

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Gattis, Anchia, Naishtat, Delisi, Rose,  
et al.

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. 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 fails to secure the dog  
7 and the dog makes an unprovoked attack on another person that occurs  
8 at a location other than the owner's property and that causes  
9 serious bodily injury or death to the other person; or

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

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

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

21 (d) For purposes of this section, an owner knows a dog is a  
22 dangerous dog when the owner learns as described by Section  
23 822.042(g) the owner is the owner of a dangerous dog.

24 (e) A person who is subject to prosecution under this  
25 section and another law may be prosecuted under either or both this  
26 section and the other law. [PROVOCATION OR LOCATION OF ATTACK  
27 IRRELEVANT. Except as provided by Section 822.003(f), this

1 ~~subchapter applies to any dog that causes a person's death or~~  
2 ~~serious bodily injury by attacking, biting, or mauling the person,~~  
3 ~~regardless of whether the dog was provoked and regardless of where~~  
4 ~~the incident resulting in the person's death or serious bodily~~  
5 ~~injury occurred.]~~

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

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

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

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

26 (d) It is a defense to prosecution under Section 822.005(a)  
27 that the person is disabled and uses the dog to provide assistance,

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

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

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

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

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

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

19 SECTION 8. Section 822.044(d), Health and Safety Code, is  
20 repealed.

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

26 (b) An offense committed before the effective date of this  
27 Act is covered by the law in effect when the offense was committed,

1 and the former law is continued in effect for that purpose.

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

ADOPTED

MAY 17 2007

*Lotay Spaw*  
Secretary of the Senate

By: Shapleigh

H.B. No. 1355

Substitute the following for H.B. No. 1355.

By: Collin

C.S. H.B. No. 1355

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

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

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

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

24 SECTION 8. Section 822.044(d), Health and Safety Code, is  
25 repealed.

26 SECTION 9. (a) The change in law made by this Act applies  
27 only to an offense committed on or after the effective date of this

1 Act. For purposes of this section, an offense is committed before  
2 the effective date of this Act if any element of the offense occurs  
3 before that date.

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

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

# ADOPTED

MAY 17 2007

*Arlene Spaw*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Shay*  
(Shayleigh)

1 Amend C.S.H.B. No. 1355 (Senate Committee Printing) in  
2 SECTION 6 of the bill, following proposed Subsection (f), Section  
3 822.006, Health and Safety Code (page 2, between lines 35 and 36),  
4 by inserting the following appropriately lettered subsection:

5 ( ) It is an affirmative defense to prosecution under  
6 Section 822.005(a) that, at the time of the conduct charged, the  
7 person and the dog are participating in an organized dog show or  
8 event sponsored by a nationally recognized or state-recognized  
9 kennel club.

# ADOPTED

MAY 17 2007

*Atay Spaul*  
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: *Craig Estes*

1 Amend C.S.H.B. No. 1355 (Senate Committee Printing) in  
2 SECTION 6 of the bill, following proposed Subsection (f), Section  
3 822.006, Health and Safety Code (page 2, between lines 35 and 36),  
4 by inserting the following appropriately lettered subsection:

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

8 (1) a lawful hunting activity; or

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

**ADOPTED**

FLOOR AMENDMENT NO. 3

MAY 17 2007

BY: Craig Estes

*Lately Spauld*  
Secretary of the Senate

1 Amend C.S.H.B. No. 1355 (Senate Committee Printing) in  
2 SECTION 6 of the bill, following proposed Subsection (f),  
3 Section 822.006, Health and Safety Code (page 2, between lines  
4 35 and 36), by inserting the following appropriately lettered  
5 subsection:

6 ( ) It is a defense to prosecution under Section  
7 822.005(a) that, at the time of the conduct charged, the  
8 person's dog was on a leash and the person:

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

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



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 10, 2007**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1355** by Gattis (Relating to dog attacks on persons; creating an offense. ), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Health and Safety Code as it relates to dog attacks on persons. Under the provisions of the bill, a dog attack that results in serious bodily injury would be punishable as a felony of the third degree and a dog attack that results in death would be punishable as a felony of the second degree. A dog attack that results in bodily injury would remain punishable as a Class C misdemeanor. The bill would provide defenses to prosecution. The bill would also repeal Section 822.044 (d), Health and Safety Code.

The bill would take effect September 1, 2007 and apply only to an offense committed on or after the effective date.

In fiscal year 2005, one person was placed on misdemeanor community supervision for a dog attack that resulted in serious bodily injury/death. It is assumed the number of persons convicted under this statute would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 696 Department of Criminal Justice

**LBB Staff:** JOB, ES, TM, DB, GG, LM





**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 7, 2007**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1355** by Gattis (Relating to dog attacks on persons; creating an offense.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Health and Safety Code as it relates to dog attacks on persons. Under the provisions of the bill, a dog attack that results in serious bodily injury would be punishable as a felony of the third degree and a dog attack that results in death would be punishable as a felony of the second degree. A dog attack that results in bodily injury would remain punishable as a Class C misdemeanor. The bill would provide defenses to prosecution. The bill would also repeal Section 822.044 (d), Health and Safety Code.

The bill would take effect September 1, 2007 and apply only to an offense committed on or after the effective date.

In fiscal year 2005, one person was placed on misdemeanor community supervision for a dog attack that resulted in serious bodily injury/death. It is assumed the number of persons convicted under this statute would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 696 Department of Criminal Justice

**LBB Staff:** JOB, ES, TM, DB, GG, LM



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**April 3, 2007**

**TO:** Honorable Wayne Smith, Chair, House Committee on County Affairs

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1355** by Gattis (Relating to dog attacks on persons; creating an offense.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Health and Safety Code as it relates to dog attacks on persons. Under the provisions of the bill, a dog attack that results in serious bodily injury would be punishable as a felony of the third degree and a dog attack that results in death would be punishable as a felony of the second degree. A dog attack that results in bodily injury would remain punishable as a Class C misdemeanor. The bill would also repeal Section 822.044 (d), Health and Safety Code.

The bill would take effect September 1, 2007 and apply only to an offense committed on or after the effective date.

In fiscal year 2005, one person was placed on misdemeanor community supervision for a dog attack that resulted in serious bodily injury/death. It is assumed the number of persons convicted under this statute would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 696 Department of Criminal Justice

**LBB Staff:** JOB, DB, GG, LM



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**80TH LEGISLATIVE REGULAR SESSION**

**May 10, 2007**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1355** by Gattis (Relating to dog attacks on persons; creating an offense. ), **Committee Report 2nd House, Substituted**

This bill would amend the Health and Safety Code as it relates to dog attacks on persons. Under the provisions of this bill, a dog attack which results in serious bodily injury would be punishable as a felony of the third degree and a dog attack which results in death would be punishable as a felony of the second degree. A dog attack that results in bodily injury would remain punishable as a Class C Misdemeanor. The bill would also repeal Section 822.044 (d), Health and Safety Code.

A Class C Misdemeanor is punishable by a fine not to exceed \$500.

A felony of the third degree is punishable by imprisonment in the institutional division for any term of not more than 10 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

A felony of the second degree is punishable by imprisonment in the institutional division for any term of not more than 20 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

The impact of this bill on correctional populations would depend on how many persons would be prosecuted under the provision of this bill. For this analysis it is assumed the number of offenders convicted under this statute would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

**Source Agencies:**

**LBB Staff:** JOB, GG, LM



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**80TH LEGISLATIVE REGULAR SESSION**

**May 4, 2007**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1355** by Gattis (Relating to dog attacks on persons; creating an offense.), **As Engrossed**

This bill would amend the Health and Safety Code as it relates to dog attacks on persons. Under the provisions of this bill, a dog attack which results in serious bodily injury would be punishable as a felony of the third degree and a dog attack which results in death would be punishable as a felony of the second degree. A dog attack that results in bodily injury would remain punishable as a Class C Misdemeanor. The bill would also repeal Section 822.044 (d), Health and Safety Code.

A Class C Misdemeanor is punishable by a fine not to exceed \$500.

A felony of the third degree is punishable by imprisonment in the institutional division for any term of not more than 10 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

A felony of the second degree is punishable by imprisonment in the institutional division for any term of not more than 20 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

The impact of this bill on correctional populations would depend on how many persons would be prosecuted under the provision of this bill. For this analysis it is assumed the number of offenders convicted under this statute would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

**Source Agencies:**

**LBB Staff:** JOB, GG, LM





**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**80TH LEGISLATIVE REGULAR SESSION**

**April 3, 2007**

**TO:** Honorable Wayne Smith, Chair, House Committee on County Affairs

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1355** by Gattis (Relating to dog attacks on persons; creating an offense.), **As Introduced**

This bill would amend the Health and Safety Code as it relates to dog attacks on persons. Under the provisions of this bill, a dog attack which results in serious bodily injury would be punishable as a felony of the third degree and a dog attack which results in death would be punishable as a felony of the second degree. A dog attack that results in bodily injury would remain punishable as a Class C Misdemeanor. The bill would also repeal Section 822.044 (d), Health and Safety Code.

A Class C Misdemeanor is punishable by a fine not to exceed \$500.

A felony of the third degree is punishable by imprisonment in the institutional division for any term of not more than 10 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

A felony of the second degree is punishable by imprisonment in the institutional division for any term of not more than 20 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

The impact of this bill on correctional populations would depend on how many persons would be prosecuted under the provision of this bill. For this analysis it is assumed that the number of offenders convicted under this statute would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

**Source Agencies:**

**LBB Staff:** JOB, LM

