

BILL ANALYSIS

Senate Research Center

S.B. 5
By: Lucio
Criminal Justice
10/19/2021
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current Texas law requires that peace officers give 24 hours notice to comply with current statute, essentially giving little to no ability to penalize those who fail to provide dogs with adequate shelter. Also, current statute only extends to extreme living conditions such as freezing temperatures and heat advisory warnings without requiring adequate shelter from rain or the ability to escape the rain's ensuing standing water.

S.B. 5 replaces the current unlawful restraint of a dog with a more humane standard of care for dogs as well as an enforcement mechanism for peace officers. Key provisions include:

- Adequate shelter must be provided. This is basic care such as having potable water, a place to avoid standing water, and a way to avoid direct Texas sun.
- A restraint cannot cause harm to the dog. Some dogs receive a collar when they are small and eventually grow too large for the collar. Unfortunately, this occurs too often. Also, while tethered, a dog must have room to move and cannot be on a short leash while tethered.
- Exceptions provided. Good dog owners often perform duties while in close proximity to the dog. These activities include camping, herding, and business operations that include the dog.
- Provides law enforcement the ability to correct the problem. Current law ties the hands of law enforcement from fixing a problem that is right in front of them. Currently, owners must be given 24 hours notice to correct the sometimes inhumane treatment of animals.

(Original Author's / Sponsor's Statement of Intent)

S.B. 5 amends current law relating to the unlawful restraint of a dog and creates a criminal offense.

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. Amends Chapter 821, Health and Safety Code, by adding Subchapter E, as follows:

SUBCHAPTER E. UNLAWFUL RESTRAINT OF DOG

Sec. 821.101. DEFINITIONS. Defines "adequate shelter," "collar," "harness," "inclement weather," "owner," "properly fitted," and "restraint."

Sec. 821.102. UNLAWFUL RESTRAINT OF DOG; OFFENSE. (a) Prohibits an owner from leaving a dog outside and unattended by use of a restraint unless the owner provides the dog access to:

- (1) adequate shelter;
- (2) an area that allows the dog to avoid standing water and exposure to excessive animal waste;
- (3) shade from direct sunlight; and
- (4) potable water.

(b) Prohibits an owner from restraining a dog outside and unattended by use of a restraint that:

- (1) is a chain;
- (2) has weights attached;
- (3) is shorter in length than the greater of:
 - (A) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or
 - (B) 10 feet; or
- (4) is attached to a collar or harness not properly fitted.

(c) Provides that a person commits an offense if the person knowingly violates this section. Provides that the restraint of each dog that is in violation is a separate offense.

(d) Provides that an offense under this section is a Class C misdemeanor, except that the offense is a Class B misdemeanor if the person has previously been convicted under this section.

(e) Authorizes the actor, if conduct constituting an offense under this section also constitutes an offense under any other law, to be prosecuted under this section, the other law, or both.

Sec. 821.103. EXCEPTIONS. (a) Provides that Section 821.102 does not apply to:

- (1) the use of a restraint on a dog in a public camping or recreational area in compliance with the requirements of the public camping or recreational area as defined by a federal, state, or local authority or jurisdiction;
- (2) the use of a restraint on a dog while the owner and dog engage in, or actively train for, an activity conducted under a valid license issued by this state provided the activity is associated with the use or presence of a dog;
- (3) the use of a restraint on a dog while the owner and dog engage in conduct directly related to the business of shepherding or herding cattle or livestock;
- (4) the use of a restraint on a dog while the owner and dog engage in conduct directly related to the business of cultivating agricultural products;
- (5) a dog left unattended in an open-air truck bed only for the time reasonably necessary for the owner to complete a temporary task that requires the dog to be left unattended in the truck bed;

(6) a dog taken by the owner, or another person with the owner's permission, from the owner's residence or property and restrained by the owner or the person for not longer than the time necessary for the owner to engage in an activity that requires the dog to be temporarily restrained; or

(7) a dog restrained while the owner and dog are engaged in, or actively training for, hunting or field trialing.

(b) Provides that Section 821.102(b)(3) does not apply to a restraint attached to a trolley system that allows a dog to move along a running line for a distance equal to or greater than the lengths specified under that subdivision.

(c) Provides that this subchapter does not prohibit a person from walking a dog with a handheld leash.

Sec. 821.104. EFFECT OF SUBCHAPTER ON OTHER LAW. Provides that this subchapter does not preempt a local regulation relating to the restraint of a dog or affect the authority of a political subdivision to adopt or enforce an ordinance or requirement relating to the restraint of a dog if the regulation, ordinance, or requirement:

(1) is compatible with and equal to or more stringent than a requirement prescribed by this subchapter; or

(2) relates to an issue not specifically addressed by this subchapter.

SECTION 2. Repealer: Subchapter D (Unlawful Restraint of Dog), Chapter 821 (Treatment and Disposition of Animals), Health and Safety Code.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: the 91st day after the last day of the legislative session.