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Nigel Graham

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ILLINOIS PASSES NEW LAWS IN RESPONSE TO DOG ATTACKS

by NIGEL GRAHAM

On May 31, 2006, Governor Rod Blagojevich passed three new laws targeting owners of dangerous dogs to safeguard the public following a number of attacks.¹ Public Act 94-819 toughens penalties for owners of dangerous or vicious dogs who attack or kill a person, Public Act 94-820 creates harsher penalties for individuals involved in dog fighting, and Public Act 94-818 provides restrictions on dog ownership by certain felons, the nation's first law of this type.²

A number of brutal dog attacks in the news prompted Illinois lawmakers to act.³ Nick Foley, a 10-year-old from Cary, Illinois, narrowly survived an attack

by his neighbor's trio of pit bulls.⁴ Nick spent six weeks in the hospital, and has endured multiple surgeries and physical therapy to repair the damage to his legs, ankles, and right forearm, where the attack tore away muscle leaving nearly just the skin and bone.⁵ Anna Cieslewicz, a 48-year-old woman was killed by two pit bulls while jogging in Chicago's Dan Ryan forest preserve.⁶

Illinois State Representative Jerry Mitchell became involved after a 14-year-old girl in his district died after she was attacked by three pit bulls and a boxer.⁷ The county attempted to prosecute the owner of the dogs for murder, but instead he was only fined.⁸ Mitchell originally attempted to pass breed specific legislation, declaring 10 breeds of dogs dangerous including pit bulls, rottweilers, and chows.⁹

However, the breed specific language was removed after groups such as the American Society for the Prevention of Cruelty to Animals (ASPCA) and the American Kennel Club voiced opposition.¹⁰ Ledy VanKavage, an attorney with the ASPCA, contends that targeting breeds is not the answer.¹¹ "Any breed is capable of biting a person, therefore, each dog should be judged individually," stated VanKavage.¹² According to the ASPCA, it is the dog's hormones, and not their breed, that causes them to attack people.¹³ VanKavage cited an American Veterinary Medical Association (AVMA) report from September of 2000, which shows that 89 percent of the 28 nationwide dog attacks that caused death were committed by dogs that were not spayed or neutered.¹⁴

Public Act 94-819, which created the new tougher penalties for the owner of a dog who attacks someone, only applies in cases where the dog involved has already been declared vicious or dangerous.¹⁵ For a dog to be declared dangerous, local animal control must determine that the dog was not on the owner's property and was "unmuzzled, unleashed, or unattended," and bit someone, without justification, but did not cause serious injury.¹⁶ For a dog to be declared vicious, the circuit court must determine that the dog attacked a person, without justification, and caused serious injury or death.¹⁷ In Cook County, only 10 of 4,173 bites reported in 2005 led to a dog being declared dangerous.¹⁸

"Law enforcement says that just about every time they bust a crack house or meth lab they have to fight their way through at least one, usually more, vicious dogs" said Rep. Mitchell.¹⁹ In response, Mitchell sponsored Public Act 94-818, which becomes effective on January 1, 2007.²⁰ This bill requires that

individuals convicted of certain felonies for drugs, inhumane treatment of animals, or forcible felonies, for a period of ten years after their release from incarceration, cannot own or reside with a dog that is not spayed or neutered, or a dog that has been declared vicious.²¹ The law also provides that dogs owned, possessed by, or in the custody of such felons must be microchipped for permanent identification.²² While there are no plans for widespread enforcement when this bill takes effect, the purpose is “to provide a tool for law enforcement” who already know the problem residences.²³

The ASPCA endorsed Public Act 94-818.²⁴ VanKavage said that the felony provision has a “very rational basis” and further, that they “do not want to allow felons to use these dogs or to make money off of them.”²⁵ Rep. Bill Black (R-Danville) opposed the bill stating, “I’ve been blessed with a number of dogs who’ve let me be part of their lives, and knowing how important that relationship is with the dogs, I can’t in good conscience vote for this bill.”²⁶

More states and municipalities may be following in the footsteps of Illinois’ new dangerous dog legislation.²⁷ Rep. Mitchell’s office is currently working with the Los Angeles County Board, who are interested in adopting a version of Public Act 94-818 to manage dog ownership by felons.²⁸ As high profile dog attacks continue, so will new legislation.

NOTES

1 *Gov. Blagojevich Signs Legislation Toughening Penalties Against Owners of Vicious Dogs That Endanger Public*, U.S. ST. NEWS SERVICE, May 31, 2006, available at 2006 WLNR 9382376.

2 *Id.*

3 Brian Mackey, *New Laws Put More Bite in Dog Measures*, CHI. DAILY LAW JOURNAL, June 1, 2006 at 1.

4 Carolyn Starks and John Keilman, *Finding Strength to be a Kid: As Nick Foley heals, family and neighbors struggle to resume their own lives*, CHI. TRIBUNE, August 15, 2006, available at 2006 WLNR 14104516.

5 *Id.*

6 Carolyn Starks, *State is Nipped Over Law on Dogs: Plan to Cut Attacks too Slow, Group Says*, CHI. TRIBUNE, September 15, 2006, available at 2006 WLNR 16035726.

7 Telephone Interview with Robin Blackart, Legislative Assistant to Rep. Jerry Mitchell (R-Rock Falls) (Oct. 2, 2006).

8 *Id.*

9 Kirsten Singleton, *Bill Tightens Leash on Animal Control*, THE STATE JOURNAL-REGISTER, Mar. 10, 2005 at 21.

- 10 Telephone Interview with Blackart, *supra* note 8.
- 11 Telephone Interview with Ledy VanKavage, Senior Director of Legal Training and Legislation for the ASPCA (Oct. 2, 2006).
- 12 *Id.*
- 13 *Id.*
- 14 *Id.*
- 15 2005 Ill. Laws 819.
- 16 510 ILL. COMP. STAT. ANN. 5/2.05a (West 2005).
- 17 510 ILL. COMP. STAT. ANN. 5/15 (West 2005).
- 18 Cara Spoto, *How Proposed Dog Laws Lack Teeth*, CHI. DAILY HERALD, May 11, 2006 at 9, *available at* 2006 WLNR 8402520.
- 19 Spoto, *supra* note 18.
- 20 Telephone Interview with Blackart, *supra* note 7.
- 21 2005 Ill. Laws 818.
- 22 *Id.*
- 23 Telephone Interview with Blackart, *supra* note 7.
- 24 Telephone Interview with VanKavage, *supra* note 8.
- 25 *Id.*
- 26 Philip Ewing, *Bill Aims to Take Bark out of Felons: They Would be Barred From Owning Dogs Unless Precautions are Taken*, ST. LOUIS DISPATCH, April 8, 2006 at A12, *available at* 2006 WLNR 5959040.
- 27 Telephone Interview with Blackart, *supra* note 7.
- 28 *Id.*