

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2598

By: Wesselhoft

4
5
6 AS INTRODUCED

7 An Act relating to animals; creating Cody's Law;
8 amending Section 1, Chapter 262, O.S.L. 2006, and 4
9 O.S. 2001, Sections 44, as amended by Section 3,
10 Chapter 262, O.S.L. 2006 and 47, as amended by
11 Section 5, Chapter 262, O.S.L. 2006 (4 O.S. Supp.
2007, Sections 42.4, 44 and 47), which relate to
dangerous dogs; modifying certain penalties; adding
definition; providing for noncodification; and
providing an effective date.

12
13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law not to be
16 codified in the Oklahoma Statutes reads as follows:

17 Sections 1 through 4 of this act shall be known and may be cited
18 as "Cody's Law".

19 SECTION 2. AMENDATORY Section 1, Chapter 262, O.S.L.
20 2006 (4 O.S. Supp. 2007, Section 42.4), is amended to read as
21 follows:

22 Section 42.4 A. It is unlawful for the owner of any dog that
23 previously has:
24

1 1. When unprovoked inflicted bites on any person or severely
2 injured any person either on public or private property; or

3 2. When unprovoked created an imminent threat of injury or
4 death to any person,

5 to permit such dog to run at large or aggressively bite or attack
6 any person while such person is lawfully upon public or private
7 property. Upon conviction, the violator shall be guilty of a
8 ~~misdemeanor~~ felony punishable by imprisonment in the ~~county jail~~
9 custody of the Department of Corrections for not ~~more~~ less than one
10 (1) year, or by imposition of a fine of not ~~to exceed Five Thousand~~
11 ~~Dollars (\$5,000.00)~~ less than Ten Thousand Dollars (\$10,000.00), or
12 by both such fine and imprisonment. In addition, the owner shall be
13 liable for damages as provided in Section 42.1 of ~~Title 4 of the~~
14 ~~Oklahoma Statutes~~ this title.

15 B. The owner of any dangerous dog as defined by Section 44 of
16 ~~Title 4 of the Oklahoma Statutes~~ this title, or any dog that is
17 described in subsection A of this section, that attacks any person
18 causing the death of such person shall, upon conviction, be guilty
19 of a felony punishable by imprisonment in the custody of the
20 Department of Corrections for not more than five (5) years, or by
21 the imposition of a fine not to exceed Twenty-five Thousand Dollars
22 (\$25,000.00), or by both such fine and imprisonment.

23 C. It is unlawful for any person to release any dog upon a law
24 enforcement officer while the officer is in the performance of

1 official duties. Upon conviction, the violator shall be guilty of a
2 felony punishable by imprisonment in the custody of the Department
3 of Corrections for not more than five (5) years, or imprisonment in
4 the county jail for not more than one (1) year, or by imposition of
5 a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both
6 such fine and imprisonment.

7 D. It shall be an affirmative defense to a prosecution pursuant
8 to subsection A or B of this section that the injury or death was
9 sustained by a person who, at the time, was committing a willful
10 criminal act upon the premises of the owner of the dog or was
11 assaulting the owner of the dog.

12 SECTION 3. AMENDATORY 4 O.S. 2001, Section 44, as
13 amended by Section 3, Chapter 262, O.S.L. 2006 (4 O.S. Supp. 2007,
14 Section 44), is amended to read as follows:

15 Section 44. As used in Section 44 et seq. of this title:

16 1. "Potentially dangerous dog" means any dog that:

17 a. when unprovoked inflicts bites on a human either on
18 public or private property, or

19 b. when unprovoked attacks a dog which results in the
20 death of said dog either on public or private
21 property;

22 2. "Dangerous dog" means any dog that:

23 a. has inflicted severe injury on a human being without
24 provocation on public or private property,

1 b. has been previously found to be potentially dangerous,
2 the owner having received notice of such by the animal
3 control authority in writing and the dog thereafter
4 aggressively bites, attacks, or endangers the safety
5 of humans, or

6 c. has been previously found to be potentially dangerous,
7 the owner having received notice of such by the animal
8 control authority in writing and the dog thereafter
9 attacks a dog which results in the death of said dog
10 either on public or private property;

11 3. "Serious bodily injury" means an injury characterized by
12 severe bite wounds or severe ripping and tearing of muscle that
13 would cause a reasonably prudent person to seek treatment from a
14 medical professional and would require hospitalization without
15 regard to whether the person actually sought medical treatment;

16 4. "Severe injury" means any physical injury that results in
17 broken bones or lacerations requiring multiple sutures or cosmetic
18 surgery;

19 ~~4.~~ 5. "Proper enclosure of a dangerous dog" means, while on the
20 owner's property, a dangerous dog shall be securely confined indoors
21 or in a securely enclosed and locked pen or structure with at least
22 one hundred fifty (150) square feet of space for each dog kept
23 therein which is over six (6) months of age, and which is suitable
24 to prevent the entry of children and designed to prevent the animal

1 from escaping. Such pen or structure shall have secure sides and a
2 secure top, and shall also provide protection from the elements for
3 the dog;

4 ~~5.~~ 6. "Animal control authority" means an entity acting alone
5 or in concert with other local governmental units for enforcement of
6 the animal control laws of the city, county and state and the
7 shelter and welfare of animals;

8 ~~6.~~ 7. "Animal control officer" means any individual employed,
9 contracted with, or appointed by the animal control authority for
10 the purpose of aiding the enforcement of this act or any other law
11 or ordinance relating to the licensure of animals, control of
12 animals, or seizure and impoundment of animals, and includes any
13 state or local law enforcement officer or other employee whose
14 duties in whole or in part include assignments that involve the
15 seizure and impoundment of any animal; and

16 ~~7.~~ 8. "Owner" means any person, firm, corporation,
17 organization, or department possessing, harboring, keeping, having
18 an interest in, or having control or custody of an animal.

19 SECTION 4. AMENDATORY 4 O.S. 2001, Section 47, as
20 amended by Section 5, Chapter 262, O.S.L. 2006 (4 O.S. Supp. 2007,
21 Section 47), is amended to read as follows:

22 Section 47 A. Any dangerous dog shall be immediately
23 confiscated by an animal control authority if:

24

1 1. The dog is not validly registered under Section 45 of this
2 title;

3 2. The owner does not secure the liability insurance coverage
4 or surety bond required under Section 45 of this title;

5 3. The dog is not maintained in the proper enclosure as defined
6 by Section 44 of this title; and

7 4. The dog is outside of the dwelling of the owner, or outside
8 the proper enclosure and not under physical restraint of the
9 responsible person as required by Section 46 of this title.

10 B. The owner of a dangerous dog shall, upon conviction, be
11 guilty of a ~~misdemeanor~~ felony punishable by imprisonment in the
12 ~~county jail~~ custody of the Department of Corrections for not ~~more~~
13 less than one (1) year or by the imposition of a fine of not ~~to~~
14 ~~exceed Five Thousand Dollars (\$5,000.00)~~ less than Ten Thousand
15 Dollars (\$10,000.00), or by both such fine and imprisonment for any
16 violation of the laws relating to dangerous dogs resulting in the
17 confiscation of such dog pursuant to any provision of subsection A
18 of this section.

19 C. The owner of a dangerous dog shall be guilty of a
20 ~~misdemeanor~~ felony punishable by imprisonment in the ~~county jail~~
21 custody of the Department of Corrections for not ~~more~~ less than one
22 (1) year, or by the imposition of a fine of not ~~to exceed Five~~
23 ~~Thousand Dollars (\$5,000.00)~~ less than Ten Thousand Dollars
24 (\$10,000.00), or by both such fine and imprisonment for any ~~personal~~

1 serious bodily injury or severe injury caused by such dangerous dog.
2 The fine, at the discretion of the court, may be offset by payments
3 made by the dog owner to any victim of an injury or attack by the
4 dog. However, insurance payments may not be considered as an
5 offset. In addition, the court may require the owner to perform
6 forty (40) hours of community service. The court may suspend any
7 portion of the community service requirement set forth in this
8 section. It shall be an affirmative defense to a prosecution
9 pursuant to this subsection that the injury was sustained by a
10 person who, at the time, was committing a willful criminal act upon
11 the premises occupied by the owner of the dog or was assaulting the
12 owner of the dog.

13 D. It is the purpose of Sections 44 through 47 of this title to
14 provide additional and cumulative remedies to control dangerous and
15 potentially dangerous dogs in this state. Nothing in this act shall
16 be construed to abridge or alter rights of action or remedies of
17 victims under the common law or statutory law, criminal or civil.

18 SECTION 5. This act shall become effective November 1, 2008.

19
20 51-2-8199 GRS 07/24/07
21
22
23
24