

CHAPTER 471

H.B. No. 571

AN ACT

relating to the creation of an offense for owning or keeping a vicious dog, and providing for destruction of certain dogs.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Chapter 42, Penal Code, is amended by adding Section 42.12 to read as follows:

*Sec. 42.12. KEEPING VICIOUS DOG. (a) In this section:*

(1) "Dog" includes coyote, wolf, or other animal belonging to the canine family.

(2) "Unprovoked" with respect to an attack by a dog means that the dog was not hit, kicked, or struck by a person with any object or part of a person's body nor was any part of the dog's body pulled, pinched, or squeezed by a person.

(3) "Vicious conduct" with respect to a dog means an attack made by the dog on a person in which the dog initiated continued physical contact with the person and the person fails to retreat and:

(A) the attack resulted in bodily injury to the person;

(B) the attack was unprovoked; and

(C) the attack did not occur in a pen or other enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the pen or enclosure on its own.

(b) A person commits an offense if the person owns or keeps in his custody or control a dog that he knows has engaged in vicious conduct and the person does not:

(1) restrain the dog at all times on a leash or similar device in the immediate control of the owner or other person at the direction of the owner or in a pen or other enclosure reasonably certain to prevent the dog from leaving the pen or enclosure on its own; and

(2) have insurance coverage in an amount of at least \$100,000 insuring against the liability of the person for damages resulting from bodily injury to an individual caused by any dog belonging to or in the custody or control of the person.

(c) A person has 60 days from the date on which the person knows his dog has engaged in vicious conduct as defined in Subsection (a) of this section to comply with the provisions of Subsection (b) of this section.

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

(e) An offense under this section is a Class B misdemeanor.

(f) This section does not impose any responsibility on an insurance company or an insurance agent to inform a person who owns or keeps a dog of the provisions of this section.

SECTION 2. Chapter 18, Code of Criminal Procedure, is amended by adding Article 18.182 to read as follows:

*Art. 18.182. DESTRUCTION OF VICIOUS DOG. If it is shown on the trial of an offense under Section 42.12, Penal Code, that the defendant has previously been convicted under that section for an offense in which the dog that was the subject of the offense is the same dog that is the subject of the offense for which the defendant is being tried, on conviction the court entering the judgment shall order that the dog be destroyed. The destruction of the dog must be performed by a licensed veterinarian or by personnel of a recognized animal shelter or humane society or of a governmental agency responsible for animal control who are trained in the humane destruction of animals.*

SECTION 3. Title 7, Revised Statutes, is amended by adding Article 192-4 to read as follows:

*Art. 192-4. DESTRUCTION OF DOG CAUSING DEATH OF A PERSON. (a) On the sworn complaint of any person, including the county attorney or a peace officer, that a dog has caused the death of a person by attacking, biting, or mauling the person, together with a showing of probable cause to believe that the dog caused the death of the person as stated in the complaint, a justice or county court shall order the sheriff of the county to seize the dog and shall issue a warrant authorizing the seizure. The sheriff shall seize the animal or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog under this article.*

*(b) The court shall set a time, not later than the 10th day after the date the warrant is issued, for a hearing to determine whether the dog caused the death of a person by attacking, biting, or mauling the person, and shall give written notice to the owner of the dog or the person from whom the dog was seized and the person who made the complaint of the time and place of the hearing. Any interested party, including the county attorney, is entitled to present evidence at the hearing.*

*(c) If the court finds that the dog caused the death of a person by attacking, biting, or mauling the person, the court shall order the dog to be destroyed. Otherwise, the court shall order the dog released to its owner, to the person from whom the dog was seized, or to any other person otherwise authorized to take possession of the dog.*

*(d) The destruction of a dog under this article must be performed by a licensed veterinarian or by personnel of a recognized animal shelter or humane society or of a governmental agency responsible for animal control who are trained in the humane destruction of animals.*

*(e) This article applies to any dog that causes a person's death by attacking, biting, or mauling the person, whether or not the dog was provoked and regardless of where the incident resulting in the person's death occurred.*

SECTION 4. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1987.

(b) Section 3 of this Act takes effect immediately.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Passed by the House on April 28, 1987, by a non-record vote. Passed by the Senate on May 23, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 17, 1987.

Effective Sept. 1, 1987, except § 3 effective Aug. 31, 1987, 90 days after date of adjournment.