (b) An offense under this section is a Class C misdemeanor~~[-~~
2-42 ~~unless the attack causes serious bodily injury or death, in which~~
2-43 ~~event the offense is a Class A misdemeanor].~~

2-44 (c) If a person is found guilty of an offense under this
2-45 section, the court may order the dangerous dog destroyed by a person
2-46 listed in Section 822.004 [~~822.003~~].

2-47 SECTION 8. Section 822.044(d), Health and Safety Code, is
2-48 repealed.

2-49 SECTION 9. (a) The change in law made by this Act applies
2-50 only to an offense committed on or after the effective date of this
2-51 Act. For purposes of this section, an offense is committed before
2-52 the effective date of this Act if any element of the offense occurs
2-53 before that date.

2-54 (b) An offense committed before the effective date of this
2-55 Act is covered by the law in effect when the offense was committed,
2-56 and the former law is continued in effect for that purpose.

2-57 SECTION 10. This Act takes effect September 1, 2007.

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