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SENATE BILL NO. 200

Offered January 11, 2006

Prefiled January 10, 2006

A BILL to amend and reenact § 3.1-796.93:1 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 3.1-796.93:3, relating to the control of dangerous and vicious dogs; penalty.

Patrons—Houck, Quayle, Blevins, Devolites Davis, Edwards, Howell, Lambert, Locke, Lucas, Marsh, Miller, Potts, Puckett, Puller, Rerras, Reynolds, Saslaw, Ticer and Whipple; Delegates: Albo, Athey, Brink, Dance, Eisenberg, Howell, A.T., Jones, D.C., Moran, O'Bannon, Oder, Plum, Putney, Scott, J.M., Sickles, Tata, Tyler, Waddell and Watts

Referred to Committee on Agriculture, Conservation and Natural Resources

WHEREAS, Dorothy Sullivan was a beloved mother, grandmother, and great grandmother.

WHEREAS, her life ended tragically on March 8, 2005 as a result of a vicious dog attack.

WHEREAS, her loss may protect others, we adopt the Dorothy Sullivan memorial bill in her honor.

Be it enacted by the General Assembly of Virginia:

1. That § 3.1-796.93:1 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 3.1-796.93:3 as follows:

§ 3.1-796.93:1. Control of dangerous or vicious dogs.

A. The governing body of any county, *or city shall* or town may enact an ordinance regulating dangerous dogs and vicious dogs.

B. As used in this section:

"Dangerous dog" means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal, or killed a ~~companion animal~~ *or inflicted injury to a companion animal requiring the animal to be euthanized*; however, when a dog attacks or bites another dog, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the other dog as a result of the attack or bite or (ii) both dogs are owned by the same person. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on another dog while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.

"Vicious dog" means a canine or canine crossbreed that has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior that resulted in a previous finding by a court or an animal control officer as authorized by local ordinance pursuant to the provisions of subsection ~~E~~ *Q*, that it is a dangerous dog, provided that its owner has been given notice of that finding.

~~C. Any ordinance enacted pursuant to this section shall prescribe the following provisions:~~

~~1C.~~ Any animal control officer *or law-enforcement officer* who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. *If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious.* The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of the ordinance. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of § 3.1-796.119.

~~2D.~~ No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor shall the local governing body prohibit the ownership of a particular breed of canine or canine crossbreed. No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime

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56 upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful
57 trespass or other tort upon the premises occupied by the animal's owner or custodian, or (iii) provoking,
58 tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented,
59 abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its
60 duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious
61 dog. *No dog protecting livestock from an animal at the time of the acts complained of shall be found to*
62 *be a dangerous dog.* No animal which, at the time of the acts complained of, was responding to pain or
63 injury, or was protecting itself, its kennel, its offspring, or its owner or owner's property, shall be found
64 to be a dangerous dog or a vicious dog.

65 3E. The owner of any animal found to be a dangerous dog shall, within 10 days of such finding,
66 obtain a dangerous dog registration certificate from the local animal control officer for a fee of \$50 or
67 an amount as set by local ordinance but not to exceed the costs incurred by the locality to administer
68 this program, in addition to other fees that may be authorized by law. The local animal control officer
69 shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous
70 dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and
71 tag at all times. All certificates obtained pursuant to this subdivision shall be renewed annually for the
72 same fee and in the same manner as the initial certificate was obtained. *The local animal control officer*
73 *shall verify compliance with all requirements of this section within 30 days and convey such information*
74 *to the state veterinarian.*

75 4F. All certificates or renewals thereof required to be obtained under this section shall only be issued
76 to persons 18 years of age or older who present satisfactory evidence (i) of the animal's current rabies
77 vaccination, if applicable, and (ii) that the animal is and will be confined in a proper enclosure or is and
78 will be confined inside the owner's residence or is and will be muzzled and confined in the owner's
79 fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or
80 renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present
81 satisfactory evidence that (i) their residence is and will continue to be posted with clearly visible signs
82 warning both minors and adults of the presence of a dangerous dog on the property, ~~and~~ (ii) the animal
83 has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation,
84 *and (iii) that the animal has been neutered or spayed.*

85 G. *All certificates or renewals thereof required to be obtained under this section shall only be issued*
86 *to persons who present satisfactory evidence that the owner has liability insurance coverage, to the*
87 *value of at least \$300,000, that covers animal bites or who has obtained a bond in surety to the value*
88 *of at least \$300,000.*

89 5H. While on the property of its owner, an animal found to be a dangerous dog shall be confined
90 indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its
91 escape or direct contact with or entry by minors, adults, or other animals. The structure shall ~~be~~
92 ~~designed to provide the animal with shelter from the elements of nature~~ *(i) contain no opening of more*
93 *than 2 inches in diameter in the fencing materials, (ii) be sufficient to withstand damage from the dog*
94 *biting, chewing, or otherwise breaking, (iii) have lockable gates to or within the kennel structure, (iv) be*
95 *of a design that prevents entry by children, (v) be kept locked when the dog is confined therein, except*
96 *when controlled by a person aged 18 years or older. The court may require the enclosure to have*
97 *double exterior walls to prevent the insertion of fingers, hands, or other objects.* When off its owner's
98 property, an animal found to be a dangerous dog shall be kept on a leash *no longer than six feet* and
99 muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or
100 respiration, but so as to prevent it from biting a person or another animal.

101 I. *Any canine or canine crossbreed that has been found by any court or administrative process to be*
102 *dangerous or vicious in a jurisdiction within or without the Commonwealth shall be so considered*
103 *dangerous or vicious in the Commonwealth. It shall be unlawful for any owner or other person to bring*
104 *or cause to be brought into the Commonwealth any canine or canine crossbreed that has been found by*
105 *any court or administrative process to be dangerous or vicious in another state.*

106 6J. If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal
107 guardian shall be responsible for complying with all requirements of this section.

108 7K. After an animal has been found to be a dangerous dog, the animal's owner shall immediately,
109 upon learning of same, notify the local animal control authority if the animal (i) is loose or unconfined;
110 (ii) bites a person or attacks another animal; *or (iii) is sold, given away, or dies; or (iv) has been moved*
111 *to a different address. No owner of any canine or canine crossbreed that has been declared or*
112 *adjudicated dangerous by a court of competent jurisdiction, or by an administrative procedure as*
113 *allowed by subsection Q, may sell, give away, or transfer ownership of such animal other than to*
114 *surrender it to the local animal control agency. Surrender of dog that is subject of a pending action to*
115 *animal control shall not bar prosecution nor be in lieu of prosecution. Any owner who relocates to a*
116 *new address shall, within seven days of relocation, provide written notice to the local animal control*
117 *authority containing the new address to which the animal has been moved.*

L. It shall be unlawful for any person, owner, custodian, animal control officer, pound, animal shelter, foster care provider, foster home, dealer, home based rescue, or other releasing agency to offer for sale, adoption, transfer, or foster for another any canine or canine crossbreed that has been declared or adjudicated dangerous by a court of competent jurisdiction or by an administrative procedure as allowed by subsection Q.

M. The owner of any dog found to be a dangerous dog shall register the dog with the State Veterinarian. The State Veterinarian shall receive, post, and maintain the information provided by the animal control officers and other such officials statewide on a website. All information collected for the Dangerous Dog Registrar shall be available to animal control officers via the website. The name and address of the owner along with the name and breed of the dangerous dog and the acts that made the dog dangerous shall be available to the general public. Registration shall be maintained throughout the life of the dog and the owner is to provide prompt notification to the local animal control officer of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any changes in the ownership of the dog; (iv) any change in the health status of the dog; (v) any complaints or incidents of attack by the dog upon any person or companion animal; (vi) any claims made or lawsuits brought as a result of any attack; (vii) tattoo and chip identification information, and (viii) the death of the dog. The owner shall verify the information is accurate by annual resubmissions. Local animal control shall collect a \$100 initial registration fee and a \$35 dollar renewal registration fee. There shall be no charge for any updated information provided between renewals. Any funds collected shall be used by the State Veterinarian to maintain the registry and website. The website list shall be known as the Virginia Dangerous Dog Register.

N. Any owner or custodian of a canine or canine crossbreed is guilty of a:

1. Class 3 misdemeanor if the canine or canine crossbreed (i) injures or kills a companion animal belonging to another person, or (ii) causes bodily injury that results in an order of euthanasia of a companion animal belonging to another person. Such euthanasia shall be based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal. However when the attack or injury is inflicted on another dog while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event this penalty shall not apply;

2. Class 2 misdemeanor if the canine or canine crossbreed, having been previously adjudicated as dangerous by a court of competent jurisdiction or by an administrative procedure as allowed by subsection Q, (i) injures or kills a companion animal belonging to another person, or (ii) causes bodily injury that results in an order of euthanasia of a companion animal belonging to another person. Such euthanasia shall be based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal;

3. Class 2 misdemeanor if the canine or canine crossbreed has bitten or attacked a human being and such bite or attack causes bodily injury;

4. Class 1 misdemeanor if the canine or canine crossbreed, having been previously adjudicated as dangerous by a court of competent jurisdiction or by an administrative procedure as allowed by subsection Q, bites or attacks causing bodily injury to a human being;

5. Class 6 felony if the canine or canine crossbreed bites or attacks causing serious bodily injury to a human being requiring hospitalization or causes the death of a human being.

6. Class 5 felony if the canine or canine crossbreed, having been previously adjudicated as dangerous by a court of competent jurisdiction or by an administrative procedure as allowed by subsection Q, bites or attacks causing serious bodily injury to a human being requiring hospitalization or causes the death of a human being.

7. The penalties provided in this subsection shall not apply to the owner or custodian of a dog that meets the exceptions provided under clauses (i), (ii), and (iii) of subsection D.

8O. The owner of any animal that has been found to be a dangerous or vicious dog who willfully fails to comply with the requirements of the ordinance shall be guilty of a Class 1 misdemeanor.

9P. All fees collected pursuant to the ordinance, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by the ordinance, shall be paid into a special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any training course required under § 3.1-796.104:1.

D. Any ordinance enacted pursuant to this section may prescribe the following provisions:

1. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence that the animal has been neutered or spayed.

2. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$100,000, that covers animal bites

179 ~~EQ.~~ Notwithstanding the provisions of ~~subdivision~~ subsection C 4, any ordinance enacted pursuant to
180 this section may provide that an animal control officer may determine, after investigation, whether a dog
181 is a dangerous dog. If the animal control officer determines that a dog is a dangerous dog, he may order
182 the animal's owner to comply with the provisions of the ordinance. If the animal's owner disagrees with
183 the animal control officer's determination, he may appeal the determination to the general district court
184 for a trial on the merits.

185 *R. The governing body of any locality may enact a more stringent ordinance regulating dangerous*
186 *dogs and vicious dogs.*

187 *§ 3.1-796:3. Physicians and others rendering medical aid to report dog inflicted wounds.*

188 *Any physician or other person who renders any medical aid or treatment to any person for any*
189 *wound which such physician or other person knows or has reason to believe is a wound inflicted by a*
190 *dog shall as soon as practicable report such fact, including the wounded person's name and address, if*
191 *known, to the sheriff or local animal control officer of the county or city in which treatment is rendered.*
192 *If such medical aid or treatment is rendered in a hospital or similar institution, such physician or other*
193 *person rendering such medical aid or treatment shall immediately notify the person in charge of such*
194 *hospital or similar institution, who shall make such report forthwith.*

195 *Any physician or other person failing to comply with this section shall be guilty of a Class 4*
196 *misdemeanor. Any person participating in the making of a report pursuant to this section or*
197 *participating in a judicial proceeding resulting therefrom shall be immune from any civil liability in*
198 *connection therewith, unless it is proved that such person acted in bad faith or with malicious intent.*

199 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
200 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
201 **be determined for periods of imprisonment in state adult correctional facilities and is \$0 for**
202 **periods of commitment to the custody of the Department of Juvenile Justice.**