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Senator Jared Carpenter
702 Capital Ave
Annex Room 209
Frankfort, KY 40601

RE: HB 112

Dear Senator Carpenter,

I write now to request that you correct the poor public policy of leaving injured Kentuckians in the lurch when they are injured by a dog attack caused by a dog belonging to someone who rents and is considered a "tenant." Please consider introducing and/or supporting legislation that will correct HB112, which was sponsored by Wesley Morgan and passed in 2017. The Bill amended KRS 258(5)(b)3 and 4 to state "and occupied" instead of "or occupied" having the effect of removing strict liability for landlords who allow tenants to keep dogs that attack innocent Kentuckians. This means that if a dog gets loose from an apartment and mangles a child's leg, unless the tenant had renter's insurance (unlikely) or the landlord had actual knowledge of the "dog's vicious or mischievous propensities and had control over the area when the attack occurred," then the child's parents must figure out how to pay for the child's medical care or possibly go without. The words "and occupied" should be amended to "or occupied" in these subsections, as it was prior to 2017, as the current language discourages landlords from properly vetting their tenants and allows them to house dangerous animals without personal responsibility for severe injuries that are caused to innocent bystanders; oftentimes curious young children or elderly individuals who have poor balance or low mobility.

Absent application of KRS 258.235(4), dog bite cases are governed by common law negligence. *Maupin v. Tankersley*, 540 S.W.3d 357, 359 (Ky. 2018). At common law, a dog owner is not liable absent knowledge of the dog's vicious propensities, i.e., the "one free bite" rule. *Dykes v. Alexander*, 411 S.W.2d 47 (Ky. 1967). Under common law, a landlord may be liable if it is established that the landlord (1) knew of the dog's vicious or mischievous propensities and (2) had control over the area when the attack occurred. *McDonald v. Talbott*, 447 S.W.2d 84, 85-86 (Ky. 1969); *Ireland v. Raymond*, 796 S.W.2d 870, 871-72 (Ky.App. 1990). *Paige v. McCord*, No. 2017-CA-000188-MR, 2018 WL 6434518, at *3 (Ky. Ct. App. Dec. 7, 2018).

The current state of the law is grossly unjust to innocent Kentucky children but also to our vulnerable elderly who are even more likely to suffer serious injury or death from being knocked

down by a playful, heavy dog or attacked by an overprotective or dangerous canine. Further, this law disparately impacts poverty-stricken Kentuckians who must rent more than Kentuckians who can afford to purchase a home. This law is a slap in the face to poor and vulnerable Kentuckians and it must be redressed.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert A. Morrin". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Robert A. Morrin

RAM/jla