

# WEST VIRGINIA CODE: §19-20D-2

## **§19-20D-2. Procedure; petition to magistrate court; elements of action; burden of proof; attorney fees; limitation of action.**

(a) A person seeking relief under this article may apply to the magistrate court in the county where the dog owner resides, or the county where the injury occurred, by verified petition setting forth and affirming the following:

(1) That the owner of the dog resides in the county where the petition is filed or the attack giving rise to the action occurred in the county where the petition is filed;

(2) That the petitioner was:

(A) Attacked by the dog and the attack resulted in personal injuries requiring medical treatment in the amount of \$2,000 or more; or

(B) Attacked by the dog and the dog had engaged in a separate attack on a person causing personal injury requiring medical treatment within the previous twelve months; and

(3) That the petitioner did nothing to provoke the dog.

(b) The petition and summons shall be served on the respondent in the manner set forth in Rule 4 of the West Virginia Rules of Civil Procedure.

(c) The petitioner must prove the allegations in the petition by clear and convincing evidence.

(d) The prevailing party is entitled to an award of reasonable attorney fees and costs.

(e) The limitations of the cause of action in this article are as follows:

(1) Relief, other than attorney fees and costs in subsection (d) of this section, is limited to an order directing that the owner of the dog have the dog euthanized; and

(2) The cause of action provided by this article does not establish statutory liability nor does it supplant a common law negligence cause of action.