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November 11, 2010

Representative Chuck Hopson
214 South Main
Jacksonville 75766
(903) 541-2250
(903) 586-0823 (Fax)

Senator Kevin Eltife
3304 South Broadway, Suite 103
Tyler, Texas 75701
(903) 596-9122
(903) 596-9189 (Fax)

RE: Pit Bull ban legislation

Senator Eltife and Representative Hopson:

My client, Serenia Clinton of Rusk County, and I ask each of you to consider sponsoring some type of legislation to ban pit bull dogs or to severely restrict the ability of individuals to own these inherently dangerous animals. I know that you have trained and professional staff who can draft this type of legislation. Hopefully you will put them to work on this issue so that people, particularly children, in your district and the state can enjoy better protection from pit bull dogs. We are asking you to sponsor a bill called “Justin’s Law” to outlaw pit bull dogs in Texas.

I believe that the best action to stop this senseless loss of life and traumatic injury to people caused by pit bulls is to outright ban the breed. A loud and vocal minority will rise up and claim that their pit bulls are only lovable pets. However, the facts demonstrate that this breed of dog, more than any other breed of dog, is deadly and unreasonably dangerous.

Over 500 U.S. cities and most military housing areas (the U.S. Army and U.S. Marine Corps) have adopted breed specific laws to try and address the pit bull caused injuries and problems. There has been an organized attack against breed specific legislation. However, our legislature is certainly empowered to pass a state law banning this breed of dog.

Don Kent and I just completed a trial in Rusk County, Texas where we represented Serenia Clinton and her deceased son, Justin Clinton. Ten year-old Justin was mauled to death by two pit bull dogs (one a pit mix) in June of 2009. The jury heard evidence in the civil case for a week and returned a verdict of strict liability against the dog owners and awarded more than seven million dollars in damages to Ms. Clinton. However, the owners had no home owner's insurance and our client will likely never see a dime even toward Justin's funeral expenses. Not that money could ever bring a dead child back to life, but this fact just added insult to injury to the Clinton family. Our client asked us to pursue the civil trial so that somewhere in our judicial system Justin could have justice.

I believe that the only true justice for this tragedy is that Justin Clinton's story and the story of dozens of Justins in our country results in the legislature finally just banning this dog breed.

In 2008 there were 23 fatal dog attacks in the United States. Fifteen of those (65%) were caused by pit bull dogs. In 2009 there were 32 fatal dog attacks in the United States. Fourteen (44%) were caused by pit bulls. The breed with the next highest level of fatal incidents is the Rottweiler who in 2009 accounted for 13% of the dog attack fatalities. Please note that pit bulls only account for approximately 5% of the entire U.S. dog population but account for anywhere from 44 to 65% of all dog attack fatalities. I think that the injuries and deaths they occur are fairly breed specific and so a ban of this breed is justified.

In 2007 the legislature attempted to address the dog attack problem with Lillian's law. However, this legislation has such serious drawbacks that prosecutors can often use another portion of the penal code dealing with criminal negligent homicide rather than jump through the Lillian law hoops. Pit bulls should be a "dangerous dog" per se. There should not be any requirement for a showing that the dog had bitten before or that an owner knew or should have known of the dangerous propensities of their specific dog. If someone owns a pit bull, that should be against the law.

As the representatives for Rusk County, Texas, Serenia hopes that each of you will take the lead in banning pit bull dogs. In light of the fact in less than 18 months two children have been mauled to death in Rusk County by pit bull dogs, you are each a natural choice to stand up for the lives of your youngest and most vulnerable constituents and their families.

I have enclosed two separate working drafts of Justin's Law legislation. The first is an outright ban on pit bulls. It makes the possession of a pit bull a third degree felony. This, of course, is Serenia's first choice for legislation. However, understanding that you might need a fallback position, I have drafted a second, less desirable, option which outlaws pit bulls but provides for a defense if the dog possessor has taken specific steps to control the pit bull, secure their premises, and maintain insurance.

I would love to talk with you or your legislative drafting aids to work on something for you to file during the 2011 legislative session in Texas. My husband, Don, and I want to do whatever we can to assist you in encouraging other legislators to support this ban and pass this

type of effective legislation. Today, I am sending these "Justin's Law" bills for your review and our discussion. Next week I hope to have a packet of information for your office regarding Justin's case, the danger of these animals, and copies of ordinances, rules and legislation I other states dealing with this breed of dog.

Please give me a call so that I can set up a time to meet with you and discuss this proposed ban on pit bulls.

SINCERELY,


CYNTHIA STEVENS KENT

CSK:cm

JUSTIN'S LAW

PROPOSAL #1

TEXAS PENAL CODE

TITLE 10. OFFENSE AGAINST PUBLIC HEALTH, SAFETY, AND MORALS

Section 46.01 Definitions

In this chapter:

- (17) "Pit bull" means any dog that is a full or mixed breed of an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, American Bull or any dog displaying the majority of physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.

Section 46.14 Possession of a Pit Bull

- (a) A person commits an offense if he intentionally or knowingly possesses a pit bull.
- (b) An offense under this section is a felony of the third degree.

JUSTIN'S LAW

PROPOSAL #2

TEXAS PENAL CODE

TITLE 10. OFFENSE AGAINST PUBLIC HEALTH, SAFETY, AND MORALS

Section 46.01 Definitions

In this chapter:

- (17) "Pit bull" means any dog that is a full or mixed breed of an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, American Bull or any dog displaying the majority of physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.

Section 46.14 Possession of a Pit Bull

- (a) A person commits an offense if he intentionally or knowingly possesses a pit bull.
- (b) It is a defense to prosecution under this section that the actor:
- (1) The owner of a pit bull, who has applied for and received a dog license for such pit bull from the State in accordance with section (c) of this section, on or before 10 days from the date of acquiring possession of the pit bull; and
 - (2) The possessor of the pit bull at all times, when a pit bull is at the property of the owner or possessor, securely confines the pit bull in the owner's residential structure or

securely confines the pit bull in a secure outdoor enclosure which meets all of the following requirements:

- (A) The enclosure must have secure sides and a secure top, or all sides must be at least eight (8) feet high;
 - (B) The enclosure must have bottom permanently attached to the sides or sides embedded into the ground not less than one (1) foot; and
 - (C) The enclosure must be of such material and closed in such a manner that the pit bull cannot exit the enclosure on his own; and
 - (D) The enclosure must be secured against the unauthorized entry by a minor on their own accord; and
 - (E) A conspicuous and clearly legible sign must be posted and continuously maintained at each possible entrance to the pit bull enclosure and to the owner's property where the pit bull is kept. Such sign must be rectangular with dimensions of at least one foot (12 inches) in height by two feet (24 inches) in width, with lettering of not less than two (2) inches in height and proportional width that shall read as follows:

'WARNING, PIT BULL DOG'; and
3. The possessor of the pit bull at all times, when a pit bull is not securely confined at the property of the owner or possessor, shall keep the pit bull either securely leashed and muzzled; and
 4. The possessor of the pit bull shall maintain liability insurance in the amount of at least two hundred and fifty thousand dollars (\$250,000.00), covering any damage or injury which might be caused by a pit bull; and
 5. The possessor shall, at the possessor's own expense, have the pit bull spayed or neutered within ten (10) days of obtaining possession of the dog; and

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6. A micro-chip emitting a electronic signal carrying a unique identifying code shall be subcutaneously implanted in the pit bull within ten (10) days of obtaining possession of the dog and such unique identifying code information is maintained by a licensed veterinary in the State of Texas;
- (c) An offense under this section is a felony of the third degree.