

SENATE BILL 247

D3
SB 160/13 – JPR

EMERGENCY BILL

4r0492
CF HB 73

By: **Senators Frosh, Forehand, Gladden, Hershey, Jacobs, Jennings, Shank, and Stone**

Introduced and read first time: January 17, 2014

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: February 26, 2014

Returned to second reading: February 26, 2014

Senate action: Adopted with floor amendments

Read second time: February 26, 2014

CHAPTER _____

1 AN ACT concerning

2 **Civil Actions – Personal Injury or Death Caused by Dog – Rebuttable**
3 **Presumption**

4 FOR the purpose of establishing that certain evidence creates a certain rebuttable
5 presumption in an action against an owner of a dog for damages for personal
6 injury or death caused by the dog; prohibiting a judge in a jury trial from
7 making a certain ruling before the jury returns a verdict; establishing that
8 certain common law is retained as to certain persons; establishing that the
9 owner of a dog is liable for injury, death, or loss to person or property that is
10 caused by the dog while the dog is running at large; establishing certain
11 exceptions; providing for the construction and application of this Act; stating the
12 intent of the General Assembly; making this Act an emergency measure; and
13 generally relating to civil liability for personal injury or death caused by a dog.

14 BY adding to

15 Article – Courts and Judicial Proceedings

16 Section 3–1901 to be under the new subtitle “Subtitle 19. Personal Injury or
17 Death Caused by Dog”

18 Annotated Code of Maryland

19 (2013 Replacement Volume and 2013 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Courts and Judicial Proceedings**

4 **SUBTITLE 19. PERSONAL INJURY OR DEATH CAUSED BY DOG.**

5 **3–1901.**

6 (A) (1) IN AN ACTION AGAINST AN OWNER OF A DOG FOR DAMAGES
7 FOR PERSONAL INJURY OR DEATH CAUSED BY THE DOG, EVIDENCE THAT THE
8 DOG CAUSED THE PERSONAL INJURY OR DEATH CREATES A REBUTTABLE
9 PRESUMPTION THAT THE OWNER KNEW OR SHOULD HAVE KNOWN THAT THE
10 DOG HAD VICIOUS OR DANGEROUS PROPENSITIES.

11 (2) NOTWITHSTANDING ANY OTHER LAW OR RULE, IN A JURY
12 TRIAL, THE JUDGE MAY NOT RULE AS A MATTER OF LAW THAT THE
13 PRESUMPTION HAS BEEN REBUTTED BEFORE THE JURY RETURNS A VERDICT.

14 (B) IN AN ACTION AGAINST A PERSON OTHER THAN AN OWNER OF A DOG
15 FOR DAMAGES FOR PERSONAL INJURY OR DEATH CAUSED BY THE DOG, THE
16 COMMON LAW OF LIABILITY RELATING TO ATTACKS BY DOGS AGAINST HUMANS
17 THAT EXISTED ON APRIL 1, 2012, IS RETAINED AS TO THE PERSON WITHOUT
18 REGARD TO THE BREED OR HERITAGE OF THE DOG.

19 (C) THE OWNER OF A DOG IS LIABLE FOR ANY INJURY, DEATH, OR LOSS
20 TO PERSON OR PROPERTY THAT IS CAUSED BY THE DOG, WHILE THE DOG IS
21 RUNNING AT LARGE, UNLESS THE INJURY, DEATH, OR LOSS WAS CAUSED TO THE
22 BODY OR PROPERTY OF A PERSON WHO WAS:

23 (1) COMMITTING OR ATTEMPTING TO COMMIT A TRESPASS OR
24 OTHER CRIMINAL OFFENSE ON THE PROPERTY OF THE OWNER;

25 (2) COMMITTING OR ATTEMPTING TO COMMIT A CRIMINAL
26 OFFENSE AGAINST ANY PERSON; OR

27 (3) TEASING, TORMENTING, ABUSING, OR PROVOKING THE DOG.

28 (D) THIS SECTION DOES NOT AFFECT:

29 (1) ANY OTHER COMMON LAW OR STATUTORY CAUSE OF ACTION;
30 OR

31 (2) ANY OTHER COMMON LAW OR STATUTORY DEFENSE OR
32 IMMUNITY.

1 SECTION 2. AND BE IT FURTHER ENACTED, That, subject to Section 3 of
2 this Act, it is the intent of the General Assembly that this Act abrogate the holding of
3 the Court of Appeals in Tracey v. Solesky, 427 Md. 627 (2012).

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
5 construed to apply only prospectively and may not be applied or interpreted to have
6 any effect on or application to any cause of action arising before the effective date of
7 this Act.

8 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency
9 measure, is necessary for the immediate preservation of the public health or safety,
10 has been passed by a ye and nay vote supported by three-fifths of all the members
11 elected to each of the two Houses of the General Assembly, and shall take effect from
12 the date it is enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.