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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 agreement.

SECTION 5. Section 822.005, Health and Safety Code, is amended to read as follows:

Sec. 822.005. ATTACK BY DOG. (a) A person commits an offense if the person is the owner of a dog and the person:

(1) with criminal negligence 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 property and that causes serious bodily injury or death to the other person; or

(2) knows 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 in accordance with Subchapter D and that causes serious bodily injury or death to the other person.

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

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

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

(e) A person who is subject to prosecution under this section and another law may be prosecuted under either or both this section and the other law. [PROVOCATION OR LOCATION OF ATTACK IRRELEVANT. Except as provided by Section 822.003(f), this subchapter applies to any dog that causes a person's death or serious bodily injury by attacking, biting, or mauling the person, regardless of whether the dog was provoked and regardless of where the incident resulting in the person's death or serious bodily injury occurred.]

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

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

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

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

(d) It is a defense to prosecution under Section 822.005(a) that the person is disabled and uses the dog to provide assistance, the dog is trained to provide assistance to a person with a disability, and the person is using the dog to provide assistance in connection with the person's disability.

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

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

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

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

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

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

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

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

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