



CITY OF HOUSTON
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The Honorable Stephanie Klick
Chair, House Committee on Public Health
P.O. Box 2910
Austin, Texas 78768

Dear Chair Klick and Members of the Committee,

The City of Houston (Houston or City) appreciates the opportunity to testify on H.B. 4759. We believe the bill has good intentions, and we fully support strengthening the penalty for an offense under 822.044, Attack by Dangerous Dog, for a second conviction of that offense. However, there are multiple issues within the bill that are concerning to us.

The definition of a Dangerous Dog in the Health and Safety Code Chapter 822.041 is:

"Dangerous dog" means a dog that:

(A) makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or

(B) commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

H.B. 4759 would allow an animal control agency to determine whether a dog is dangerous by *subjectively* observing and documenting the ‘aggressive’ behavior of the dog or merely by examining the sworn statements of any witnesses. The legislation does not specify or require context such as whether the dog was outside of its enclosure. In addition, no clear standard is articulated – for example, is an unprovoked attack required, or are multiple acts of aggression sufficient? The legislation instead lists several circumstances that would create the presumption of a dog being “dangerous,” such as any incident that occurs that results in *serious bodily injury; transport of an individual to a hospital; filing of a police report; or the arrest of the owner*. While these are helpful within the context of other criteria, with the exception of *serious bodily injury*, they are problematic as individual indicators that a dog is dangerous. In other words, the transport of a person, the filing of a police report, or the arrest of the owner do not in and of themselves mean that the dog’s actions meet the definition of a dangerous dog. *Serious Bodily Injury* is addressed in Chapter 822.002, and there is a specific judicial procedure in place for such cases. The dog may be destroyed after a hearing and order from a judge.

H.B. 4759 is also concerning because it conflicts with the existing rights of the owner to appeal a dangerous dog designation. Under the proposed legislation, an animal control agency would be required to immediately notify law enforcement and a county District Attorney if a dog is determined to be dangerous by the agency. Immediate notification negates the appeals process in Chapter 822, which allows for 15 days for an owner to file an appeal before the dangerous dog determination is final. Animal enforcement agencies *already can, and do*, report incidents in which criminal activity is suspected to the appropriate agencies and are required by *existing* law to keep an updated registry of all dogs declared dangerous in their jurisdiction. This information is available to any prosecutor or law enforcement agency. H.B. 4759 would not add anything new to the information that is already available to prosecutors.

H.B. 4759 also includes a provision that would protect a witness' identity if that witness has given a sworn statement. While we applaud the intent of this provision to incentivize witnesses to come forward, we believe the provision would result in fewer prosecutions. In our experience, the witness is often providing the essential evidence in these matters, and prosecutors require that witnesses must be subject to cross examination in any hearing, especially in an appeal by an owner. It has been our experience that it is very difficult to successfully prevail in the hearing if the primary evidence is merely an affidavit.

In summary, while we believe the H.B. 4759 is well intentioned, we cannot support the legislation for the reasons articulated above. The proposed changes to Chapter 822 do not provide sufficiently specific criteria that would support a *dangerous dog* designation, further failing to account for mitigating circumstances. H.B. 4759 does not change the definition of a dangerous dog in 822.041. We believe any dangerous dog declarations made under H.B. 4759's more subjective criteria would not survive an appeal. Animal control agencies do investigate these cases and can make appropriate designations without this legislation.

Houston appreciates the hard work Representative Campos has put into this bill and her advocacy on behalf of those who have been injured by dangerous animals in this state. We also appreciate the efforts of this Committee toward public health matters. However, we respectfully request that this bill not move forward. We look forward to continuing to work with you throughout this legislative session.

Respectfully submitted,



Tina Paez, Director
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