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3 LIVINGSTON SUBSTITUTE FOR SB232
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8 SYNOPSIS: Existing law does not provide for procedures
9 for handling claims relating to potentially or
10 proven dangerous dogs.

11 This bill would create Emily's Law and would
12 establish the procedure by which a dog can be
13 declared dangerous.

14 This bill would authorize an animal control
15 officer or law enforcement officer to investigate
16 any claims made that a dog is dangerous and would
17 authorize a county attorney, municipal attorney, or
18 municipal prosecutor to file a petition with the
19 district court or municipal court to declare a dog
20 dangerous.

21 This bill would provide that a dangerous dog
22 which causes serious physical injury or death to a
23 person would be humanely euthanized.

24 This bill would provide that a dog found to
25 be dangerous, but which has not caused serious
26 physical injury to a person, could be returned to
27 the owner if certain requirements are met,

1 including annually registering the dog. This bill
2 would provide for penalties, including felony
3 penalties for certain violations of this act.

4 Amendment 621 of the Constitution of Alabama
5 of 1901, now appearing as Section 111.05 of the
6 Official Recompilation of the Constitution of
7 Alabama of 1901, as amended, prohibits a general
8 law whose purpose or effect would be to require a
9 new or increased expenditure of local funds from
10 becoming effective with regard to a local
11 governmental entity without enactment by a
12 two-thirds vote unless: It comes within one of a
13 number of specified exceptions; it is approved by
14 the affected entity; or the Legislature
15 appropriates funds or provides a local source of
16 revenue to the entity for the purpose.

17 The purpose or effect of this bill would
18 require a new or increased expenditure of local
19 funds within the meaning of the amendment. However,
20 the bill does not require approval of a local
21 governmental entity or enactment by a two-thirds
22 vote to become effective because it comes within
23 one of the specified exceptions contained in the
24 amendment.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

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

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

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

10 (3) BITTEN. Seized with the teeth so that the skin
11 of the person seized has been gripped, or has been wounded or
12 pierced.

13 (4) DANGEROUS DOG. A dog, regardless of its breed,
14 that has bitten, attacked, or caused physical injury, serious
15 physical injury, or death to a person without justification,
16 except a dog used by law enforcement officials for legitimate
17 law enforcement purposes.

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

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

24 (7) OWNER. A person, firm, corporation, or
25 organization having a right of property in a dog, or who keeps
26 or harbors a dog, or who has a dog in his or her care or acts

1 as the custodian of a dog, or who permits a dog to remain on
2 or about any premises occupied by him or her.

3 (8) PHYSICAL INJURY. An injury as defined in Section
4 13A-1-2(12), Code of Alabama 1975.

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

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

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

15 c. Provides adequate ventilation and protection from
16 the elements.

17 d. Exhibits a sign conspicuously posted upon the pen
18 or the structure containing the following: "Dangerous Dog - No
19 Trespassing."

20 e. The enclosure shall be constructed to allow the
21 dog to stand normally and without restriction and shall be not
22 less than four times the length of the dog and two times the
23 width of the dog.

24 f. The enclosure shall be locked at all times while
25 the dog is inside the enclosure.

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

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

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

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

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

22 a. The animal control officer shall file a summons
23 for the owner of the dog, if known, with the municipal court
24 or district court.

25 b. The dog in question shall be impounded at the
26 county pound as described in Section 3-7A-7, Code of Alabama

1 1975, or may enter into an agreement with an animal shelter or
2 licensed veterinarian to impound 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.

25 (g) A dog that is the subject of a dangerous dog
26 investigation may not be relocated and ownership may not be
27 transferred pending the outcome of the investigation and

1 hearing to determine whether to declare the dog to be
2 dangerous.

3 (h) The court hearing shall be held as soon as
4 practicable. At the hearing, the county attorney, municipal
5 attorney, or municipal prosecutor shall present evidence that
6 the dog is dangerous and whether the dog caused physical
7 injury, serious physical injury, or death to a person.

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

13 (2) If the court determines that the dog is
14 dangerous, but has not caused serious physical injury or death
15 to a person, the court may order the dog to be humanely
16 euthanized by a licensed veterinarian or an authorized animal
17 control officer or the court may order the dog be returned to
18 its owner pursuant to all of the following conditions:

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

23 b. The dangerous dog shall be microchipped.

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

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

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

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

11 g.1. The owner shall be required to obtain liability
12 insurance coverage of at least one hundred thousand dollars
13 (\$100,000) and shall provide proof of insurance to the court
14 or animal control office.

15 2. The insurance required by subparagraph 1. shall
16 provide coverage for dog bites, injuries, or death caused by
17 the dog.

18 3. The owner shall provide proof of insurance each
19 time the annual dangerous dog registration fee is paid.

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

23 (i) The pleading and practice in all cases to
24 petition the court to declare a dog to be dangerous under this
25 section shall be in accordance with the Alabama Rules of Civil
26 Procedure and rules of the courts governing municipal courts
27 in this state unless otherwise specified by this act. Any

1 judicial determination in municipal court or district court
2 that a dog is dangerous may be appealed to the circuit court
3 pursuant to the requirements of the Alabama Rules of Civil
4 Procedure and the order of the circuit court shall be final.

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

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

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

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

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

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

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

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

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

26 Section 6. Nothing in this act shall be construed to
27 repeal other criminal laws. Whenever conduct prescribed by

1 this act is also prescribed by any other provision of law, the
2 provision which carries the more serious penalty shall be
3 applied.

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

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

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

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

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

20 Section 9. Although this bill would have as its
21 purpose or effect the requirement of a new or increased
22 expenditure of local funds, the bill is excluded from further
23 requirements and application under Amendment 621, now
24 appearing as Section 111.05 of the Official Recompilation of
25 the Constitution of Alabama of 1901, as amended, because the
26 bill defines a new crime or amends the definition of an
27 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.