

1 HB651  
2 119959-2  
3 By Representatives Hinshaw, Ball, Sanderford, Williams (P),  
4 Hall and McCutcheon (Constitutional Amendment)  
5 RFD: Madison County Legislation  
6 First Read: 02-MAR-10



1 associated injury to, individuals. These attacks are in part  
2 attributable to the failure of owners to confine and properly  
3 train and control these dogs. Existing laws inadequately  
4 address this problem; therefore, it is appropriate and  
5 necessary to impose requirements on the owners of dangerous  
6 dogs.

7 Section 2. This constitutional amendment is  
8 applicable to those areas of Madison County outside the  
9 corporate limits of any municipality.

10 Section 3. The following words shall have the  
11 following meanings:

12 (1) ANIMAL CONTROL OFFICER. Any person employed by  
13 Madison County who performs animal control functions.

14 (2) ATTACK. Aggressive physical contact initiated by  
15 a dog.

16 (3) BITTEN. Seized with the teeth so that the skin  
17 of the person seized has been gripped or has been wounded or  
18 pierced.

19 (4) DANGEROUS DOG. A dog, regardless of its breed,  
20 that has bitten, attacked, or caused physical injury to a  
21 human being, without provocation, or has repeatedly bitten,  
22 attacked, or caused physical injury to humans except a dog  
23 used by law enforcement officials for legitimate law  
24 enforcement purposes, a certified guide dog for the blind, a  
25 hearing dog for the deaf, or a service dog for the disabled.

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

3           (6) IMPOUNDED. Taken into the custody of law  
4 enforcement, the county pound, or an animal control authority  
5 or provider of animal control services to Madison County.

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

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

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

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

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

24           c. Provides adequate ventilation and protection from  
25 the elements.

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

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

8           (10) SERIOUS PHYSICAL INJURY. An injury as defined  
9 in Section 13A-1-2(14), Code of Alabama 1975.

10           Section 4. (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 the purposes of this subsection, "bites" means the  
17 same as "has been exposed" as defined in Section 3-7A-1 (4),  
18 Code of 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. Madison County may  
24 impound the dog at the county pound as described in Section  
25 3-7A-7, Code of Alabama 1975, or may enter into an agreement  
26 with an animal shelter or licensed veterinarian to secure and

1 impound dangerous dogs pursuant to this section. The owner of  
2 the dog shall be liable to Madison County for the costs and  
3 expenses incurred in impounding, feeding, and providing  
4 veterinary care or treatment for the dog.

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

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

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

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

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

1 to a human being or other animal, the court shall issue orders  
2 authorized by 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 unless otherwise specified by this amendment. The  
7 court may tax all costs of the proceedings including  
8 attorneys' fees and expert witness fees to the owner of the  
9 dog.

10 Section 5. (a) A dog may not be declared dangerous  
11 in any of the following circumstances:

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

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

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

25 (4) When a person or domestic animal was disturbing  
26 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 6. (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 Madison County Animal  
13 Control Department. All certificates of registration required  
14 to be obtained under this section may only be issued to  
15 persons 18 years of age or older which represent evidence of  
16 the following:

17 a. A current certificate of rabies vaccination.

18 b. A current photograph of the dog.

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

21 d. That the dog has been neutered or spayed, unless  
22 medically not needed.

23 e. That the dog has been permanently identified by  
24 tattooing or injecting an identification microchip using  
25 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 not less than one hundred  
5 thousand dollars (\$100,000) covering the medical or veterinary  
6 costs, or both, resulting from any future dangerous actions of  
7 the 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 this amendment. The  
26 amount of the dangerous dog registration fee shall be

1 established by the Madison County Commission. The payment of  
2 the dangerous dog registration fee shall be in addition to any  
3 regular dog licensing fee required by Madison County.

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 amendment.

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 Madison County Animal Control  
12 Department the name, address, and telephone number of the new  
13 owner. The new owner shall comply with all of the requirements  
14 of this amendment.

15 Section 7. The owner of a dog that has been declared  
16 to be dangerous by a court may petition the district court to  
17 remove the dangerous dog designation 18 months after the  
18 judicial declaration was issued. A copy of the petition shall  
19 be filed with the county attorney. The court may remove the  
20 dangerous dog designation and eliminate any requirements of  
21 this amendment. If the owner of the dog has not violated this  
22 amendment and any orders of the court, and if the court is  
23 satisfied from the evidence that the dog is no longer  
24 dangerous.

25 Section 8. (a) If a dog that has previously been  
26 declared by a court to be dangerous, when unprovoked, causes

1 physical injury or kills a human being, the owner of the dog  
2 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) shall pay  
12 all expenses, including, but not limited to, shelter, food,  
13 veterinary expenses for boarding and veterinary expenses  
14 necessitated by impoundment of the dog, medical expenses  
15 incurred by a victim from an attack by a dangerous dog, and  
16 other expenses required for the destruction of the animal.

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

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

24 Section 9. Nothing in this amendment shall be  
25 construed to repeal other criminal laws. Whenever conduct  
26 prescribed by any provision of this amendment is also

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

3 Section 10. (a) Nothing in this amendment shall be  
4 construed to restrict or negate the requirements of the rabies  
5 control law contained in Sections 3-7A-1 to 3-7A-15,  
6 inclusive, Code of Alabama 1975.

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

10 (c) Nothing in this amendment 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 amendment.

14 Section 11. 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 12. Absent, negligence, wantonness,  
19 recklessness, or deliberate misconduct, Madison County and any  
20 of its employees or agents and the individual issuing the  
21 dangerous dog certificate or registration shall be immune from  
22 any and all liability for any actions taken or for any failure  
23 to act pursuant to this amendment.

24 Section 13. The Madison County Commission shall  
25 establish the date on which these provisions shall become  
26 effective.

1           Section 2. An election upon the proposed amendment  
2 shall be held in accordance with Amendment 555 to the  
3 Constitution of Alabama of 1901, now appearing as Section  
4 284.01 of the Official ReCompilation of the Constitution of  
5 Alabama of 1901, as amended, and the election laws of this  
6 state.

7           Section 3. The appropriate election official shall  
8 assign a ballot number for the proposed constitutional  
9 amendment on the election ballot and shall set forth the  
10 following description of the substance or subject matter of  
11 the proposed constitutional amendment:

12           "Relating to Madison County, proposing an amendment  
13 to the Constitution of Alabama of 1901, for those areas of  
14 Madison County outside the corporate limits of any  
15 municipality, to establish a procedure by which a dog can be  
16 declared dangerous and humanely destroyed or returned to the  
17 owner if certain requirements are met and the dog is securely  
18 enclosed; to provide immunity for county officers and  
19 employees under certain conditions; and to provide for  
20 penalties.

21           "Proposed by Act \_\_\_\_\_"

22           This description shall be followed by the following  
23 language:

24           "Yes ( ) No ( )."

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Madison County  
Legislation ..... 02-MAR-10

Read for the second time and placed  
on the calendar ..... 11-MAR-10

Read for the second time and placed  
on the calendar with 1 substitute  
and ..... 11-MAR-10

Read for the third time and passed  
as amended ..... 23-MAR-10

Yeas 73, Nays 0, Abstains 9

Greg Pappas  
Clerk