

By: Menéndez

S.B. No. 39

A BILL TO BE ENTITLED

AN ACT

relating to an attack by a dangerous dog; increasing a criminal penalty.

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

SECTION 1. Section 822.001, Health and Safety Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Bodily injury" has the meaning assigned by Section 1.07, Penal Code.

SECTION 2. Sections 822.005(a) and (b), Health and Safety Code, are amended to read as follows:

(a) A person commits an offense if the person is the owner of a dog and the person:

(1) with criminal negligence, as defined by Section 6.03, Penal Code, 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 real property or in or on the owner's motor vehicle or boat and that causes bodily injury, serious bodily injury[~~7~~] as defined by Section 1.07, Penal Code, or death to the other person; or

(2) knows the dog is a dangerous dog by learning in a manner described by Section 822.042(g) that the person is the owner of a dangerous dog, and the dangerous dog makes an unprovoked attack on another person that occurs at a location other than a secure enclosure in which the dog is restrained in accordance with

1 Subchapter D and that causes bodily injury or serious bodily
2 injury, as defined by Section 822.001, or death to the other person.

3 (b) An offense under this section is:

4 (1) a Class B misdemeanor if the attack causes bodily
5 injury;

6 (2) a felony of the third degree if the attack causes
7 serious bodily injury; or

8 (3) a felony of the second degree if [unless] the
9 attack causes death[, in which event the offense is a felony of the
10 second degree].

11 SECTION 3. Section 822.0421, Health and Safety Code, is
12 amended by adding Subsection (e) to read as follows:

13 (e) In this subsection, "identifying information" has the
14 meaning assigned by Section 32.51, Penal Code. The identifying
15 information of a witness who gives a sworn statement under
16 Subsection (a):

17 (1) is confidential and not subject to disclosure
18 under Chapter 552, Government Code; and

19 (2) may be disclosed only for purposes of enforcing
20 this chapter to the governing body of the municipality or county in
21 which the incident occurred, as applicable, and any other
22 governmental or law enforcement agency.

23 SECTION 4. Subchapter D, Chapter 822, Health and Safety
24 Code, is amended by adding Section 822.04215 to read as follows:

25 Sec. 822.04215. DETERMINATION THAT DOG IS DANGEROUS IN
26 CERTAIN MUNICIPALITIES. (a) This section applies only to a
27 municipality that contains more than 70 percent of the population

1 of a county with a population of 1.5 million or more.

2 (b) Notwithstanding Section 822.0421(a), if a person
3 reports an incident described by Section 822.041(2), the animal
4 control authority shall investigate the incident. If after
5 reviewing the sworn statements of any witness or reviewing any
6 other applicable reports or information, the animal control
7 authority determines the dog is a dangerous dog, the animal control
8 authority shall notify the owner in writing of the determination.

9 SECTION 5. Section 822.044, Health and Safety Code, is
10 amended by amending Subsection (b) and adding Subsection (b-1) to
11 read as follows:

12 (b) Except as provided by Subsection (b-1), an [An] offense
13 under this section is a Class C misdemeanor.

14 (b-1) An offense under this section is a Class A misdemeanor
15 if it is shown on trial of the offense that the defendant has been
16 previously convicted of an offense under this section.

17 SECTION 6. The changes in law made by this Act to Sections
18 822.005 and 822.044, Health and Safety Code, as amended by this Act,
19 apply only to an offense committed on or after the effective date of
20 this Act. An offense committed before the effective date of this
21 Act is governed by the law in effect on the date the offense was
22 committed, and the former law is continued in effect for that
23 purpose. For purposes of this section, an offense was committed
24 before the effective date of this Act if any element of the offense
25 occurred before that date.

26 SECTION 7. Section 822.0421(e), Health and Safety Code, as
27 added by this Act, applies to information contained in a sworn

1 statement released on or after the effective date of this Act,
2 regardless of whether the sworn statement was made before, on, or
3 after that date.

4 SECTION 8. Section 822.04215, Health and Safety Code, as
5 added by this Act, applies only to a determination based on an
6 incident that occurred on or after the effective date of this Act.
7 An incident that occurred before the effective date of this Act is
8 governed by the law in effect on the date the incident occurred, and
9 the former law is continued in effect for that purpose.

10 SECTION 9. This Act takes effect on the 91st day after the
11 last day of the legislative session.