

April 25, 2016

The Ohio Senate
Agriculture Committee
c/o Chairman Cliff Hite

Re: Interested Party testimony to SB 151

Dear Chairman Hite and Honorable Members of the Senate Agriculture Committee,

I submit this written testimony regarding Senate Bill 151 ("SB 151"), a bill currently under your guidance that modifies this state's "dangerous dog" laws. My interest in this bill stems from my work with dog bite control issues as an attorney. I have represented both private individuals defending "dangerous dog" cases and governmental entities in prosecuting "dangerous dog" cases, as well as drafting effective dog bite control ordinances for localities.

I applaud Senator Beagle's efforts to reform this state's ineffective "dangerous dog" laws. It is critical to hold dog owners responsible for the behavior of their dogs and not to unfairly punish dogs for the mistakes of those owners. Effective dangerous dog laws target owners and dogs who truly pose a risk to animals or people, while allowing for situations in which aggressive behavior is justified, such as when a dog is protecting their owner, themselves, their property, or their offspring. With that in mind, I am concerned that many of the deficiencies of current state law are carried over into SB 151.

Unmodified provisions of the current "dangerous dog" law.

- (1) The keeping requirements still encourage the handlers of classified dogs to take their dogs off premises to walk them on a leash, rather than keeping them contained on their own property.
- (2) The keeping requirements are still not in accord with commonly accepted dog behavior, training, and safety standards. For example, the use of a six foot long chain link lead is extremely dangerous in that it often does not adequately allow a dog handler to control any dog.
- (3) The keeping requirements do not specify any height for the required fence or pen. There is no specific ability to keep a classified dog contained in a house.
- (4) There is no obedience training required for any classified dog, meaning those dogs and their owners are required to undergo no rehabilitative efforts.
- (5) There is no identifier for classified dogs. These dogs are essentially invisible but for the "dangerous dog" license tag. A classified dog is not required to wear any special collar, harness, leash, or other garment that would identify the animal to a passerby.
- (6) Owners of classified dogs are not required to notify individuals coming in

contact with a classified dog about that dog's status. This leaves individuals and professionals, such as veterinarians and groomers, at risk.

- (7) Dogs are classified for causing any "injury," even a scratch, bruise, or for a non-aggressive act, such as jumping up on a person and licking their face or two dogs engaging in play, where one dog falls and skins its leg. The "dangerous dog" law is overbroad and not limited to aggressive bites.
- (8) There is no mechanism for declassification of a dog, encouraging owners of classified animals to simply go out and get another dog, leaving the owner uneducated and still placing the public at risk.
- (9) "Without provocation" is still so strictly defined that it causes many non-aggressive dogs to become classified. For example, a dog that is defending itself during an attack perpetrated by another dog or a dog that is defending its owner's empty house from a burglar do not qualify as incidents that were perpetrated "with provocation."
- (10) It is not clear if local police/animal wardens can enforce state code classifications for incidents that occur within their jurisdictions.

Concerning modifications to the current "dangerous dog" law.

SB 151 also contains modifications to existing law that are extremely concerning.

(1) Most notably, SB 151 provides that a dog that kills any companion animal will be automatically euthanized. A dog that kills a hamster in their home or a feral cat that wanders into their yard (both companion animals) would be euthanized. It also provides that a dog that kills any human will be automatically euthanized. Again, because acts other than aggressive bites qualify as "vicious" behavior, a large, happy Labrador Retriever that accidentally trips an elderly woman, resulting in her death, will be automatically euthanized.

(2) SB 151 requires a dog owner to respond to an investigation notice within 48 hours. As "dangerous dog" cases can result in criminal offenses, this requirement dangerously impedes an individual's right to remain silent.

(3) SB 151 places the burden of proving a dog acted "without provocation" on the dog's owner. This will result in a drastic increase in "dangerous dog" classifications, as dog wardens will have no discretion to determine whether the dog's behavior was provoked and, therefore, not issue a classification. This will result in increased burden on dog wardens, prosecutors, and the courts. Moreover, most dog owners do not have the skill or expertise to defend a "dangerous dog" case as the law currently exists. If SB 151 passes in its current form, there can be no doubt that many good dogs will be needlessly euthanized for no reason other than that their owners could not afford counsel and/or an expert witness to testify that their dog acted "without provocation." As these are civil designations, the courts cannot appoint a public defender or other appointed counsel.

(4) SB 151 enacts a fifth degree felony provision for a dog that causes “serious physical harm.” The use of “serious physical harm” as a gauge for the degree of crime when it comes to these situations puts medium and large dog owners unfairly at risk. An owner of a Golden Retriever that shows no signs of aggression, but knocks over a woman on the street, breaking her wrist, will face a fifth degree felony charge. The owner of a Chihuahua, on the other hand, would likely never face the possibility of a fifth degree felony for even a bite incident.

Beneficial provisions.

SB 151 does contain some much needed provisions. It increases the degree of crime for the failure to appropriately register or transfer a dog. It also clarifies that dog wardens and deputies have the same police powers as are conferred on sheriffs and police officers in the performance of their duties. The bill also requires the Ohio Peace Officer Training Commission to recommend rules establishing requirements for the training of dog wardens. Most importantly, SB 151 attempts to close an existing loophole that causes no classification for dogs that bite, but not kill, other companion animals.

Suggested modifications.

Ohio’s current “dangerous dog” law leaves much to be desired. Well-crafted dangerous dog laws are an important part of preventing and remedying dog bites. The vast majority of the time, dog bites can be prevented via education and rehabilitation of the person holding the leash. Effective dangerous dog laws ensure that education and rehabilitation occur and also use the criminal justice system to punish serious offenses.

One successful example of a case-by-case, person-by-person, and dog-by-dog approach can be found in Avon Lake, Ohio. This jurisdiction, like many others, has chosen to incorporate a multi-level classification and criminal punishment system for truly aggressive dogs and negligent owners. I drafted this legislation. Unfortunately, the city was limited by the current restrictions of state code as it relates to the nuisance, dangerous, and vicious dog classifications. I encourage this Committee to review Avon Lake’s unique “potential nuisance dog” provisions, which focus on recognizing and preventing aggressive dog behavior and could easily be translated into systems for nuisance, dangerous, and vicious dogs.

I believe the goals of the sponsors, which are to prevent dog bite tragedies, are easily attainable. However, if SB 151 is passed in its current form, it would create far more issues than this bill hopes to remedy. I ask that this Committee refrain from vote on this matter until the issues can be fully researched and discussed.

I appreciate your consideration and attention to this matter.

Yours truly,

DanaMarie K. Pannella
Attorney at Law