

HOUSE BILL 73

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EMERGENCY BILL
(PRE-FILED)

4lr0484
CF 4lr0492

By: **Delegate Simmons**

Requested: November 8, 2013

Introduced and read first time: January 8, 2014

Assigned to: Judiciary

A BILL ENTITLED

AN ACT concerning

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

FOR the purpose of establishing that certain evidence creates a certain rebuttable presumption in an action against an owner of a dog for damages for personal injury or death caused by the dog; prohibiting a judge in a jury trial from making a certain ruling before the jury returns a verdict; establishing that certain common law is retained as to certain persons; providing for the construction and application of this Act; stating the intent of the General Assembly; making this Act an emergency measure; and generally relating to civil liability for personal injury or death caused by a dog.

BY adding to

Article – Courts and Judicial Proceedings

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

Annotated Code of Maryland

(2013 Replacement Volume and 2013 Supplement)

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

Article – Courts and Judicial Proceedings

SUBTITLE 19. PERSONAL INJURY OR DEATH CAUSED BY DOG.

3–1901.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

(C) THIS SECTION DOES NOT AFFECT:

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

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

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

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

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