

SB232

By Senators Livingston and Scofield

ENROLLED, An Act,

Relating to dogs; to create Emily's Law; to establish a procedure by which a dog can be declared dangerous and be humanely euthanized; to provide that a dog found to be dangerous, but which has not caused serious physical injury to a person, could be returned to the owner if certain requirements are met and the dog is annually registered; to provide for penalties; and in connection therewith to have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act is known and may be cited as Emily's Law.

Section 2. The Legislature finds that certain dogs are an increasingly serious and widespread threat to the safety and welfare of citizens of this state by virtue of their unjustified attacks on and associated injury to individuals; that these attacks are in part attributable to the failure of owners to confine and properly train and control these dogs; that existing laws inadequately address this problem; and that it is therefore appropriate and necessary to impose a uniform set of state requirements on the owners of dangerous dogs.

Section 3. For the purposes of this act, the following words shall have the following meanings:

(1) **ANIMAL CONTROL OFFICER.** Any person employed by a county or municipality who performs animal control functions or any person who performs animal control functions who is employed by an entity under agreement or contract with a county or municipality to perform animal control functions or to enforce this act.

(2) **ATTACK.** Aggressive physical contact by a dog.

(3) **BITTEN.** Seized with the teeth so that the skin of the person seized has been gripped, or has been wounded or pierced, resulting in physical injury.

(4) **DANGEROUS DOG.** A dog, regardless of its breed, that has bitten, attacked, or caused physical injury, serious physical injury, or death to a person without justification, except a dog that is a police animal as defined by Section 13A-11-260, Code of Alabama 1975, used by law enforcement officials for legitimate law enforcement purposes.

(5) **DOG.** All members of the canine family including dog hybrids.

(6) **IMPOUNDED.** Taken into the custody of law enforcement, the county pound, or an animal control authority or provider of animal control services to the municipality or county where the dangerous dog is found.

(7) **OWNER.** A person, firm, corporation, or organization having a right of property in a dog, or who keeps or harbors a dog, or who has a dog in his or her care or acts as the custodian of a dog, or who permits a dog to remain on or about any premises occupied by him or her.

(8) **PHYSICAL INJURY.** An injury as defined in Section 13A-1-2(12), Code of Alabama 1975.

(9) **PROPER ENCLOSURE OF A DANGEROUS DOG.** An enclosure for the confinement of a dog that has been declared dangerous that is suitable to prevent the entry of the general public and that does all of the following:

- a. Is capable of being locked with a key or combination lock when the dog is within the structure.
- b. Has secure sides and a secure top attached at all sides. All four sides of the fence or pen must be sunk at least two feet into the ground or the fence or pen must be built over a concrete pad to prevent the dog from digging out.
- c. Provides adequate ventilation and protection from the elements.
- d. Exhibits a sign conspicuously posted upon the pen or the structure containing the following: "Dangerous Dog - No Trespassing."
- e. The enclosure shall be constructed to allow the dog to stand normally and without restriction and shall be not less than four times the length of the dog and two times the width of the dog.
- f. The enclosure shall be locked at all times while the dog is inside the enclosure.

(10) **SERIOUS PHYSICAL INJURY.** An injury as defined in Section 13A-1-2, Code of Alabama 1975.

Section 4. (a)(1) When a person claims that a dog is dangerous, the person shall make a sworn statement before a city magistrate or sheriff setting forth the name of the dog owner, if known, the location where the dog is being kept in the city or county, and the reason he or she believes the dog to be dangerous.

(2) The sworn statement shall be delivered to an animal control officer who shall complete a dangerous dog investigation, provided however, when the sworn statement claims that a dog has caused serious physical injury or death to a person, the duties of the animal control officer, including but not limited to the dangerous dog investigation, shall be carried out by a law enforcement officer.

(b) An animal control officer is authorized to initiate a dangerous dog investigation in cases where a complaint has been made pursuant to subsection (a) and a person has been bitten, received physical injury or serious physical injury, or has died.

(c)(1) In the event a dangerous dog investigation leads an animal control officer to believe the allegation is founded, all of the following shall occur:

- a. The animal control officer shall file a summons for the owner of the dog, if known, with the municipal court or district court.
- b. The dog in question shall be impounded at the county pound as described in Section 3-7A-7, Code of Alabama 1975, or the county or municipality may enter into an agreement with an animal shelter or licensed veterinarian to impound the dog; provided, however, the owner of the dog shall be provided the opportunity to choose a veterinarian of his or her choosing to impound the dog in lieu of the county pound or animal shelter. If the dog is impounded with a veterinarian chosen by the owner of the dog, the owner of the dog shall be liable for paying to the veterinarian the cost and expenses incurred in impounding, feeding, and providing veterinary care or treatment for the dog. If the county or municipality impounds the dog, the owner of the dog shall be liable to the county or municipality for the costs and expenses incurred in impounding, feeding, and providing veterinary care or treatment for the dog.
- c. The animal control officer shall send a copy of the investigation report to the county attorney, municipal attorney, or municipal prosecutor.

(2) In lieu of the investigation, the owner of the alleged dangerous dog may consent to the dog being humanely euthanized.

(d) In the event the dangerous dog investigation leads the animal control officer to believe the allegation is unfounded, the animal control officer shall advise the complainant of his or her findings and the animal control officer shall submit the results of the investigation to his or her supervisor.

(e) A copy of all investigations made pursuant to this section shall be kept on file in the animal control office or sheriff's office.

(f) The county attorney, municipal attorney, or municipal prosecutor shall be authorized to file a petition in the district court or municipal court to declare dangerous the dog that caused physical injury, serious physical injury, or death to a person in the jurisdiction of the county or municipality. The owner of the dog, if known, shall be served with a copy of the petition.

(g) A dog that is the subject of a dangerous dog investigation may not be relocated and ownership may not be transferred pending the outcome of the investigation and hearing to determine whether to declare the dog to be dangerous.

(h) The court hearing shall be held as soon as practicable. At the hearing, the county attorney, municipal attorney, or municipal prosecutor shall present evidence that the dog is dangerous. To declare the dog dangerous the court shall find by reasonable satisfaction that the dog bit, attacked, or caused physical injury, serious physical injury, or death to a person without justification.

(1) If the court determines that the dog is dangerous and has caused serious physical injury or death to a person, the court shall order the dog to be humanely euthanized by a licensed veterinarian or an authorized animal control official.

(2) If the court determines that the dog is dangerous, but has not caused serious physical injury or death to a person, the court shall determine whether the dog has a propensity to cause future serious physical injury or death. If the court determines by reasonable satisfaction that the dog has such a propensity, the court may order the dog to be humanely euthanized by a licensed veterinarian or an authorized animal control officer or the court may order the dog be returned to its owner pursuant to all of the following conditions:

a. The dog shall be held in impound until the owner complies with all orders of the court, but if the owner fails to comply with all orders of the court within 30 days of the court's order, the dog shall be humanely euthanized.

b. The dangerous dog shall be microchipped.

c. The owner of the dangerous dog shall provide a copy of the certificate of the current rabies vaccination of the dog.

d. The dangerous dog shall be spayed or neutered.

e. The owner of the dangerous dog shall be required to pay all expenses involved with the investigation, pickup, and impoundment, and any court costs or fees related to the hearing to determine whether the dog is dangerous.

f. The owner of the dangerous dog shall be required to pay an annual dangerous dog registration fee of one hundred dollars (\$100) to the county or municipality for a dog deemed dangerous by a court or pay a penalty of one hundred dollars (\$100) to the county or municipality for non-registration within two weeks.

g.1. The owner shall be required to obtain a surety bond of at least one hundred thousand dollars (\$100,000) and shall provide proof to the court or animal control office.

2. The surety bond required by subparagraph 1. shall provide coverage for dog bites, injuries, or death caused by the dog.

3. The owner shall provide proof of the surety bond each time the annual dangerous dog registration fee is paid.

h. The owner of the dangerous dog shall provide proof to the court that he or she has constructed a proper enclosure of a dangerous dog pursuant to Section 3.

(i) The pleading and practice in all cases to petition the court to declare a dog to be dangerous under this section shall be in accordance with the Alabama Rules of Civil Procedure and rules of the courts governing municipal courts in this state unless otherwise specified by this act. Any judicial determination in municipal court or district court that a dog is dangerous may be appealed to the circuit court pursuant to the requirements of the Alabama Rules of Civil Procedure and the order of the circuit court shall be final.

(j) It shall be presumed that a dog is not a dangerous dog pursuant to this act if the dog was on property owned by the owner of the dog when the event subject to a claim under this act occurred or if the victim was trespassing on any property when the event subject to a claim under this act occurred.

Section 5. (a) If a dog that has previously been declared by a court to be dangerous, when unjustified, attacks and causes serious physical injury or death to a person, the owner of the dog shall be guilty of a Class B felony.

(b) If a dog that has not been declared by a court to be dangerous, when unjustified, attacks and causes serious physical injury or death to a person, and the owner of the dog had prior knowledge of the dangerous propensities of the dog, yet demonstrated a reckless disregard of the propensities under the circumstances, the owner of the dog shall be guilty of a Class C felony.

(c) If a dog that has previously been declared by a court to be dangerous, when unjustified, attacks and causes physical injury to a person, the owner of the dog shall be guilty of a Class A misdemeanor.

(d) If a dog that has not been declared by a court to be dangerous, when unjustified, attacks and causes physical injury to a person, and the owner of the dog had prior knowledge of the dangerous propensities of the dog, yet demonstrated a reckless disregard of the propensities under the circumstances, the owner of the dog shall be guilty of a Class B misdemeanor.

(e) In addition to any fines imposed by the court, a person guilty of violating subsection (a), (b), (c), or (d) shall pay all expenses, including, but not limited to, shelter, food, veterinary expenses for boarding, and veterinary expenses necessitated by impoundment of the dog, medical expenses incurred by a victim from an attack by a dangerous dog, and other expenses required for the destruction of the dog.

(f)(1) When a dog declared to be dangerous is outside and not contained in the proper enclosure of a dangerous dog pursuant to Section 3, the owner of the dangerous dog shall be present and shall restrain the dangerous dog with a secure collar and leash.

(2) An owner of a dog declared to be dangerous who violates subdivision (1) shall be guilty of a Class C misdemeanor, except that a second or subsequent adjudication or conviction is a Class B misdemeanor.

(g) An owner of a dog that is the subject of a dangerous dog investigation who refuses to surrender the dog to an animal control officer or law enforcement officer, upon the request of the animal control officer or law enforcement officer, shall be guilty of a Class C misdemeanor.

(h) Any person who knowingly makes a false report to an animal control officer or law enforcement officer that a dog is dangerous is guilty of a Class C misdemeanor.

Section 6. Nothing in this act shall be construed to repeal other criminal laws. Whenever conduct prescribed by this act is also prescribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

Section 7. (a) Nothing in this act shall be construed to restrict or negate the requirements of the rabies control law contained in Sections 3-7A-1 to 3-7A-15, inclusive, Code of Alabama 1975.

(b) Nothing in this act is designed to abrogate any civil remedies available under statutory or common law.

(c) Nothing in this act shall be construed to restrict the power of any county or municipality to adopt and enforce ordinances or regulations that comply with at least the minimum applicable standards set forth in this act.

(d) Nothing in this act shall be construed to require any county or municipality to employ or make available an animal control officer.

Section 8. If the appropriate jurisdiction does not employ an animal control officer, the duties of this act shall be carried out by a law enforcement officer.

Section 9. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Amendment 621, now appearing as Section 111.05 of the Official Compilation of the Constitution of Alabama of 1901, as amended, because the bill defines a new crime or amends the definition of an existing crime.

Section 10. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Crimes and Offenses

Criminal Law and Procedure

Dogs

Animal Control

Public Safety

Nuisances

Law Enforcement