

Testimony at a Hearing on Senate Bill 1534
“Fabian’s Law”
Before the Arizona House of Representatives’
Judiciary and Government Committees

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Senate Bill 1534 requires dog owners who know their dogs are dangerous to people or pets to exercise a higher standard of care and to face stiffer penalties if their dogs attack. I support this bill addressing a loophole in state law allowing owners who fail to control their aggressive dogs to escape responsibility for dog-on-dog attacks. Current state law only addresses dog attacks on people.

SB 1534 amends animal control laws – A.R.S. Title 11, Chapter 7, Article 6, by adding § 11-1014.01 and amending § 13-1208.

I. What is Fabian’s Story?

Senate Bill 1534, passed in the Senate 30-0. Deemed “Fabian’s Law,” the content of the bill was initiated by Sally and Richard Andrade, a Glendale couple, who, over a year ago, lost their beloved miniature apricot poodle, Fabian, when he was attacked and viciously killed in their driveway by a neighbor’s loose pit bull. Cecilia Chan, *Glendale Couple Seeks State Law Regarding Dog-On-Dog Attacks*, AzCentral, Aug. 6, 2010, <http://www.azcentral.com/community/glendale/articles/2010/08/06/20100806glendale-dog-attacks-law.html>. Sally was walking Fabian on a leash one peaceful evening when the pit bull charged. Id. Immediately, Sally found herself in a fight for Fabian’s life, trying desperately to free Fabian from the aggressive dog’s vice-like mouth. Id. Sally rushed Fabian to an emergency animal hospital, but it was too late. Id. Sally and Richard were shocked to learn no recourse existed for them via the law. Id.

II. How Does Fabian’s Story Call for Reform?

Current state law fails to address dog-on-dog attacks and owners who know their dogs are dangerous and aggressive but do not prevent their access to our neighborhoods. Some cities provide limited recourse, but Glendale’s laws failed to help Richard and Sally. Cities who do provide recourse allow misdemeanor prosecution if an attacking dog was both at large *and* unlicensed at the time of attack. Id. What happens when an aggressive dog is at-large and licensed? This is the loophole. The Andrades have steadily pushed for Arizona legislative reform since Fabian’s death and plan to pursue reform nationally once Fabian’s Law takes hold in Arizona. Fabian’s Law, <http://fabianslaw.com>.

This year, at least partially due to Richard's and Sally's urging, Representative Steve Montenegro and Senator Al Melvin sponsored twin bills requiring the higher standard of care. Cecilia Chan, *Glendale Pair Push for Owner's Control of Aggressive Dogs*, AzCentral, Mar. 14, 2011, <http://www.azcentral.com/community/glendale/articles/2011/03/14/20110314glendale-aggressive-dogs-bills.html>.

Last year, a senator concerned about "government intervention in our lives" worked to kill a similar bill. Fabian's Law. Rather than increasing regulation, however, Fabian's Law is a remedy for the loophole. Now, after experiencing overwhelming 30-0 support from the Senate, Fabian's Law must only be approved by the House to be signed by the Governor. Interview with Richard and Sally Andrade, initiators of Fabian's Law, in Glendale, Ariz. (Mar. 20, 2011).

III. What Will Fabian's Law Change?

Fabian's Law will augment current law by requiring that a person who owns, or is responsible for, an aggressive dog prevent such dog from biting or attacking any person or domestic animal, at all times, while the dog is off the owner's, or responsible person's, property. S.B. 1534, 50th Leg., 1st Reg. Sess. (Ariz. 2011). It also requires a person who owns, or is responsible for, an aggressive dog to prevent such dog from escaping from a residence, an enclosed area, a yard, or a structure. *Id.* An aggressive dog is defined as a dog that has a known history of biting any person or domestic animal without being provoked or has been deemed aggressive by a court. *Id.* Finally, Fabian's Law reclassifies an owner's or responsible party's failure to control their aggressive dog preventing attacks on people from a misdemeanor to a felony. *Id.*

I support Fabian's Law as good public policy because it curbs the escalation of aggressive dog issues by holding owners accountable, incentivizing responsibility. According to Maricopa County Animal Care and Control's Director, Dr. Silva, there were 580 reports of dogs attacking other animals in 2009. Chan, *supra*, 2010. In 2010, there were 900 reports of dog-on-dog attacks. Chan, *supra*, 2011. Richard learned through researching for and drafting the bill that dogs that attack other dogs eventually turn their aggression toward humans. Interview with Richard and Sally Andrade, initiator of Fabian's Law, in Glendale, Ariz. (Mar. 20, 2011). Dr. Silva strongly supports the Andrades calling current laws "insufficient" to protect pets and people. Chan, *supra*, 2011.

IV. Why Support Fabian's Law?

My family and I, too, support Fabian's Law because it is bad public policy to ignore a loophole, allowing an irresponsible pet owner to escape responsibility when the owner knows their dog may cause serious harm. To lose a beloved pet to death is difficult, but to lose a beloved pet because of an irresponsible, careless, or intentional act of another, is, I

can only imagine, unbearable. Sally Andrade sought grief counseling when she lost Fabian. Chan, *supra*, 2010.

My two boys, Braxton and Baker, love their dog, Mo, just as the Andrades loved Fabian. Mo is not only my boys' dog, he is their "brother." When counting the members of our family, or drawing pictures for school, both boys always spontaneously included Mo. The boys put Mo to bed each night, feed him, bake him cookies, walk him, celebrate his birthday, and fill his Christmas stocking with gifts. In return, Mo offers companionship, listening to every word they say, consoling them, enduring a five-year-old as he learns social skills, and most importantly, Mo unconditionally loves them. I know how special their bond is. To lose Mo to an aggressive dog-on-dog attack would be as tragic for our family as it was for Richard and Sally.

In addition to the dog-attacking-dog factor, as a mom, I am also concerned about the people factor. Small children are most vulnerable to being attacked when a dog turns its aggression toward humans. Dogs operate by rank-order in a pack, and aggressive dogs assert dominance by charging and attacking, putting small children at high risk. *Children Often Most Vulnerable to Dog Attacks*, CNN Health, Feb. 25, 2000, http://articles.cnn.com/2000-02-25/health/dog.bite_1_dog-attacks-dog-trainer-rottweiler?_s=PM:HEALTH.

Children are not the only people at high risk, some adults, like me, are also particularly vulnerable. My spleen was surgically removed several years ago, and as a result, I am particularly susceptible to overwhelming sepsis (bacteria in the blood), and rapid death, from an infection caused by bacteria commonly present in dog saliva that is harmless to a person with a spleen. Without immediate IV antibiotic treatment, I would quickly die. This thought constantly lurks in my mind when I see loose dogs roaming in my neighborhood, dogs like the one that attacked little Fabian.

Holding owners of aggressive dogs accountable for controlling their dogs protects beloved pets and innocent people. I hope, ladies and gentlemen, Fabian did not die in vain. Please join me in supporting Fabian's Law.

Appendix

Stakeholders most likely to support the bill are:

- those who have lost a pet to a vicious attack by another's animal because they have experienced the tragedy, pain, loss, and suffering first-hand;
- responsible, average, everyday citizens who enjoy life with pets because they can't imagine parting with a beloved pet, especially in a tragic and senseless way;
- suburban neighborhood families because they desire safety for themselves, their children, and their extended families;
- those who own service animals because they depend on and care deeply for their companions who help meet their needs;
- police officers and animal control workers because they are at risk as they deal with aggressive dogs and they see first-hand the damage due to vicious dog attacks;
- other city, county, state, or other public employees charged with caring for public places, parks, or the public itself because part of their job is to keep the public safe and to prevent damage and loss to citizen taxpayers; and
- those whose political beliefs include the idea that people should be held personally responsible for their actions, omissions, and personal property because the law can incentivize responsibility and punish irresponsible wrongdoers.

Stakeholders likely to oppose the bill are:

- irresponsible dog owners who pride themselves in breeding and owning aggressive, intimidating dogs because they enjoy the power of controlling others by threat and intimidation and enjoy inducing fear and hurt and may desire to evade responsibility for their actions or the behavior of their dogs.
- responsible dog owners who own dogs of breeds considered "bully breeds" such as pit bulls, American bull dogs, rottweilers, mastiffs, akitas, chow-chows, and Doberman pinschers because they feel that perfectly sweet, kind, and docile dogs such as theirs are stereotyped and maligned even if they do not have aggressive propensities;
- those who employ watch dogs or guard dogs who are aggressive by design because their financial, personal, or business interests may be compromised; and
- those whose political beliefs include the view that government does not have a role or place in regulating people's personal lives, and they would consider pet ownership part of their personal life because they desire a freedom from government intrusion, fear government, or have a high need for privacy.

Sources

Cecilia Chan, *Glendale Couple Seeks State Law Regarding Dog-On-Dog Attacks*, AzCentral, Aug. 6, 2010, <http://www.azcentral.com/community/glendale/articles/2010/08/06/20100806glendale-dog-attacks-law.html>.

Cecilia Chan, *Glendale Pair Push for Owner's Control of Aggressive Dogs*, AzCentral, Mar. 14, 2011, <http://www.azcentral.com/community/glendale/articles/2011/03/14/20110314glendale-aggressive-dogs-bills.html>.

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