

1 SB232
2 191591-3
3 By Senators Livingston and Scofield
4 RFD: Agriculture, Conservation, and Forestry
5 First Read: 25-JAN-18

1 SB232

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4 ENROLLED, An Act,

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

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

20 Section 2. The Legislature finds that certain dogs
21 are an increasingly serious and widespread threat to the
22 safety and welfare of citizens of this state by virtue of
23 their unjustified attacks on and associated injury to
24 individuals; that these attacks are in part attributable to
25 the failure of owners to confine and properly train and

1 control these dogs; that existing laws inadequately address
2 this problem; and that it is therefore appropriate and
3 necessary to impose a uniform set of state requirements on the
4 owners of dangerous dogs.

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

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

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

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

17 (4) DANGEROUS DOG. A dog, regardless of its breed,
18 that has bitten, attacked, or caused physical injury, serious
19 physical injury, or death to a person without justification,
20 except a dog that is a police animal as defined by Section
21 13A-11-260, Code of Alabama 1975, used by law enforcement
22 officials for legitimate law enforcement purposes.

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

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

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

10 (8) PHYSICAL INJURY. An injury as defined in Section
11 13A-1-2(12), Code of Alabama 1975.

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

16 a. Is capable of being locked with a key or
17 combination lock when the dog is within the structure.

18 b. Has secure sides and a secure top attached at all
19 sides. All four sides of the fence or pen must be sunk at
20 least two feet into the ground or the fence or pen must be
21 built over a concrete pad to prevent the dog from digging out.

22 c. Provides adequate ventilation and protection from
23 the elements.

1 d. Exhibits a sign conspicuously posted upon the pen
2 or the structure containing the following: "Dangerous Dog - No
3 Trespassing."

4 e. The enclosure shall be constructed to allow the
5 dog to stand normally and without restriction and shall be not
6 less than four times the length of the dog and two times the
7 width of the dog.

8 f. The enclosure shall be locked at all times while
9 the dog is inside the enclosure.

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

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

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

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

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

9 a. The animal control officer shall file a summons
10 for the owner of the dog, if known, with the municipal court
11 or district court.

12 b. The dog in question shall be impounded at the
13 county pound as described in Section 3-7A-7, Code of Alabama
14 1975, or the county or municipality may enter into an
15 agreement with an animal shelter or licensed veterinarian to
16 impound the dog; provided, however, the owner of the dog shall
17 be provided the opportunity to choose a veterinarian of his or
18 her choosing to impound the dog in lieu of the county pound or
19 animal shelter. If the dog is impounded with a veterinarian
20 chosen by the owner of the dog, the owner of the dog shall be
21 liable for paying to the veterinarian the cost and expenses
22 incurred in impounding, feeding, and providing veterinary care
23 or treatment for the dog. If the county or municipality
24 impounds the dog, the owner of the dog shall be liable to the
25 county or municipality for the costs and expenses incurred in

1 impounding, feeding, and providing veterinary care or
2 treatment for the dog.

3 c. The animal control officer shall send a copy of
4 the investigation report to the county attorney, municipal
5 attorney, or municipal prosecutor.

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

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

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

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

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

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

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

18 (2) If the court determines that the dog is
19 dangerous, but has not caused serious physical injury or death
20 to a person, the court shall determine whether the dog has a
21 propensity to cause future serious physical injury or death.
22 If the court determines by reasonable satisfaction that the
23 dog has such a propensity, the court may order the dog to be
24 humanely euthanized by a licensed veterinarian or an
25 authorized animal control officer or the court may order the

1 dog be returned to its owner pursuant to all of the following
2 conditions:

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

7 b. The dangerous dog shall be microchipped.

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

11 d. The dangerous dog shall be spayed or neutered.

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

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

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

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

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

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

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

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

24 Section 5. (a) If a dog that has previously been
25 declared by a court to be dangerous, when unjustified, attacks

1 and causes serious physical injury or death to a person, the
2 owner of the dog shall be guilty of a Class B felony.

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

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

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

21 (e) In addition to any fines imposed by the court, a
22 person guilty of violating subsection (a), (b), (c), or (d)
23 shall pay all expenses, including, but not limited to,
24 shelter, food, veterinary expenses for boarding, and
25 veterinary expenses necessitated by impoundment of the dog,

1 medical expenses incurred by a victim from an attack by a
2 dangerous dog, and other expenses required for the destruction
3 of the dog.

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

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

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

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

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

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

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

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

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

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

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

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB232

Senate 15-FEB-18

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed 27-FEB-18

Senate concurred in House amendment 01-MAR-18

By: Senator Livingston