

**SUBJECT:** Regulating and destroying dangerous dogs

**COMMITTEE:** County Affairs — committee substitute recommended

**VOTE:** 8 ayes — R. Lewis, Bonnen, Chisum, Christian, Denny, Flores, Gutierrez, G. Lewis

0 nays

1 absent — Kamel

**WITNESSES:** For — Shanna Igo, Texas Municipal League; Leonard Spearman, Harris County Judge's Office; Nancy Schneider; Larry Schneider; Dynette Espinosa

Against — None

On — Pamela Wilson, Texas Department of Health

**BACKGROUND**  
:

The Health and Safety Code allows a justice or county court to order the destruction of a dog that has caused a death. The court can issue a warrant to seize the dog based on a sworn complaint that it killed someone. The county sheriff impounds the dog until the court holds a hearing on the issue. If the court finds the dog caused the death of the person by mauling, biting, or attacking, it can order the dog destroyed, regardless of the location of and reason for the attack.

The Health and Safety Code also requires owners of “dangerous dogs” to register their dogs with the county or city animal control authority. The owner must restrain the dog at all times on a leash or in a secure enclosure and obtain liability insurance coverage or show financial responsibility of at least \$100,000 to cover any damages from an attack by the dog. Failure to comply with any of these provisions is a Class C misdemeanor, punishable by up to a \$500 fine.

A “dangerous dog” is defined as one that makes unprovoked attacks outside its enclosure that cause or give reason to believe they will cause bodily injury.

The dangerous dog designation is made by the animal control authority based on its investigation of a complaint. A dog owner can appeal the designation within 30 days after being notified of the determination.

The owner may be charged with a Class C misdemeanor if the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury. The offense is a Class A misdemeanor, with a penalty of up to one year in jail and a \$4,000 fine, if the attack causes serious bodily injury or death. The dog is destroyed in both instances. In addition, a civil penalty of up to \$10,000 can be levied for these violations.

The law exempts veterinarians, peace officers, persons employed by animal shelters, and persons employed by the state or political subdivisions to deal with strays, dogs used for law enforcement or corrections purposes, dog trainers, and employees of guard dog companies.

A county or municipality may place additional requirements or restrictions on dangerous dogs as long as the provisions do not target a specific breed of dog and are more stringent than state law.

**DIGEST:**

CSHB 991 would allow courts to order dogs destroyed if the animal seriously injured someone and would impose stricter requirements on owners of “dangerous dogs.” The bill also would allow certain counties and cities to change the way citizens report dog attacks and the way hearings are held on these complaints.

**Destruction and designation requirements**

CSHB 991 would extend to municipal courts the authority to order a dog destroyed. It also would allow courts to order the destruction of a dog that caused serious bodily injury, unless the injuries were committed under certain circumstances:

- if the dog attacked a trespasser older than eight years of age while protecting a person or property and the dog was within its secure enclosure and there was a notice posted indicating the presence of the dog;

- if the attack occurred while a peace officer was using the dog for law enforcement purposes;
- if the dog was defending a person from assault or protecting property from damage or theft; and
- if the injured person was younger than eight years old and the attack occurred while the dog was in a secure enclosure that was reasonably certain to prevent a young child from entering.

The bill would define serious bodily injury as an injury that would cause a person to seek treatment from a medical professional and would require hospitalization regardless of whether the person actually sought medical treatment.

CSHB 991 would require that owners of dangerous dogs provide to local animal control authorities proof of their liability insurance coverage or financial responsibility. An owner who did not comply with the requirements for owning a dangerous dog would have to turn the dog in to the animal control authority within 30 days of learning the dog was designated as dangerous. The owner would have 15 days to appeal the designation.

If a court found that a person had failed to comply with the requirements for owning a dangerous dog, it could issue a warrant to seize the dog. The owner could get the dog back by complying with the requirements within 11 days of the seizure. If the owner did not comply within the specified time frame, the court could order the dog destroyed. Owners of dangerous dogs would have to pay any costs associated with the seizure, impoundment and destruction of their dogs.

The court also could order a stray destroyed if the owner was not located within 15 days after the dog was picked up.

### **Reporting and hearing procedures**

CSHB 991 also would establish new procedures for reporting incidents and conducting hearings involving dangerous dogs. These provisions would

apply to a county with a population of more than 2.8 million (Harris) or one in which the commissioners court elected to be covered by the procedures or to a municipality that adopted an ordinance electing to be covered.

In these jurisdictions, a court that received a report about an unprovoked attack by a dog would notify the owner of dog owner about the complaint. The owner would have to deliver the dog within five days of receiving notice of the report; otherwise, the court could order the animal control authority to pick up the dog. The owner would be required to pay any costs incurred by the authority during the seizure of the dog.

The court would be required to set a hearing to determine if the dog was a “dangerous dog” or whether the owner had complied with requirements for owners of dangerous dogs. Any interested party could present evidence at the hearing, and the dog owner could appeal the decision of the court in the same manner other cases are appealed.

Persons who failed to comply with state or authorized local requirements for owning a dangerous dog would commit a Class C misdemeanor. Persons with a previous offense would commit a Class B misdemeanor, punishable by up to 180 days in a jail and a \$2,000 fine.

CSHB 991 would take effect September 1, 1997.

**SUPPORTERS  
SAY:**

CSHB 991 would clarify the rights and responsibilities of people who own dogs. All citizens have the right to legitimately use dogs for protection of their person and their property. Individuals who trespass in a dog's enclosure and are consequently injured by the dog should not be able to file a complaint that will cause the dog to be destroyed. But by the same token, neighbors and passers-by should not have to fear a vicious dog whose owner irresponsibly allows it to run free. CSHB 991 would balance these rights and establish clear-cut procedures for determining whether a dog is too dangerous to keep alive.

CSHB 991 would help decrease the number of serious injuries and deaths caused by dog attacks. Current law requires that a victim of a dog attack to have been killed by the dog before the dog can be destroyed. This loophole allows vicious dogs to attack again and again. An injury that requires

hospitalization should be reason enough to destroy such a dog. CSHB 991 would provide this safeguard in all situations, even those where the individual could not afford medical treatment for a serious bodily injury.

Between 1991 and 1995, the Texas Department of Health received 1,437 reports of severe dog attacks and bites. It is certain that even more attacks occurred in the state but were not recorded because the individuals attacked did not report the incident or did not seek medical treatment. Many municipalities also have enacted ordinances, such as dog leash laws, in an effort to protect residents from dog attacks. CSHB 991 would add to this arsenal with a range of permissive provisions that would provide jurisdictions with the flexibility to pick and choose. Although a county or municipality may adopt stricter standards than allowed under current law, they would have to go to the added expense of enacting those regulations and ordinances. CSHB 991 would enact these provisions on a statewide basis and allow cities and counties to use them at their discretion.

The bill would prevent exposure to serious bodily injury or death from a dog attack. Under current law, Texans are unnecessarily exposed to serious bodily injury or death from a dog that has a history of attacking unsuspecting passers-by. CSHB 991 would give courts the discretion to destroy dogs that repeatedly attack and cause serious bodily injury. Furthermore, the bill would assist county, justice, and municipal courts in dealing with stray packs of dogs by giving them the authority to euthanize stray dogs. In addition, the bill would make it easier to declare a dog a “dangerous dog” by allowing residents to report incidents to municipal, county, or justice courts in counties and municipalities that chose this option.

CSHB 991 would neither deter nor encourage phony dog attack complaints. Animal control authorities already investigate complaints of dog attacks, regardless of the intention of the reporting party. The authorities proceed only if they find that a complaint has merit.

CSHB 991 would make dog owners responsible for the actions of their dogs. If a dog is ordered to be destroyed because of it seriously injured or killed someone, it is only right that the destruction come at the owner's expense.

OPPONENTS  
SAY:

CSHB 991 could be abused by angry neighbors to unnecessarily punish dog owners. A disgruntled neighbor who was not seriously injured could file a complaint against a neighbor's dog to retaliate for common and less serious neighborhood dog problems, such as loud barking. Based upon the malicious complaint, the dog would be impounded and the owner and dog would be exposed to unnecessary grief and expense during the hearing process.

The definition of serious bodily injury is vague and could cause innocent dogs to be destroyed. The definition should be amended to require complainants to prove medical treatment for their injuries or provide photos or other information to substantiate the claim of serious bodily injury.

Although CSHB 991 is a laudable effort at protecting Texans from vicious dog attacks, it would employ a one size fits all solution for the diverse needs of Texas' counties and cities. The bill should exempt rural areas where residents most likely do not have a fence around their property or contain their dog in a fenced enclosure. This is especially necessary in areas where individuals use dogs to herd livestock.

OTHER  
OPPONENTS  
SAY:

CSHB 991 is unnecessary because current law already allows counties and municipalities to place additional requirements and restrictions on dangerous dogs as long as the provisions do not target a specific breed of dog and are more stringent than state law.

NOTES:

The committee substitute changed the original version of the bill to:

- apply to municipal courts;
- expand the circumstances exempting attacking dogs from destruction;
- require the owner to pay for the impoundment and destruction of the dog;
- allow for the destruction of stray dogs;
- allow for the appeal of a “dangerous dog” designation within 15 days of the ruling;
- require the hearing procedures in certain counties; and

- increase the penalty for repeat violations of owner requirements to a Class B misdemeanor.

The companion bill, SB 256 by Lindsay, has been referred to the Senate Intergovernmental Relations Committee.