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SENATE BILL NO. 200

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources
on February 22, 2006)

(Patrons Prior to Substitute— Senator Houck and Senator Quayle)

A BILL to amend and reenact § 3.1-796.93:1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 3.1-796.93:3 and 3.1-796.93:4, relating to the control of dangerous and vicious dogs, penalties.

Whereas, Dorothy Sullivan was a beloved mother, grandmother, and great-grandmother; and

Whereas, her life ended tragically on March 8, 2005, as a result of a vicious dog attack; and

Whereas, her loss may protect others, we adopt the Dorothy Sullivan Memorial Bill in her honor; now, therefore

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 sections numbered 3.1-796.93:3 and 3.1-796.93:4 as follows:

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

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

BA. 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 that results in the euthanasia of a companion animal. 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 a dog attacks or bites another dog a companion animal, 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 companion animal~~ as a result of the attack or bite, ~~or~~ (ii) if both dogs animals are owned by the same person, (iii) if such attack occurs on the dog owner's property, or (iv) for other good causes as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on another dog a companion animal 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,~~ 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:

1B. Any law-enforcement officer or animal control 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. 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. *The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided by § 19.2-260et seq. The Commonwealth shall be required to prove its case beyond a reasonable doubt.*

2C. 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 upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian, or (iii) provoking,

60 tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented,
61 abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its
62 duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious
63 dog. No animal that, at the time of the acts complained of, was responding to pain or injury, or was
64 protecting itself, its kennel, its offspring, or its owner or owner's property, shall be found to be a
65 dangerous dog or a vicious dog.

66 *D. If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal*
67 *guardian shall be responsible for complying with all requirements of this section.*

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

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

85 *F. The owner of any animal found to be a dangerous dog shall, within 30 days of such finding,*
86 *provide or construct a proper enclosure to confine the dog when it is outdoors. Such enclosure shall be*
87 *constructed to be of sufficient height and design to prevent the dog's escape or direct contact with or*
88 *entry by minors, adults, or other animals. The owner shall (i) ensure that the structure be locked and*
89 *shall be designed to provide the dog with shelter from the elements of nature; (ii) cause the residence to*
90 *be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog*
91 *on the property; (iii) cause the dog to be permanently identified by means of a legible tattoo on the*
92 *inside thigh or by electronic implantation. Such legible tattoo or electronic implantation shall be*
93 *registered with an appropriate national database. The owner shall also cause the dog to be spayed or*
94 *neutered and obtain and maintain liability insurance coverage, to the value of at least \$300,000, that*
95 *covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance,*
96 *to the value of at least \$300,000.*

97 *5G. While on the property of its owner, an animal found to be a dangerous dog shall be securely*
98 *confined indoors or in a securely enclosed and locked structure of sufficient height and design to*
99 *prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall*
100 *be designed to provide the animal with shelter from the elements of nature in the enclosure or inside the*
101 *owner's residence. Until such time as the enclosure is completed, the dog shall be muzzled when outside*
102 *and confined in the owner's fenced-in yard. When off its owner's property, an animal found to be a*
103 *dangerous dog shall be kept by an owner at least 21 years of age on a leash not to exceed six feet in*
104 *length and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's*
105 *vision or respiration, but so as to prevent it from biting a person or another animal.*

106 *6. 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 *H. The owner of any dog found to be dangerous shall register the animal with the Commonwealth of*
109 *Virginia Dangerous Dog Registry, as established under § 3.1-796.93:3, within 45 days of such a finding*
110 *by a court of competent jurisdiction.*

111 *The owner is to provide prompt notification to the local animal control officer of (i) the names,*
112 *addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and*
113 *the dog at any time; (iii) any change in the health status of the dog; (iv) any complaints or incidents of*
114 *attack by the dog upon any person or companion animal; (v) any claims made or lawsuits brought as a*
115 *result of any attack; (vi) tattoo and chip identification information; (vii) proof of insurance or surety*
116 *bond; and (viii) the death of the dog.*

117 *7I. After an animal has been found to be a dangerous dog, the animal's owner shall immediately,*
118 *upon learning of same, notify the local animal control authority if the animal (i) is loose or unconfined;*
119 *or (ii) bites a person or attacks another animal; (iii) is sold, given away, or dies; or (iv) has been moved*
120 *to a different address. No owner of any canine or canine crossbreed that has been declared or*
121 *adjudicated dangerous by a court of competent jurisdiction may sell, give away, or transfer ownership*

or custody of such animal other than to surrender it to the local animal control agency. Any owner who relocates to a new address shall, within ten days of relocation, provide written notice to the local animal control authority containing the full new address to which the animal has been moved.

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

9K. All fees collected pursuant to the ordinance this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by the ordinance this section, 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.

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.

M. No owner or custodian shall be permitted to transfer custody or ownership of any canine or canine crossbreed that is the subject of any pending action for designation as a dangerous or vicious dog, except for surrender to the local animal control agency. Surrender of any canine or canine crossbreed that is the subject of a pending action for designation as a dangerous or vicious dog to the local animal control authority shall not be permitted in lieu of such action.

N. Any canine or canine crossbreed that has been found by any court to be dangerous or vicious in another jurisdiction within or without the Commonwealth of Virginia shall be considered dangerous or vicious throughout the Commonwealth. It shall be unlawful for any owner or other person to bring or cause to be brought into the Commonwealth of Virginia any canine or canine crossbreed that has been found by any court or administrative process to be dangerous or vicious in another state.

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

1. Class 4 misdemeanor if the canine or canine crossbreed (i) attacks and injures or kills a dog or cat belonging to another person, or (ii) attacks and causes bodily injury to a dog or cat animal belonging to another person requiring euthanasia of the injured animal and, as a result of such attack, is declared a dangerous dog pursuant to this section. Euthanasia of an animal injured under clause (ii) shall be based on the recommendation of a licensed veterinarian who determines that such euthanasia was required due to the extent of injury to the animal. The penalty hereunder shall not apply when the attack on another animal occurs while the either animal is engaged with its owner or custodian in lawful hunting or participating in an organized, lawful dog-handling event;

2. Class 3 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, (i) attacks and injures or kills a companion animal belonging to another person, or (ii) attacks and causes bodily injury requiring euthanasia of the injured animal on the recommendation of a licensed veterinarian who determines that such euthanasia was required due to the extent of injury to the animal;

3. Class 2 misdemeanor if the canine or canine crossbreed attacks a human being causing bodily injury and, as a result of such attack, is declared a dangerous dog pursuant to this section;

4. Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites or attacks a human being causing bodily injury;

5. Class 6 felony if any owner or custodian whose willful act or omission in the care, control, or containment of a dog or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person. It shall be prima facie evidence of the owner's or custodian's reckless disregard for human life if (i) at the time of the attack the dog or other animal was roaming unrestricted, and (ii) the owner or custodian knew that such dog or other animal had previously and unlawfully caused serious bodily injury to a person;

6. Class 5 felony if any owner or custodian whose willful act or omission in the care, control, or containment of a dog or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing the death of any person. It shall be prima facie evidence of the owner's or custodian's reckless disregard for human life if (i) at the time of the attack the dog or other animal was roaming unrestricted, and (ii) the owner or custodian knew that such dog or other animal had previously and unlawfully caused serious bodily injury of a person.

7. The penalties provided in this subsection shall not apply to the owner or custodian of a dog that would not be defined as a dangerous or vicious dog under subsection C.

8P. 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 this section is guilty of a Class 1 misdemeanor.

9Q. All fees collected pursuant to the ordinance subsection D, 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

E. Notwithstanding the provisions of subdivision C 1, any ordinance enacted pursuant to this section may provide that an animal control officer may determine, after investigation, whether a dog is a dangerous dog. If the animal control officer determines that a dog is a dangerous dog, he may order the animal's owner to comply with the provisions of the ordinance. If the animal's owner disagrees with the animal control officer's determination, he may appeal the determination to the general district court for a trial on the merits.

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

§ 3.1-796.93:3. Establishment of Dangerous Dog Registry.

The Commissioner shall establish the Commonwealth of Virginia Dangerous Dog Registry to be maintained by the Virginia Department of Agriculture and Consumer Services, Office of Veterinary Services. Each owner of any canine or canine crossbreed found by any court of competent jurisdiction to be a dangerous dog shall be required to register the animal as a dangerous dog within 45 days of such finding. The State Veterinarian shall receive, post, and maintain the information provided by the owner, animal control officers, and other such officials statewide on a website. All information collected for the Dangerous Dog Register shall be available to animal control officers via the website. Registration shall include the name of the animal, a photograph, sex, age, weight, primary breed, secondary breed, color and markings, whether spayed or neutered, the acts that resulted in the dog being designated as dangerous and associated trial docket information, microchip or tattoo number, address where the animal is maintained, name of the owner, address of the owner, telephone numbers of the owner, and a statement that the owner has complied with the provisions of the dangerous dog order. The address of the owner along with the name and breed of the dangerous dog, the acts that resulted in the dog being deemed dangerous, and information necessary to access court records of the adjudication shall be available to the general public. By January 31 of each year, the owner shall submit a renewal registration that shall include all information contained in the original registration and any updates. The owner shall submit such a renewal every year until the dog is deceased. The owner shall verify the information is accurate by annual resubmissions. The owner shall submit to the State Veterinarian a \$100 initial registration fee and a \$35 renewal registration fee. In the event that the dangerous dog is moved to a different location, or contact information for the owner changes in any way at any time, the owner shall submit a renewal containing the address of the new location or other updated information within 10 days of such move or change. There shall be no charge for any updated information provided between renewals. Any funds collected pursuant to this section 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. Not later than January 31st of each year, until such time as the dangerous dog is deceased, the owner shall be required to renew his dangerous dog registration. The owner shall also submit a renewal within 10 days of any change in the location of the dangerous dog or any change in contact information for the owner.

The State Veterinarian shall have the Commonwealth of Virginia Dangerous Dog Registry operational no later than January 1, 2007.

The State Veterinarian shall provide to the House of Delegates an update report of the progress of the Commonwealth of Virginia Dangerous Dog Registry no later than the last week of October 2006.

Actions of the Department relating to the establishment, operation, and maintenance of the Commonwealth of Virginia Dangerous Dog Registry under this chapter shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000et seq.).

§ 3.1-796.93:4. Physicians and others rendering medical aid to report dog inflicted wounds.

Any physician or other licensed medical professional who renders any medical aid or treatment to any person for any wound that such physician or other licensed medical professional knows or has reason to believe is a wound inflicted by a dog shall as soon as practicable report such fact, including the wounded person's name and address, if known, to the law-enforcement officer, local animal control officer, or other agency charged with receiving reports of animal bites or exposures for the locality in which treatment is rendered. If such medical aid or treatment is rendered in a hospital or similar

245 *institution, such physician or other person rendering such medical aid or treatment shall immediately*
246 *notify the person in charge of such hospital or similar institution, who shall make such report forthwith.*
247 *Any person participating in the making of a report pursuant to this section or participating in a*
248 *judicial proceeding resulting therefrom shall be immune from any civil liability in connection therewith,*
249 *unless it is proved that such person acted in bad faith or with malicious intent.*
250 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
251 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
252 **be determined for periods of imprisonment in state adult correctional facilities and is \$0 for**
253 **periods of commitment to the custody of the Department of Juvenile Justice.**