

Analysis by Zandra Anderson
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HB 1982 by Martinez Fischer, dangerous and vicious dogs

Here is a BAD bill that we need help DEFEATING!!! Your dog can be declared VICIOUS *contained* in your own yard--READ ON because it only gets worse...

All dogs 40 pounds and over mandated to be on lead at all times and must be in a secure enclosure meant for dogs declared *dangerous*--must have DANGEROUS DOG sign on your fence even if your dog has done NOTHING if it is 40 pounds or more.

HB 1982 (Expanding dangerous dogs laws to include vicious dogs based on physical nature and will allow dogs to be declared vicious even if in its own yard)

Martinez Fischer (County Affairs)

House Committee Hearing: Monday, April 6, 2009
2:00 p.m. ; Capitol Building;
Room E2.016 (2nd level down in Capitol Extension)

Need people there in Austin!!!!!!!!!!!!!! FAX & CALL now!!!!!!

1. This bill expands the definition of dangerous dogs to include a category of vicious dogs. A dog could be determined to be vicious based on the dog's "physical nature" and "vicious propensity" and it being capable of causing serious bodily injury or death. This determination could be made without regard to the actual dog's temperament or history. So, if someone thinks your dog looks scary, you are in the crosshairs of this proposed law.
2. The definition of a vicious dog would include one that without reasonable provocation habitually acts in a way that the owner should know it is likely to bite or attack. What does this mean--the dog goes to the fence and barks, goes to the door and barks, looks out the window and barks? What this means is totally left up to the imagination and makes this law ripe for abuse.
3. The definition of vicious dog would include one that commits unprovoked acts in its enclosure that causes someone to reasonably believe that the dog will attack and cause bodily injury to that person. That means your dog in its OWN yard can be declared "vicious."
4. The definition of vicious would include one that acts in a highly aggressive manner in its enclosure and appears to a reasonable person that it is able to escape.

That means that if someone even thinks your dog could get out, your dog can be declared vicious even though it is NEVER gotten out.

5. This bill would allow the court to destroy a dog that causes serious bodily injury to a trespasser in its own enclosure if the trespasser is less than 15 years of age. The law currently provides an exception for destroying the dog if the trespasser was at least 8 years of age. This addresses a dog in its own yard. Unfortunately, it today's world many 20 felons are teenagers.

6. This bill would expand the felony dog bite bill and make the penalties stronger. Currently, if someone's dog gets out and causes serious bodily injury or death, the owner can be charged with a third degree felony for serious bodily injury and a second degree felony if it is death. This bill would make it a second degree felony if the victim of the attack causing serious bodily injury was under 15 or over 65. This felony bill is already strong enough. A 2nd degree felony can put someone in prison for up to 20 years and a 3rd degree felony can put someone in prison for up to 10 years.

7. This bill would add a new law that requires that an owner of a dog that weighs 40 or more pounds has to be on a leash in the immediate control of a person, or in a residence, or in a secure enclosure in cities with a population of more than 1 million. A secure enclosure is one that is required for dangerous dogs. So, essentially, all dogs 40 pounds or more are treated like they are already dangerous in terms of the enclosure that is required regardless that they have NEVER done anything.

Why this Bill should be OPPOSED:

1. This bill would allow for declaring a dog vicious based on its "physical nature." That is an attempt to target breeds of dogs and is breed specific legislation by a different name. This determination could be made with no regard for the dog's actual temperament or history.

2. This bill would allow for a dog to be declared vicious based on things it allegedly does in its own enclosure without the dog ever getting out. This law would punish people who contain their dogs in an enclosure and yet, this is exactly what we want them to do instead of letting the dogs run loose.

3. The bill would allow the unfair targeting of dogs that have not done anything other than perhaps bark at the fence to be declared vicious which subjects the owner to the same requirement as owners of dangerous dogs that have bitten someone and caused injury.

4. Dangerous dog cases are often more about the relationships of neighbors than about dogs. This bill would allow a neighbor to say he or she is fearful that a fenced dog might get out or that it might cause them injury for a dog that is contained within an enclosure. This is a subjective standard that is fraught with possibility for unfairness.

5. Requiring that owners of dogs weighing 40 pounds or more to have a secure enclosure for their pets is tantamount to saying that all such dogs are dangerous and should be treated as if they have been declared dangerous without them ever doing anything. "Secure enclosures" by state law are those for dogs already declared dangerous. This would mean that these dog owners would have to construct a

"secure enclosure" for dogs that have never done one thing. Here is what a "secure enclosure" means that all owners of dogs 40 pounds and over would have to comply with:

- (4) "Secure enclosure" means a fenced area or structure that is:
- (A) locked;
 - (B) capable of preventing the entry of the general public, including children;
 - (C) capable of preventing the escape or release of a dog;
 - (D) clearly marked as containing a dangerous dog; and
 - (E) in conformance with the requirements for enclosures established by the local animal control authority.

So, if you have to put a sign saying DANGEROUS DOG on your fence for your dog despite that it has done NOTHING. AND, you have to comply with local requirements for "secure enclosures." Some local requirements include enclosures with tops, concrete flooring, and size requirements. AGAIN, I know this sounds crazy, but this is for ALL dogs weighing 40 pounds or more. This law would be unfairly enforced against dogs like American Pit Bull Terriers, Rotties, Akitas, German Shepherd Dogs, Dobies, Huskies, Malamutes, Mastiffs, Chow-Chows, etc.

6. Requiring 40 pound dogs or over to always be on a leash in the immediate control of a person, in a residence or in a secure enclosure, prevents those dogs from ever going to a dog park or participating in events that are off lead or allow the dog to be separate from the handler which include tracking (dogs are on leads up to 30' in length), search & rescue efforts (dogs on long leads and move ahead of handler), herding, hunting, and being used as working dogs and police dogs. Most dogs used in all of these activities are over 40 pounds.

7. This bill would prohibit hunters from using a dog that is 40 pounds or over. Hunting dogs are typically over 40 pounds and include all sorts of dogs.

8. This bill is way too restrictive and vague and needs to be defeated in its entirety. Our laws are strong enough. Current law provides that if your dog makes an unprovoked act while outside its enclosure that someone says put them in fear of being injured, your dog can already be declared dangerous even if it did not bite, scratch or even touch someone. It is a subjective standard.

FAX & CALL. Email is not a good way to communicate and some of them are blocking it now.

Be sure to put: **OPPOSED TO HB 1982** or **VOTE NO ON HB 1982** in bold, large letters as your subject title.

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