

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

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

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

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

26 Section 2. The Legislature finds that certain dogs  
27 are an increasingly serious and widespread threat to the

1 safety and welfare of citizens of this state by virtue of  
2 their unjustified attacks on and associated injury to  
3 individuals; that these attacks are in part attributable to  
4 the failure of owners to confine and properly train and  
5 control these dogs; that existing laws inadequately address  
6 this problem; and that it is therefore appropriate and  
7 necessary to impose a uniform set of state requirements on the  
8 owners of dangerous dogs.

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

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

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

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

21 (4) DANGEROUS DOG. A dog, regardless of its breed,  
22 that has bitten, attacked, or caused physical injury, serious  
23 physical injury, or death to a person without justification,  
24 except a dog used by law enforcement officials for legitimate  
25 law enforcement purposes.

26 (5) DOG. All members of the canine family including  
27 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.

24           d. Exhibits a sign conspicuously posted upon the pen  
25 or the structure containing the following: "Dangerous Dog - No  
26 Trespassing."

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

5 f. The enclosure shall be locked at all times while  
6 the dog is inside the enclosure.

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

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

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

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

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

4           a. The animal control officer shall file a summons  
5 for the owner of the dog, if known, with the municipal court  
6 or district court.

7           b. The dog in question shall be impounded at the  
8 county pound as described in Section 3-7A-7, Code of Alabama  
9 1975, or may enter into an agreement with an animal shelter or  
10 licensed veterinarian to impound the dog; provided, however,  
11 the owner of the dog shall be provided the opportunity to  
12 choose a veterinarian of his or her choosing to impound the  
13 dog in lieu of the county pound or animal shelter. The owner  
14 of the dog shall be liable to the county or municipality for  
15 the costs and expenses incurred in impounding, feeding, and  
16 providing veterinary care or treatment for the dog.

17           c. The animal control officer shall send a copy of  
18 the investigation report to the county attorney, municipal  
19 attorney, or municipal prosecutor.

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

23           (d) In the event the dangerous dog investigation  
24 leads the animal control officer to believe the allegation is  
25 unfounded, the animal control officer shall advise the  
26 complainant of his or her findings and the animal control

1 officer shall submit the results of the investigation to his  
2 or her supervisor.

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

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

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

18 (h) The court hearing shall be held as soon as  
19 practicable. At the hearing, the county attorney, municipal  
20 attorney, or municipal prosecutor shall present evidence that  
21 the dog is dangerous and whether the dog caused physical  
22 injury, serious physical injury, or death to a person.

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

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

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

11           b. The dangerous dog shall be microchipped.

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

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

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

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

26           g.1. The owner shall be required to obtain liability  
27 insurance coverage of at least one hundred thousand dollars

1 (\$100,000) and shall provide proof of insurance to the court  
2 or animal control office.

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

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

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

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

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

26 Section 5. (a) If a dog that has previously been  
27 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,  
26 medical expenses incurred by a victim from an attack by a

1 dangerous dog, and other expenses required for the destruction  
2 of the dog.

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

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

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

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

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

25 Section 7. (a) Nothing in this act shall be  
26 construed to restrict or negate the requirements of the rabies

1 control law contained in Sections 3-7A-1 to 3-7A-15,  
2 inclusive, Code of Alabama 1975.

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

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

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

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

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

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

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Senate

Read for the first time and referred to the Senate  
committee on Agriculture, Conservation, and For-  
estry..... 25-JAN-18

Read for the second time and placed on the calen-  
dar 1 amendment..... 01-FEB-18

Read for the third time and passed as amended .... 15-FEB-18

Yeas 28  
Nays 0

Patrick Harris,  
Secretary.