WEST VIRGINIA CODE CHAPTER 19 ARTICLE 20D

WV Legislature

§19-20D-1. Purpose.

The purpose of this article is to protect the public by providing a private cause of action seeking euthanasia of a dog in magistrate court to a person who has been attacked by a dog resulting in personal injuries requiring medical treatment which cost $2,000 or more, or who has been attacked by the dog and the dog had attacked a person causing personal injury which required medical treatment within the previous twelve months.

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§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.

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§19-20D-3. Order of the magistrate court.

(a) If the trier of fact finds by clear and convincing evidence that the dog which is the subject of the action under this article has attacked the petitioner and caused personal injuries requiring medical treatment in the amount of $2,000 or more or that the dog attacked the petitioner and within the twelve month period prior to the attack had engaged in a separate attack causing personal injury requiring medical treatment, then the court shall order the owner of the dog to have the dog euthanized.

(b) The magistrate court shall issue and file a written order that sets forth the following:

(1) Findings of fact and conclusions of law; and

(2) If the court orders euthanasia, a specific date upon which the owner of the dog must have the euthanasia performed and a direction that documentation be mailed to the petitioner and filed with the court by a specific date showing that the procedure was performed.

(c) If the court does not order euthanasia, the court shall order that the petition be dismissed with prejudice.

(d) The court may award reasonable attorney fees and costs to the prevailing party.

WV Legislature