

BILL ANALYSIS

C.S.H.B. 4759
By: Campos
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to the American Veterinary Medical Association, an estimated 4.5 million people are bitten by dogs each year, with an estimated 800,000 requiring medical attention. Children account for approximately half of all dog bite victims with the elderly being the second most common group of victims. According to DogBites.org, since the beginning of 2022, at least 11 people in Texas have died due to a dog attack, with victims ranging from four years old to 81 years old. A recent mauling in San Antonio brought to light a statute restriction animal authorities encounter: the victim or witness must file a notarized witness statement with the department before it can launch an investigation. In 2001, the American Veterinary Medical Association created a Task Force on Canine Aggression and Human-Canine Interactions, which produced an extensive report that includes a recommendation for investigators to be granted authority to complete their investigations. C.S.H.B. 4759 seeks to address this issue by requiring an applicable animal control authority to investigate an incident when a report on a dangerous dog is made without the need of a sworn witness statement.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4759 amends the Health and Safety Code to require the animal control authority in a municipality that contains more than 70 percent of the population of a county with a population of 1.5 million or more to investigate the following reported incidents:

- a dog made an unprovoked attack on a person that caused bodily injury that occurred in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or
- a dog committed unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts caused a person to reasonably believe that the dog will attack and cause bodily injury to that person.

If after reviewing the sworn statements of any witness and reviewing any other applicable reports or information, the animal control authority determines the dog is a dangerous dog, the animal control authority must notify the owner in writing of the determination. This requirement applies only to a determination based on an incident that occurred on or after the bill's effective date.

C.S.H.B. 4759 exempts the identifying information of a witness who gives a sworn statement for an incident relating to a dangerous dog from disclosure under state public information law. The exemption applies to information contained in a sworn statement released on or after the bill's effective date, regardless of whether the sworn statement was made before, on, or after that date.

C.S.H.B. 4759 enhances from a Class C misdemeanor to a Class A misdemeanor the penalty for a subsequent conviction of an attack by a dangerous dog offense. The bill expands the conduct constituting an attack by a dog offense to include the following:

- with criminal negligence, failing 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 to the other person; or
- knowing the dog is 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 and that causes bodily injury to the other person.

The bill establishes that this expanded conduct is a Class B misdemeanor offense. These provisions of the bill apply only to an offense committed on or after the bill's effective date. The bill provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

C.S.H.B. 4759 defines "bodily injury" by reference as physical pain, illness, or any impairment of physical condition.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF ORIGINAL TO SUBSTITUTE

While C.S.H.B. 4759 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes the following provisions absent from the introduced:

- a provision defining "bodily injury" by reference;
- a provision expanding the conduct that constitutes an attack by a dog offense by including the following:
 - with criminal negligence, failing 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 to the other person; or
 - knowing the dog is 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 and that causes bodily injury to the other person; and
- a provision establishing that such expanded conduct is a Class B misdemeanor.

The substitute omits provisions from the introduced that did the following:

- removed the discretion of an animal control authority to investigate reported dangerous dog incidents;
- required the animal control authority to determine whether the dog is a dangerous dog by observing and documenting the behavior of the dog or by examining sworn witness statements; and

- established that a dog is presumed to be a dangerous dog if an applicable incident results in serious bodily injury or the death of an individual, the transportation of an individual to a hospital, the filing of a police report on the incident, or the arrest of the owner.

The substitute instead does the following:

- requires an applicable animal control authority to investigate a reported incident described as a dangerous dog attack;
- requires the animal control authority that determines the dog is a dangerous dog after reviewing the sworn statements of any witness and reviewing any other applicable reports or information to notify the owner in writing of the determination; and
- makes those requirements applicable 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.

The substitute changes the enhanced penalty for a subsequent conviction of an attack by a dangerous dog from a third degree felony, as in the introduced, to a Class A misdemeanor.