Lawmakers vow to bring back dog bite

Finger-pointing marks one of a few marquee failures in session

By STEVE LASH
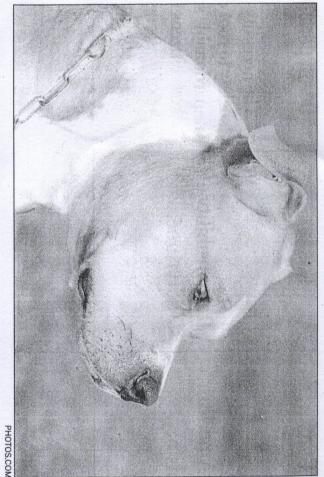Steve.Lash@TheDailyRecord.com

The **General Assembly's** failure to pass legislation in response to a controversial court decision imposing strict liability on pit bull owners and their landlords for injuries caused by the animals still stings for some.

The assembly's final, ill-fated compromise would have relieved landlords of strict liability and imposed near-strict liability on dog owners, regardless of breed, but only for injuries their pets cause to children under age 13. Owners could escape liability if the child had trespassed or engaged in criminal delinquency, such as provoking the animal.

In dog attacks involving older victims, the owners would be able to rebut the presumption of liability by showing by a preponderance of the evidence that they had no reason to suspect their dog had a vicious propensity.

The legislation cleared the **Senate** but died in the **House of Delegates** amid concern that owners would have near-certain liability for any injury related to their dog, or as opponent Del. Benjamin Kramer said, "a nip from Fifi."

Kramer, D-Montgomery, said this week that he wants the General Assembly to have a one-day special session to pass legislation on the single dog-related

issue upon which the Senate and House agree: that landlords should not be held strictly liable for injuries caused by their tenants' pit bulls, as is the current law under the Court of Appeals April 2012 ruling in *Tracey v. Solesky*.

In its controversial decision, the **Court of Appeals** held that a pit bull owner and the owner's landlord could be held strictly liable for the dog's 2007 mauling of a 10-year-old boy. Dominic Solesky underwent five hours of surgery to repair his femoral artery after the pit bull attack, according to the high court's opinion.

Landlords, fearing strict liability, have

forced tenants to choose between staying in their rental homes or getting rid of their pit bulls, Kramer said.

"We have an obligation and a responsibility to protect the family pets of our residents," he said. Tenants "should not be put into that position. That's what we have to stop."

Kramer said he plans to consult soon with Gov. Martin O'Malley, Senate President Thomas V. Mike Miller Jr., D-Prince George's and Calvert, and House Speaker Michael E. Busch, D-Anne Arundel, on a special session.

O'Malley spokeswoman Raquel Guillory said "the governor would likely have

Del. Benjamin Kramer wants a special session to resolve a dog-bite bill, because 'we have an obligation and a responsibility to protect the family pets of our residents.'

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of dog owners."

Attorney Thomas Schild, who represents condominium and homeowner associations, said the *Solesky* decision and the legislature's inaction are "worse" for his clients than they are for landlords.

"The landlord can more quickly terminate the tenant" by giving notice, said Schild, of Thomas Schild Law Group LLC in Rockville. "Typically, you can't remove the owner."

In light of *Solesky*, Schild said, he advises homeowners associations to re-examine provisions in their governing documents and include provisions banning "dangerous animals," thereby not singling out pit bulls. The associations can then enforce the provision through

a conversation with legislative leaders and the delegate" before committing to a special session.

Katherine Kelly Howard, of the **Maryland Multi-Housing Association**, said landlords and similar groups, such as homeowners associations, were "surprised" and "incredibly disappointed" by the General Assembly's failure to at least pass a measure that would relieve them of strict liability for injuries caused by pit bulls.

"Landlords, like all third-party folks in these situations, have to be terribly concerned about their liability with regard to pit-bull type dogs," she said. "The immediate dramatic concern is whether people have to decide between their dogs or their homes. That Hobson's choice might very well be faced by a lot