

SUBJECT:           Modifying the criminal offense for the unlawful restraint of a dog

COMMITTEE:       Criminal Jurisprudence — favorable, without amendment

VOTE:             7 ayes — Collier, K. Bell, J. González, Hunter, P. King, Moody, Pacheco

                      2 nays — Zedler, Murr

SENATE VOTE:     On final passage, April 10 — 27-3 (Creighton, Hall, Hughes)

WITNESSES:       *On House companion bill, HB 940:*  
For — Alexandra Johnston, Denton County Sheriff's Office; Shannon Sims, San Antonio Animal Care Services; Jason Vaughn, Texas Young Republicans; Andrea Greig; Chris Kemper; Randy Turner; (*Registered, but did not testify*: John Hubbard, Animal Legal Defense Fund; Melissa Shannon, Bexar County Commissioners Court; Jamaal Smith, City of Houston Mayor's Office; Dustin Deel, City of Weatherford; Chris Jones, Combined Law Enforcement Associations of Texas; Frederick Frazier, Dallas Police Association; Jessica Anderson, Houston Police Department; Ray Hunt, Houston Police Officers' Union; Nikki Prather, The Humane Society of the United States; Susan Peters-Fineske, Puppy Mill Awareness Day; Courtney Leigh, Puppy Mill Awareness Day TX; Brian Hawthorne and AJ Louderback, Sheriffs' Association of Texas; Nancy Bellows, Society for Rescue and Adoption; Kara Montiel, Texas Animal Control Association; Shelby Bobosky, Kimberly Borgan, and Laura Donahue, Texas Humane Legislation Network; Mitch Landry, Texas Municipal Police Association, and 97 individuals)

                      Against — George Armstrong and Aaron Jackson, Responsible Pet Owners Alliance

DIGEST:           SB 295 would make it a class C misdemeanor (maximum fine of \$500) to knowingly leave a dog outside and unattended by use of a restraint unless the owner provided access to adequate shelter, an area that allowed the dog to avoid standing water, shade from direct sunlight, and potable water. An offense would be a class B misdemeanor (up to 180 days in jail

and/or a maximum fine of \$2,000) if an individual had previously been convicted under the bill's provisions.

It also would be an offense to knowingly restrain a dog outside and unattended by use of a chain or a restraint that was weighted, shorter than the greater of five times the length of the dog or 10 feet, unattached to a properly fitted harness or collar, or that caused pain or injury to the dog. This provision would not apply to a restraint attached to a trolley system that allowed a dog to move along a running line for a distance equal to or greater than those specified lengths.

The bill would define "adequate shelter" as a clean and sturdy structure that allowed a dog protection from certain weather conditions and that had dimensions that allowed a dog to stand erect, sit, turn around, and lie down in a normal position. "Properly fitted" would mean an appropriately-sized collar or harness that did not choke a dog or impede its normal breathing or swallowing and was attached around a dog in a manner that did not allow for escape or cause pain or injury.

**Exceptions.** The bill would not apply to the use of a restraint on a dog:

- in a public camping or recreational area in compliance with the area's requirements as defined by a federal, state, or local laws;
- while the owner and dog engaged in or trained for an activity under a valid state-issued license, provided the activity was associated with the use or presence of a dog;
- while the owner and dog engaged in conduct directly related to the business of shepherding or herding cattle or livestock; or
- while the owner and dog engaged in conduct directly related to the business of cultivating agricultural products.

The bill also would not apply to:

- leaving a dog unattended in an open-air truck bed only for the time necessary for the owner to complete a temporary task that required the dog to be left unattended;

- a dog taken by the owner, or another person with the owner's permission, from the owner's residence or property and restrained by the owner or the person for not longer than the time necessary for the owner to engage in activity that required the dog to be temporarily restrained; or
- a dog restrained while the owner and dog were engaged in or training for hunting or field trialing.

**Applicability.** The restraint of each dog in violation of the bill's provisions would count as a separate offense. If conduct constituting an offense under the bill also constituted an offense under any other law, the actor could be prosecuted under either or both laws. The bill would not prohibit a person from walking a dog with a handheld leash.

The bill would not preempt a local regulation relating to the restraint of a dog or affect the authority of a political subdivision to adopt or enforce an ordinance or requirement relating to the restraint of a dog if the regulation, ordinance, or requirement:

- was compatible with and equal to or more stringent than a requirement prescribed by the bill; or
- related to an issue not specifically addressed by the bill.

**Repeal.** SB 295 would repeal the existing statutes in the Health and Safety Code defining and addressing the unlawful restraint of a dog.

The bill would take effect September 1, 2019, and would apply only to an offense committed on or after the effective date.

**SUPPORTERS  
SAY:**

SB 295 would help protect Texas dogs by creating clear, enforceable, and humane laws relating to their restraint. The bill also would remove loopholes in current law relating to the issuance of warnings to individuals and the definition of adequate shelter.

Currently, the state's restrictions on dog restraint are unenforceable due to the requirement that peace officers and animal control officers issue a

warning 24 hours prior to issuing a citation. Owners who receive warnings can temporarily comply with the law, then revert to unlawfully restraining their dogs. The bill would close this loophole by removing the restrictions on the enforcement of unlawful restraint laws. The bill also would create needed exceptions to protect certain authorized activities involving dogs, including police training, camping, herding, and agricultural production.

SB 295 would close another loophole in the current statute by defining "adequate shelter." Since this term is currently undefined, it is difficult to issue a citation for an offense under the current restraint law. Removing this loophole would allow the law to be enforced.

The bill would not reduce the punishment for the unlawful restraint of a dog; instead, it simply would enforce the law without escalating to prosecution under animal cruelty statutes. Prosecuting under animal cruelty provisions would be a disproportionate response that could require additional resources for an investigation.

The bill would not increase the penalties for offenders that exist under current law, nor would it over-criminalize unlawful restraint of a dog. This behavior already is illegal, and the bill would simply ensure that the law could be enforced against offenders. It also would ensure that law enforcement could use their discretion in issuing citations for the worst violations and educating the public on the proper restraint of dogs.

OPPONENTS  
SAY:

SB 295 would be unnecessary since the offense of animal cruelty is already codified in statute. Additionally, the penalty for animal cruelty is even higher than that specified in the bill.

OTHER  
OPPONENTS  
SAY:

SB 295 could overcriminalize behavior and adversely impact dog owners who did not need to be penalized.