

1 HB204
2 188735-1
3 By Representative Martin (N & P)
4 RFD: Local Legislation
5 First Read: 16-JAN-18

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Chilton County; to establish a procedure
14 by which a dog can be declared dangerous or a nuisance and be
15 humanely destroyed in the unincorporated areas of Chilton
16 County; to provide that a dog found to be dangerous, but which
17 has not caused serious physical injury to a person, or a dog
18 found to be a nuisance could be returned to the owner if
19 certain registration requirements are met and the dog is
20 securely enclosed; to provide for penalties; and to provide
21 for enforcement by injunctive relief.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. This act shall only apply in Chilton
24 County in those areas of the county outside the corporate
25 limits of any municipality.

26 Section 2. The following words shall have the
27 following meanings:

1 (1) ANIMAL CONTROL OFFICER. Any person employed by
2 Chilton County who performs animal control functions or any
3 person who performs animal control functions who is employed
4 by an entity under agreement or contract with the county to
5 perform animal control functions or to enforce this act.

6 (2) ATTACK. Aggressive physical contact initiated by
7 a dog.

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

11 (4) COUNTY. Chilton County.

12 (5) DANGEROUS DOG. A dog, regardless of its breed,
13 that has bitten, or caused physical injury to a human being
14 without provocation, or has repeatedly bitten or caused
15 physical injury to humans except a dog used by law enforcement
16 officials for legitimate law enforcement purposes, a certified
17 guide dog for the blind, a hearing dog for the deaf, or a
18 service dog for the disabled.

19 (6) DOG. All members of the canine family including
20 dog hybrids.

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

25 (8) NUISANCE DOG. A dog, regardless of its breed,
26 that has caused damage to or disturbed the real or personal
27 property of a human being without provocation, except a dog

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

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

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

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

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

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

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

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

26 e. The enclosure shall be constructed to allow the
27 dog to stand normally and without restriction and shall be not

1 less than four times the length of the dog and two times the
2 width of the dog.

3 (12) SERIOUS PHYSICAL INJURY. Physical injury which
4 creates a substantial risk of death, or which causes serious
5 and protracted disfigurement, protracted impairment of health,
6 or protracted loss or impairment of the function of any bodily
7 organ.

8 Section 3. (a) An animal control officer or law
9 enforcement officer of Chilton County shall investigate any
10 incidents involving any dog reported to be dangerous or a
11 nuisance in the unincorporated areas of Chilton County.

12 (b) If a dog, which is unowned and has been reported
13 to be dangerous, bites a person, the dog may be quarantined
14 and destroyed pursuant to Section 3-7A-9(b), Code of Alabama
15 1975. For purposes of this subsection, "bites" means the same
16 as "has been exposed" as defined in Section 3-7A-1(5), Code of
17 Alabama 1975.

18 (c) If there is probable cause to believe that an
19 owned dog is dangerous or a nuisance and has caused serious
20 physical injury or has caused damage to real or personal
21 property, the 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 or a nuisance. The
24 county may impound the dog at the county pound as described in
25 Section 3-7A-7, Code of Alabama 1975, or may enter into an
26 agreement with an animal shelter or licensed veterinarian to
27 secure and impound dangerous or nuisance dogs pursuant to this

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

4 (d) The district attorney shall be authorized to
5 file a petition in the district court to declare the dog
6 dangerous or a nuisance. The owner of the dog shall be served
7 with a copy of the petition.

8 (e) A dog that is the subject of a dangerous or
9 nuisance dog investigation may not be relocated and ownership
10 shall not be transferred pending the outcome of the
11 investigation and hearing to determine whether to declare the
12 dog to be dangerous or a nuisance.

13 (f) The court hearing shall be held as soon as
14 practicable. At the hearing, the district attorney shall
15 present evidence that the dog is a dangerous dog or a nuisance
16 dog as defined by this act.

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

22 (2) If the court determines that the dog is
23 dangerous or a nuisance, but has not caused serious physical
24 injury or death to a human being, the court shall issue orders
25 authorized by this act.

26 (g) The pleading and practice in all cases to
27 petition the court to declare a dog to be dangerous or a

1 nuisance under this act shall be in accordance with the
2 Alabama Rules of Civil Procedure. Any judicial determination
3 of a district court that a dog is dangerous or a nuisance may
4 be appealed to the circuit court pursuant to the requirements
5 of the Alabama Rules of Civil Procedure.

6 Section 4. (a) A dog may not be declared dangerous
7 or a nuisance in any of the following circumstances:

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

16 (2) When the dog was protecting or defending a
17 person within the immediate vicinity of the dog from an
18 unjustified attack or assault.

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

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

23 (b) Neither growling nor barking, or both, shall
24 alone constitute grounds upon which to find a dog to be
25 dangerous or a nuisance.

26 Section 5. (a) (1) If a court determines that a dog
27 is dangerous or a nuisance, but does not order that the dog be

1 destroyed because evidence was insufficient to determine that
2 the dog caused serious physical injury or damage to the real
3 or personal property of another person, the owner of the dog
4 shall comply with the following requirements in addition to
5 any other requirements imposed by the court:

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

- 16 a. A current certificate of rabies vaccination.
- 17 b. A current photograph of the dog.
- 18 c. That the dog will be confined to a proper
19 enclosure when the dog is outdoors and unattended.
- 20 d. That the dog has been neutered or spayed, unless
21 medically not needed.
- 22 e. That the dog has been permanently identified by
23 tattooing or injected with an identification microchip using
24 standard veterinary procedures.
- 25 f. A policy of insurance or a surety bond in the
26 amount of not less than one hundred thousand dollars

1 (\$100,000) covering the medical or veterinary costs, or both,
2 resulting from any future dangerous actions of the dog.

3 g. If the owner of the dangerous or nuisance dog is
4 not the owner of the property where the dog is kept, proof
5 that the owner of the dog has obtained from the property owner
6 written permission for the dangerous or nuisance dog to be
7 kept there.

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

15 (b) If the owner fails to provide a proper enclosure
16 for the dangerous or nuisance dog or fails to provide a
17 certification of dangerous or nuisance dog registration to the
18 court within 30 days of the issuance of the declaration of the
19 court that the dog is dangerous or a nuisance, the dog shall
20 be humanely euthanized.

21 (c) The owner of the dangerous or nuisance dog shall
22 pay an annual fee to register the dog pursuant to this act.
23 The amount of the dangerous or nuisance dog registration fee
24 shall be established by the county.

25 (d) An animal control officer or law enforcement
26 officer may make whatever inquiry is deemed necessary to

1 ensure compliance with this act and any court order issued
2 pursuant to this act.

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

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

21 Section 7. (a) An owner of a dangerous dog who
22 violates this act shall be guilty of a misdemeanor punishable
23 by a fine of not more than three hundred dollars (\$300) for
24 the first offense and not more than six hundred dollars (\$600)
25 for each subsequent offense. Additionally, for each offense,
26 the owner of a dangerous dog who violates this act shall pay
27 an administrative fine of one hundred fifty dollars (\$150) to

1 be collected by the Chilton County Circuit Clerk. The fine
2 shall be forwarded by the circuit clerk to the Chilton County
3 Commission to be deposited into the General Fund of Chilton
4 County to be used as a first priority to carry out the
5 purposes of this act.

6 (b) If a dog that has previously been declared
7 dangerous, when unprovoked, attacks, assaults, wounds, or
8 causes severe physical injury, or kills a human being, the
9 owner or keeper of the dog shall be guilty of a Class C felony
10 punishable by a fine of not more than five thousand dollars
11 (\$5,000) or imprisonment of not more than two years, or both.
12 The dog control authority may confiscate and, after the
13 expiration of 10 working days after the owner has been
14 notified, destroy the dangerous dog. The 10-day time period
15 shall allow the owner to request a due process hearing. The
16 owner shall be responsible for payment of all boarding costs
17 and other fees as may be required to humanely and safely keep
18 the dog during any appeal procedure. Additionally, for each
19 offense, the owner of a dangerous dog who violates this act
20 shall pay an administrative fine of one hundred fifty dollars
21 (\$150) to be collected by the Chilton County Circuit Clerk.
22 The fine shall be forwarded by the circuit clerk to the
23 Chilton County Commission to be deposited into the General
24 Fund of Chilton County to be used as a first priority to carry
25 out the purposes of this act.

26 (c) If a dog that has not been declared dangerous,
27 attacks and causes severe injury to or death of any human, and

1 the owner of the dog had prior knowledge of the dangerous
2 propensities of the dog yet demonstrated a reckless disregard
3 of the propensities under the circumstances, the owner of the
4 dog shall be guilty of a misdemeanor punishable by a fine of
5 not more than three hundred dollars (\$300) for the first
6 offense and, for a second or subsequent offense, punishable by
7 a fine of not more than six hundred dollars (\$600). In
8 addition, the dog shall be immediately confiscated by an
9 animal control authority, held for 10 business days after the
10 owner is given written notification, and thereafter destroyed
11 in an expeditious and humane manner. This 10-day period shall
12 allow the owner to request a due process hearing. The owner
13 shall be responsible for payment of all boarding costs and
14 other fees as may be required to humanely and safely keep the
15 dog during any appeal procedure. Additionally, for each
16 offense, the owner of a dangerous dog who violates this act
17 shall pay an administrative fine of one hundred fifty dollars
18 (\$150) to be collected by the Chilton County Circuit Clerk.
19 The fine shall be forwarded by the circuit clerk to the
20 Chilton County Commission to be deposited into the General
21 Fund of Chilton County to be used as a first priority to carry
22 out the purposes of this act.

23 (d) This section shall not be construed to repeal
24 other criminal laws. Whenever conduct prescribed by any
25 provision of this act is also prescribed by any other
26 provision of law, the provision which carries the more serious
27 penalty shall be applied.

1 Section 8. An owner of a nuisance dog who violates
2 this act shall be guilty of a misdemeanor punishable by a fine
3 of not more than three hundred dollars (\$300) for the first
4 offense and not more than six hundred dollars (\$600) for each
5 subsequent offense. Additionally, for each offense, the owner
6 of a dangerous dog who violates this act shall pay an
7 administrative fine of one hundred fifty dollars (\$150) to be
8 collected by the Chilton County Circuit Clerk. The fine shall
9 be forwarded by the circuit clerk to the Chilton County
10 Commission to be deposited into the General Fund of Chilton
11 County to be used as a first priority to carry out the
12 purposes of this act.

13 Section 9. A law enforcement officer may enforce
14 this act by immediately removing the dog to an appropriate
15 facility, without requirement for a warrant or pending due
16 process, or both, if in responding to an incident covered by
17 this act, he or she determines that the dog poses a threat to
18 the public safety, regardless of the actions, omissions, or
19 intent of the owner.

20 Section 10. The provisions of this act are
21 severable. If any part of this act is declared invalid or
22 unconstitutional, that declaration shall not affect the part
23 which remains.

24 Section 11. This act shall become effective upon the
25 adoption of a local constitutional amendment relating to
26 Chilton County authorizing the Legislature to regulate
27 dangerous dogs in the unincorporated areas of the county.

