

BILL ANALYSIS

Senate Research Center

H.B. 4759
By: Campos et al. (Menéndez)
Criminal Justice
5/17/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

On February 24, 2023, in San Antonio, Texas, an 81-year-old man and a 74-year-old woman were viciously attacked by two dogs as they prepared to enter their vehicles. Both individuals were mauled, while a relative suffered a bite to the hand and a firefighter was punctured in the leg. All three dogs—the two directly involved and a third that was unrestrained—described as American Staffordshire Terriers, were put down after killing the man and leaving the woman in critical condition at a nearby hospital.

According to the American Veterinary Medical Association, 4.5 million people are bitten by dogs each year, with 800,000 (1 in 5) of those cases requiring medical attention. Children are not only the most common victims of dog attacks, but are also the most likely to be severely injured by these attacks. These attacks can be deadly, with Texas leading the nation in fatal dog attacks. In 2022, there were 10 deaths by dogs in Texas, with 70 fatal dog attacks occurring in Texas from 2005–2022. Unfortunately, individuals are hesitant to report aggressive behavior out of fear of retaliation.

H.B. 4759 will require the animal authority to investigate an incident when a report on a dangerous dog is made without the need of a sworn witness statement. If a sworn statement is received, the animal authority may use that statement and any other pertinent documents to determine that grounds exist for a dangerous dog declaration. Moreover, a witness may be required to testify in any related hearings that come from the report. Dog identifications and procedures will be bracketed to San Antonio.

H.B. 4759 includes the definition of "bodily injury" as defined by Section 1.07 of the Penal Code. Bodily injury caused outside of the owner's property when a dog makes an unprovoked attack will be considered negligence by the owner. A first offense involving bodily injury or serious injury will be a Class B misdemeanor. Added language will lay out how a dog may be determined dangerous by an animal authority officer investigating the incident and once determined dangerous, the authority must immediately notify law enforcement and the local county or district attorney.

H.B. 4759 amends current law relating to an attack by a dangerous dog and increases criminal penalties.

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 Section 822.001, Health and Safety Code, by adding Subdivision (1-a) to define "bodily injury."

SECTION 2. Amends Sections 822.005(a) and (b), Health and Safety Code, as follows:

- (a) Provides that a person commits an offense if the person is the owner of a dog and the person:

(1) with criminal negligence, as defined by a certain section, 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 as defined by a certain section, or death to the other person; or

(2) knows the dog is a dangerous dog by learning in a manner described by a certain section 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 a certain subchapter and that causes bodily injury or serious bodily injury, as defined by a certain section, or death to the other person.

(b) Provides that an offense under Section 882.005 (Attack by Dog) is:

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

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

(3) a felony of the second degree if the attack causes death.

Deletes existing text providing that an offense under Section 822.005 is a felony of the third degree unless the attack causes death, in which event the offense is a felony of the second degree.

SECTION 3. Amends Section 822.0421, Health and Safety Code, by adding Subsection (e), as follows:

(e) Provides that the identifying information of a witness who gives a sworn statement under Subsection (a) (relating to authorizing the animal control authority, if a person reports an incident described by a certain section, to investigate the incident) is not subject to disclosure under Chapter 552 (Public Information), Government Code. Defines "identifying information."

SECTION 4. Amends Subchapter D, Chapter 822, Health and Safety Code, by adding Section 822.04215, as follows:

Sec. 822.04215. DETERMINATION THAT DOG IS DANGEROUS IN CERTAIN MUNICIPALITIES. (a) Provides that this section applies only to a municipality that contains more than 70 percent of the population of a county with a population of 1.5 million or more.

(b) Requires the animal control authority, notwithstanding Section 822.0421(a), if a person reports an incident described by Section 822.041(2) (relating to defining "dangerous dog"), to investigate the incident. Requires the animal control authority, if after reviewing the sworn statements of any witness or reviewing any other applicable reports or information, the animal control authority determines the dog is a dangerous dog, to notify the owner in writing of the determination.

SECTION 5. Amends Section 822.044, Health and Safety Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Creates an exception under Subsection (b-1).

(b-1) Provides that an offense under Section 822.044 (Attack by Dangerous Dog) is a Class A misdemeanor if it is shown on trial of the offense that the defendant has been previously convicted of an offense under this section.

SECTION 6. Makes application of Sections 822.005 and 822.044, Health and Safety Code, as amended by this Act, prospective.

SECTION 7. Makes application of Section 822.0421(e), Health and Safety Code, as added by this Act, prospective.

SECTION 8. Makes application of Section 822.04215, Health and Safety Code, as added by this Act, prospective.

SECTION 9. Effective date: September 1, 2023.