

BILL ANALYSIS

Senate Research Center
80R4654 YDB-D

S.B. 405
By: Wentworth
Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, a dog that attacks a person without provocation is to be classified as a "dangerous dog" under Chapter 822 (Regulation of Animals), Health and Safety Code. This law provides that a second attack from the same dog leads to the owner facing liability for that attack. This effectively allows a dog to bite a person once without any legal reprisal.

As proposed, S.B. 405 amends current legislation to remove the "dangerous dog" classification. This bill provides that an owner is immediately liable for certain degrees of punishment based on the seriousness of the inflicted injury caused by the dog's unprovoked attack. This bill also requires dogs to be kept on leashes or in enclosures in incorporated areas.

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 the heading to Subchapter D, Chapter 822, Health and Safety Code, to read as follows:

SUBCHAPTER D. REGULATION OF DOGS

SECTION 2. Amends Section 822.041, Health and Safety Code, as follows:

Sec. 822.041. DEFINITIONS. Deletes existing definitions of "animal control authority" and "dangerous dog." Redefines "secure enclosure." Makes conforming changes.

SECTION 3. Amends the heading to Section 822.044, Health and Safety Code, to read as follows:

Sec. 822.044. ATTACK BY DOG; OFFENSE.

SECTION 4. Amends Section 822.044, Health and Safety Code, by amending Subsections (a) and (c) and adding Subsection (e), as follows:

(a) Provides that a person commits an offense if the person is an owner of a dog, rather than a dangerous dog, that makes an unprovoked attack on another person that causes bodily harm on that person. Deletes existing text providing that the offense applies to attacks that occur outside the dog's enclosure.

(c) Requires, rather than authorizes, the court to order the dog of the owner found guilty of the aforementioned offense to be destroyed by a person listed under Section 822.004 (Destruction of Dog), rather than Section 822.003 (Hearing).

(e) Provides an exception to the application of Subsection (a), and defense to prosecution in a suit brought under Subsection (d), to the owner of a dog who attacked a person who was engaged in conduct prohibited by Section 30.02 (Burglary) or 30.05 (Criminal Trespass).

SECTION 5. Amends Subchapter D, Chapter 822, Health and Safety Code, by adding Section 822.0445, as follows:

Sec. 822.0445. LEASH OR ENCLOSURE REQUIRED IN CERTAIN AREAS. (a) Provides that this section does not apply within the unincorporated areas of a county.

(b) Requires an owner of a dog to restrain the dog at all times on a leash in the owner's immediate control or in an enclosure.

SECTION 6. Amends the heading to Section 822.045, Health and Safety Code, to read as follows:

Sec. 822.045. VIOLATION OF LEASH OR ENCLOSURE REQUIREMENT OR LOCAL REGULATION.

SECTION 7. Amends Section 822.045, Health and Safety Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Provides that the person who owns or keeps custody or control of a dog commits an offense if the person does not comply with Section 822.0445, Health and Safety Code, or an applicable municipal or county regulation relating to dogs. Makes conforming changes.

(d) Provides that a claim that a dog was within a designated dog park, participating in a show, test, or trial organized by the appropriate recognized sanctioning body, or participating in an organized canine sport not prohibited by law, is a defense to prosecution under this section.

SECTION 8. Amends Section 822.046, Health and Safety Code, as follows:

Sec. 822.046. DEFENSE. Provides that it is a defense to prosecution under Subchapter D (Regulation of Dogs), Health and Safety Code, rather than Sections 822.044 (Attack by Dog; Offense) and 822.046 (Local Regulation of Dogs), Health and Safety Code, that the person has a certain occupation. Provides that a situation in which a disabled person uses a dog trained to assist disabled persons, or in which a person is participating with a dog in an organized search and rescue effort, is defense to prosecution under this subchapter. Makes conforming changes.

SECTION 9. Amends Section 822.047, Health and Safety Code, to make conforming changes.

SECTION 10. Amends Section 822.012, Health and Safety Code, by adding Subsection (d) to authorize the prosecution of an actor for conduct constituting an offense under Section 822.012 (Certain Dogs and Coyotes Prohibited From Running at Large; Criminal Penalty), Health and Safety Code, under that law, another law for which the conduct was an offense, or both.

SECTION 11. Amends Section 822.031, Health and Safety Code, as follows:

Sec. 822.031. UNREGISTERED DOGS PROHIBITED FROM RUNNING AT LARGE. Prohibits the owner of a dog of at least six months of age in a county adopting Subchapter D, Chapter 822, Health and Safety Code, from allowing the dog to run at large in an unincorporated area of the county unless the dog is registered with the county in question and has a dog identification tag issued by that county fastened around its neck. Provides that Section 822.0445, Health and Safety Code, applies to a dog in an incorporated area of a county.

SECTION 12. Repealer: (1) Section 822.042 (Requirements for Owner of Dangerous Dog); (2) Section 822.0421 (Determination that Dog is Dangerous); (3) Section 822.0422 (Reporting of Incident in Certain Counties and Municipalities); (4) Section 822.0423 (Hearing); and (5) Section 822.043 (Registration), Health and Safety Code.

SECTION 13. (a) Makes application of this Act prospective. Provides that an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) Makes application of this Act prospective.

SECTION 14. Effective date: September 1, 2007.