

2001 ASSEMBLY BILL 462

July 17, 2001 – Introduced by Representatives PETTIS, MONTGOMERY, OWENS, OTT, FREESE and VRAKAS. Referred to Committee on Judiciary.

1 **AN ACT** *to repeal* 174.02 (1) (title) and (b); *to renumber and amend* 174.02 (1)
2 (a); *to amend* 174.02 (2) (a) and (b) and 174.02 (3) (a) (intro.) and 1.; and *to*
3 **create** 174.02 (1g) of the statutes; **relating to:** liability for damages caused by
4 dogs, court orders to kill a dog, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person who owns or keeps a dog is generally liable for the amount of damages caused by the dog injuring a person, a domestic animal, or property. Under current law, a person who owns or keeps a dog is generally liable for two times the amount of damages caused by the dog injuring a person, a domestic animal, or property if the owner or keeper knew that the dog previously injured a person, a domestic animal, or property.

Under this bill, a person who owns or keeps a dog is generally liable for the amount of damages caused by the dog injuring a person, a domestic animal, or property if there was no provocation. The bill eliminates the current provision under which a dog owner or keeper may be liable for two times the amount of damages caused by the dog.

Under current law, a person who owns or keeps a dog is subject to a forfeiture (a civil monetary penalty) of \$50 to \$500 if the dog causes injury to a person, domestic animal, property, deer, game birds, or the nests or eggs of game birds. If the owner or keeper knew that the dog previously caused injury to a person, domestic animal, property, deer, game birds, or the nests or eggs of game birds, the forfeiture is \$200 to \$1,000.

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This bill changes the provisions that impose forfeitures because of injuries caused by dogs so that the provisions only apply if a dog causes injury by biting a person without provocation. Under this bill, a person who owns or keeps a dog is subject to a forfeiture of \$500 to \$5,000 if the dog causes injury by biting a person without provocation. If the owner or keeper knew that the dog previously caused injury by biting a person without provocation, the forfeiture is \$2,000 to \$10,000.

Under current law, this state or a municipality may ask a court to order that a dog be killed. The court may issue the order if the dog caused serious injury to a person or domestic animal on two separate occasions, off of the owner's or keeper's property, without reasonable cause, and the owner or keeper knew, before the second injury, that the dog caused the first injury.

Under this bill any person may ask a court to order that a dog be killed. The court may issue the order if the dog caused serious injury by biting a person on two separate occasions, off of the owner's or keeper's property, without provocation on either occasion, and the owner or keeper knew, before the second injury, that the dog caused the first injury.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 174.02 (1) (title) and (b) of the statutes are repealed.

2 **SECTION 2.** 174.02 (1) (a) of the statutes is renumbered 174.02 (1m) and
3 amended to read:

4 174.02 **(1m)** ~~WITHOUT NOTICE~~ LIABILITY FOR INJURY. Subject to s. 895.045 and
5 except as provided in s. 895.57 (4), the owner of a dog is liable for the full amount of
6 damages caused by the dog injuring or causing injury to a person, domestic animal,
7 or property without provocation.

8 **SECTION 3.** 174.02 (1g) of the statutes is created to read:

9 174.02 **(1g)** DEFINITION. In this section, "provocation" means any act or
10 circumstance that a reasonable person would believe to be sufficient to cause a dog
11 to bite, attack, or otherwise act in a way that causes injury or damage.

12 **SECTION 4.** 174.02 (2) (a) and (b) of the statutes are amended to read:

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1 174.02 **(2)** (a) *Without notice.* The owner of a dog shall forfeit not less than \$50
2 \$500 nor more than \$500 \$5,000 if the dog injures or causes injury to by biting a
3 person, domestic animal, property, deer, game birds or the nests or eggs of game birds
4 without provocation.

5 (b) *After notice.* The owner of a dog shall forfeit not less than \$200 \$2,000 nor
6 more than \$1,000 \$10,000 if the dog injures or causes injury to by biting a person,
7 domestic animal, property, deer, game birds or the nests or eggs of game birds, if
8 without provocation, and the owner was notified or knew that the dog previously
9 injured or caused injury to by biting a person, domestic animal, property, deer, game
10 birds or the nests or eggs of game birds without provocation.

11 **SECTION 5.** 174.02 (3) (a) (intro.) and 1. of the statutes are amended to read:

12 174.02 **(3)** (a) (intro.) The state, or any municipality, or any other person may
13 commence a civil action to obtain a judgment from a court ordering an officer to kill
14 a dog. The court may grant the judgment if the court finds both of the following:

15 1. The dog caused serious injury to by biting a person or domestic animal on
16 2 separate occasions, off of the owner's property, without reasonable cause
17 provocation on either occasion.

18

(END)