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3 HB27 HOUSE JUDICIARY COMMITTEE SUBSTITUTE WITH AMENDMENT
4 ENGROSSED

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10 A BILL
11 TO BE ENTITLED
12 AN ACT

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

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. The Legislature of Alabama finds that
2 certain dogs are an increasingly serious and widespread threat
3 to the safety and welfare of citizens of this state by virtue
4 of their unprovoked attacks on, and associated injury to,
5 individuals and other animals; that these attacks are in part
6 attributable to the failure of owners to confine and properly
7 train and control these dogs; that existing laws inadequately
8 address this problem; and that it is therefore appropriate and
9 necessary to impose a uniform set of state requirements on the
10 owners of dangerous dogs.

11 Section 2. The following words shall have the
12 following meanings:

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

19 (2) ATTACK. Aggressive physical contact initiated by
20 a dog.

21 (3) BITTEN. Seized with the teeth so that the skin
22 of the person seized has been nipped or gripped, or has been
23 wounded or pierced.

24 (4) DANGEROUS DOG. A dog, regardless of its breed,
25 that has bitten, attacked, or caused physical injury to a
26 human being without provocation, or has repeatedly bitten or
27 caused physical injury to humans except a dog used by law

1 enforcement officials for legitimate law enforcement purposes,
2 a certified guide dog for the blind, a hearing dog for the
3 deaf, or a service dog for the disabled.

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

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

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

15 (8) PHYSICAL INJURY. An injury as defined in Section
16 13A-1-2(8), Code of Alabama 1975.

17 (9) PROPER ENCLOSURE OF A DANGEROUS DOG. a. An
18 enclosure for the confinement of a dog that has been declared
19 dangerous that is suitable to prevent the entry of the general
20 public and that:

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

23 b. Has secure sides and a secure top attached at all
24 sides. All four sides of the fence or pen must be sunk at
25 least two feet into the ground or the fence or pen must be
26 built over a concrete pad to prevent the animal from digging
27 out.

1 c. Provides adequate ventilation and protection from
2 the elements.

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

6 e. The enclosure shall be constructed to allow the
7 dog to stand normally and without restriction.

8 (10) SERIOUS PHYSICAL INJURY. An injury as defined
9 in Section 13A-1-2(9), Code of Alabama 1975.

10 Section 3. (a) An animal control officer or law
11 enforcement officer shall investigate any incidents involving
12 any dog reported to be dangerous.

13 (b) If a dog, which is unowned and has been reported
14 to be dangerous, bites a person, the dog may be quarantined
15 and destroyed pursuant to Section 3-7A-9(b), Code of Alabama
16 1975. For purposes of this subsection, "bites" means the same
17 as "has been exposed" as defined in Section 3-7A-1(4), Code of
18 Alabama 1975.

19 (c) If there is probable cause to believe that an
20 owned dog is dangerous and has caused serious physical injury
21 to a human being, a law enforcement officer or animal control
22 officer shall impound the dog pending disposition of a
23 petition to declare a dog to be dangerous. The county or
24 municipality may impound the dog at the county pound as
25 described in Section 3-7A-7, Code of Alabama 1975, or may
26 enter into an agreement with an animal shelter or licensed
27 veterinarian to secure and impound dangerous dogs pursuant to

1 this section. The owner of the dog shall be liable to the
2 county or municipality for the costs and expenses incurred in
3 impounding, feeding, and providing veterinary care or
4 treatment for the dog.

5 (d) The district attorney or municipal prosecutor or
6 attorney shall be authorized to file a petition in the
7 district court or municipal court to declare the dog that
8 caused physical injury to a human being in the jurisdiction of
9 the county or municipality to be dangerous. The owner of the
10 dog shall be served with a copy of the petition.

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

16 (f) The court hearing shall be held as soon as
17 practicable. At the hearing, the district attorney or city
18 prosecutor shall present evidence that the dog is dangerous
19 and whether the dog caused serious physical injury to a human
20 being.

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

26 (2) If the court determines that the dog is
27 dangerous, but has not caused serious physical injury or death

1 to a human being, the court shall issue orders authorized by
2 this section.

3 (g) The pleading and practice in all cases to
4 petition the court to declare a dog to be dangerous under this
5 section shall be in accordance with the Alabama Rules of Civil
6 Procedure and rules of the courts governing municipal courts
7 in this state unless otherwise specified by this act. Any
8 judicial determination in municipal or district court that a
9 dog is dangerous may be appealed to the circuit court pursuant
10 to the requirements of the Alabama Rules of Civil Procedure.

11 Section 4. (a) A dog may not be declared dangerous
12 in any of the following circumstances:

13 (1) When an injury or damage was sustained by a
14 person who at the of time the injury or damage was committing
15 a willful trespass or other tort upon premises occupied by the
16 owner or custodian of the dog with the intent to commit a
17 crime or was committing a crime, or was teasing, tormenting,
18 abusing, or assaulting the dog, or who can be shown to have
19 repeatedly, in the past, provoked, tormented, abused, or
20 assaulted the dog.

21 (2) When the dog was protecting or defending a
22 person within the immediate vicinity of the dog from an
23 unjustified attack or assault.

24 (3) When the dog was responding to pain or injury or
25 protecting itself, its kennel, or its offspring.

26 (4) When a person or domestic animal was disturbing
27 the natural functions of the dog such as sleeping or eating.

1 (b) Neither growling nor barking, or both, shall
2 alone constitute grounds upon which to find a dog to be
3 dangerous.

4 Section 5. (a) If a court determines that a dog is
5 dangerous, but does not order that the dog be destroyed
6 because evidence was insufficient to determine that the dog
7 caused serious physical injury, the owner of the dog shall
8 comply with the following requirements in addition to any
9 other requirements imposed by the court:

10 (1) Within 30 days of the issuance of the order
11 declaring the dog to be dangerous, the owner of the dog shall
12 be required to register the dog with the animal control
13 authority in the jurisdiction in which the animal is kept or
14 if there is no animal control authority in the jurisdiction
15 where the animal is kept, with the county health department.
16 All certificates of registration required to be obtained under
17 this section shall only be issued to persons 18 years of age
18 or older which represent evidence of the following:

19 a. A current certificate of rabies vaccination.

20 b. A current photograph of the dog.

21 c. That the dog will be confined to a proper
22 enclosure when the dog is outdoors and unattended.

23 d. That the dog has been neutered or spayed, unless
24 medically not needed.

25 e. That the dog has been permanently identified by
26 tattooing or injecting an identification microchip using
27 standard veterinary procedures and practices, and the name,

1 address, and phone number of the veterinarian performing the
2 identification procedure.

3 f. A policy of insurance, such as homeowners, or a
4 surety bond in the amount of no more than one hundred thousand
5 dollars (\$100,000) covering the medical or veterinary costs,
6 or both, resulting from any future dangerous actions of the
7 dog.

8 g. If the owner of the dangerous dog is not the
9 owner of the property where the dog is kept, the owner of the
10 dog must obtain from the property owner written permission for
11 the dangerous dog to be kept there.

12 h. A notarized affidavit from the owner of the
13 dangerous dog stating that the dog will be under the control
14 of a person 18 years or older when the dog is not in a proper
15 enclosure or inside a building and that the dog will not be
16 allowed outside the property of its owner except in
17 emergencies or for normal or necessary medical or
18 health-related treatment.

19 (b) If the owner fails to provide a proper enclosure
20 for the dangerous dog or fails to provide a certification of
21 dangerous dog registration to the court within 30 days of the
22 issuance of the court's declaration that the dog is dangerous,
23 the dog shall be humanely euthanized.

24 (c) The owner of the dangerous dog shall pay an
25 annual fee to register the dog pursuant to the provisions of
26 this act. The amount of the dangerous dog registration fee
27 shall be established by the municipality or county. The

1 payment of the dangerous dog registration fee shall be in
2 addition to any regular dog licensing fee required by any
3 county or municipality.

4 (d) An animal control officer or law enforcement
5 officer may make whatever inquiry is deemed necessary to
6 ensure compliance with this act and any court order issued
7 pursuant to this act.

8 (e) Prior to a dangerous dog being sold or given
9 away, the owner shall advise the new prospective owner in
10 writing that the dog has been declared to be dangerous by a
11 court and shall provide the animal control authority or county
12 health department where the dog is registered the name,
13 address, and telephone number of the new owner. The new owner
14 shall comply with all of the requirements of this act.

15 Section 6. The owner of a dog which has been
16 declared to be dangerous by a court may petition the municipal
17 court or district court to remove the dangerous dog
18 designation 18 months after the judicial declaration was
19 issued. A copy of the petition shall be filed with the
20 municipal attorney or prosecutor or the district attorney. The
21 court may remove the dangerous dog designation and eliminate
22 any requirements of this act if the owner of the dog has not
23 violated this act and any orders of the court, and if the
24 court is satisfied from the evidence that the dog is no longer
25 dangerous.

26 Section 7. (a) If a dog that has previously been
27 declared by a court to be dangerous, when unprovoked, shall

1 cause serious physical injury or kill a human being the owner
2 of the dog shall be guilty of a Class C felony.

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

10 (c) In addition to any fines imposed by the court, a
11 person guilty of violating subsections (a) and (b) of this
12 section shall pay all expenses, including, but not limited to,
13 shelter, food, veterinary expenses for boarding and veterinary
14 expenses necessitated by impoundment of the dog, medical
15 expenses incurred by a victim from an attack by a dangerous
16 dog, and other expenses required for the destruction of the
17 animal.

18 (d) An owner of a dog declared to be dangerous by a
19 court who does not contain the dog in a proper enclosure shall
20 be guilty of a Class C misdemeanor.

21 (e) An owner of a dog declared to be dangerous by a
22 court who has been adjudicated guilty of subsection (d) of
23 this section and subsequently fails to contain a dangerous dog
24 in a proper enclosure shall be guilty of a Class B
25 misdemeanor.

26 Section 8. Nothing in this act shall be construed to
27 repeal other criminal laws. Whenever conduct prescribed by any

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

4 Section 9. (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 Section 10. Any person who knowingly makes a false
15 report to a law enforcement officer or an animal control
16 officer that a dog is dangerous is guilty of a Class C
17 misdemeanor.

18 Section 11. The county and municipality and any of
19 its employees or agents and the individual issuing the
20 dangerous dog certificate of registration shall be immune from
21 any and all liability for any actions taken or for any failure
22 to act pursuant to this act.

23 Section 12. Although this bill would have as its
24 purpose or effect the requirement of a new or increased
25 expenditure of local funds, the bill is excluded from further
26 requirements and application under Amendment 621, now
27 appearing as Section 111.05 of the Official Recompilation of

1 the Constitution of Alabama of 1901, as amended, because the
2 bill defines a new crime or amends the definition of an
3 existing crime.

4 Section 13. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.