

# MICHIGAN DOG BITE SURVIVAL GUIDE

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**Written By: Goldman & Associates Attorneys**

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# INTRODUCTION

While they have more than earned the distinction of being called man's best friend", dogs are still animals capable of doing harm to humans. A poorly trained or contained dog presents an elevated risk of injury to its owners and other people. This chapter is intended to help the victims of dog bite injuries, dog owners facing lawsuit, and responsible pet owners seeking to avoid future liability.



## CHAPTER 1: DOG BITE FACTS AND STATISTICS

### Basic facts

4.5 million people are bitten by dogs in the United States every year. According to the CDC, there are roughly 800,000 dog bites every year that require medical attention (1 in every five dog bites). 334,000 of those end up being so severe that the victim must be hospitalized. To put that perspective, there are 2400 dog bite injuries every day. To break it down even further, one person is injured by a dog every 36 seconds. As many as twelve people die each year as a result of dog bite injuries.

### What to do if you are bitten

The very first thing you should do is seek medical attention. Not only can dog bites cause severe injury, but dog saliva makes bite wounds prone to infection. Also, it would be wise for you or your doctor to take pictures of the bite wound. This is essential because you must prove that an injury occurred in order to sue for a dog bite. At some point it would also be advisable to contact animal control or the local police and file a report. Even if you do not succeed in your lawsuit, an official report might lead to further legal consequences for a reckless dog owner.

## Common reasons that dogs bite

Some of the reasons dogs might bite people are:

- They are protecting their home/territory
- They are hurt
- They feel trapped
- You scared them
- They became too excited
- They were not properly trained/socialized

Whether you are a dog owner trying to prevent dog bites or someone interested in canine safety, this list will help you mitigate the risks of a dog bite injury.

## How to identify an aggressive dog

There are a few common body language indicators of a dog exhibiting aggression. These include, but are not limited to:

- Freezing in place and holding the body rigid
- Tucking the tail between the legs
- Standing with the head low and the front legs splayed.
- Raised fur on the back.
- Excessive licking of the lips
- Growling and snarling
- Curling lips to show teeth

If you witness any of these signs or otherwise suspect that a dog is taking an aggressive posture, then you should stand still with your hands at your sides and avoid moving closer to the dog. Avoid eye contact, as the dog will likely perceive that as a challenge and escalate their aggression. If the dog loses interest, back away from it slowly. If the dog actually attacks you, follow the advice in the following section.

## What to do if a dog attacks you?

If a dog does attack you, try giving it something other than you to bite on. If you have a purse or if you can manage to get your jacket off, use it as a substitute and try to back away from the dog. If the dog manages to get you to the ground, adopt a fetal position and remain as still as possible. Cover the back of your neck and ears with your arms and hands and do your best to avoid yelling or screaming. Ideally the dog will lose interest in attacking you and you will be able to find safety and an opportunity to take stock of the situation.



## Things responsible dog owners can do to minimize the risks of their dog biting.

- Properly train and socialize your dogs: Aggression and biting are not common behaviors in domestic dogs. A dog that is accustomed to being around people and other animals is usually calm and docile in their presence. It is vitally important that you acclimate young puppies to various situations and stimuli in order to prevent them from becoming anxious and possibly aggressive if confronted by them later in life.
- Properly exercise your dog: Aggression is often a consequence of a dog with excessive energy and no healthy outlet. A dog in an excited, high-energy state is more likely to exhibit aggressive behaviors. Thus, in order to minimize this risk and to promote your dog's health, it is important to give your dog regular opportunities to engage in physical activity.
- Avoid aggressive activities like tug-of-war: these games tend to nurture an aggressive response in dogs. Long walks, and fetch tend to be healthier recreational activities in dogs.
- Keep your pet on a leash when out in public: It is important to be able to control your dog at all times. Even if a dog does have a random or natural aggressive response, the presence of a leash can often prevent any injury. If you are unable to control your dog despite having them on a leash, then it is very important that you pursue additional obedience training.
- Do not chain your dog in your yard: chained dogs are nearly three times more likely to exhibit aggressive behaviors than dogs that are merely contained by physical barriers or an invisible fence.
- Make sure that any physical or other restraints or barriers (fences, gates, tethers, invisible fences, etc.) are beyond your dog's ability to escape. Physical barriers should be too high for the dog to jump over. IF your dog is prone to digging, then layer the bottom of the barrier with a material that the dog cannot dig through. Barriers and tethers should be made of materials that the dog cannot chew through. Control and containment are important factors in preventing dog bites and dog related injuries, especially if the dog is prone to aggression.
- Spay or neuter your dogs: This is just a good practice in general. Shelters are already beyond capacity from too many unwanted dogs. An unplanned litter is both expensive and exhausting to handle. As an added bonus, the procedure tends to make dogs (especially males) more docile.
- Take your pet to the vet regularly and get vaccinated: Sickness and injury are also common causes of uncharacteristic aggressive behavior. This is especially true of the rabies virus. In addition to being universally fatal once symptoms manifest, one of the symptoms of rabies is extreme aggression. The fact that the virus is transmittable to humans makes vaccination even more important.



## CHAPTER 2: THE MICHIGAN DOG BITE STATUTE

Dog bites in Michigan are governed by the Michigan dog bite statute. This particular statute imposes a “strict liability” standard when determining dog bite liability. Strict liability means that the dog’s owner can be liable even if they were not aware of any tendency towards aggression or other warning that a bite was imminent. If your dog bites someone, you can be liable even if that dog has never bitten anyone before. All other dog related injuries are based on a negligence standard (discussed in detail in another chapter and in a later section of this chapter).

The Michigan dog bite statute also lays out some exceptions to the strict liability standard. In order to sue for a dog bite injury, the following conditions must be met:

- The defendant actually owned the dog that made the bite
- The bite was the direct cause of the injury
- The victim of the bite must not have provoked the dog, otherwise the owner is not liable.
- The victim was either in a public place, or a private place where they were legally allowed to be (basically a castle doctrine/stand your ground standard for dog bites).

In other words, reckless provokers and trespassers may not use the Michigan Dog Bite Statute in their lawsuit. Instead, they must use another (less accommodating) legal standard to bring their lawsuit.



“Trespassing” specifically means that the person lacked the legal authorization to be at that location. Keep in mind that such authorization can exist even if you did not have the property owner’s permission to be there. Police officers, fire fighters, owners of personal property or livestock, there are numerous examples of situations where someone can be present on another’s property without trespassing. This makes it rather crucial for the bite victim to have a lawyer to help discover useful facts like this.

Provocation can include unintentional acts (such as accidentally stepping on the dog’s tail). However, hitting the dog in response to the dog attacking another person or animal is not provocation because the dog was already aggressive.

### **What counts as provocation?**

Case law in Michigan is actually pretty specific about provocation. For starters, provocation can take the form of either an unintentional or intentional act by the victim. However the dog’s response must be reasonable in relation to the provocation. For example a reasonable dog would not bite just because you dropped something five feet away from it, but a reasonable dog might bite you if you accidentally stepped on its tail (see *Nichols v. Lorenz*), even if you never intended to hurt it.

### **What if I have reason to believe that the dog would have bit someone even if their tail had not been stepped on (or any other form of provocation)?**

That is irrelevant. Once there is proof of provocation, the dog owner has an iron clad defense. Once there is provocation, the owner is no longer liable for the bite unless they were otherwise negligent (see *Nichols*).

### **What about evidence of the dogs past aggressiveness/misbehavior?**

The court will likely not even allow you to introduce evidence of the dogs past viciousness because it has nothing to do with liability under the statute and will only serve to prejudice the jury. The same goes for the defendant’s history of dog bite liability (see *Nichols*).

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## The Text of the Dog Bite Statute

A helpful reference in case you need to site the statute for a dog bite case.

### LIABILITY OF OWNER FOR DOG BITE (EXCERPT) Act 73 of 1939

#### 287.351 Person bitten by dog; liability of owner.

Sec. 1.

(1) If a dog bites a person, without provocation while the person is on public property, or lawfully on private property, including the property of the owner of the dog, the owner of the dog shall be liable for any damages suffered by the person bitten, regardless of the former viciousness of the dog or the owner's knowledge of such viciousness.

(2) A person is lawfully on the private property of the owner of the dog within the meaning of this act if the person is on the owner's property in the performance of any duty imposed upon him or her by the laws of this state or by the laws or postal regulations of the United States, or if the person is on the owner's property as an invitee or licensee of the person lawfully in possession of the property unless said person has gained lawful entry upon the premises for the purpose of an unlawful or criminal act.

**History:** 1939, Act 73, Imd. Eff. May 4, 1939 ;-- CL 1948, 287.351 ;-- Am. 1988, Act 142, Eff. Mar. 30, 1989



## CHAPTER 3: COMMON LAW LIABILITY FOR DOG BITES AND OTHER INJURIES

### What is “common law”, and when would I use it?

If, for whatever reason, your case does not qualify under the dog bite statute, you may still bring a law suit for a dog bite or other injury caused by a dog. “Common law” simply means judge made law. It refers to the rules and standards that Michigan civil courts have developed to deal with certain types of cases. The various standards that might be applied in a dog-related injury are discussed individually below.

### Common law strict liability:

The State of Michigan will also allow a lawsuit to follow a “common law strict liability” standard. One key difference between this and the Michigan dog bite statute is that fault will not be assumed. The plaintiff must prove that the dog’s owner knew or should have known that their dog was “abnormally dangerous”. If the dog was not abnormally dangerous, or if the defendant had no reason to know of such danger, then the plaintiff must rely on a statutory strict liability or a common law negligence standard.

Common law strict liability claims do not allow the defense of “provocation”. It does, however, permit the defense of trespass by the bite victim. A dog bite plaintiff must have been somewhere they were legally

allowed to be.

### **How does the court determine whether or not the dog is “abnormally dangerous”?**

In Michigan law, this is an incredibly complex and ambiguous question. There is no set standard for determining when a dog is abnormally dangerous. The only thing that can be said with any certainty is that mere growling or other natural canine behaviors are not enough. That being said, a pattern of excessively aggressive behavior might be enough, especially if the dog in question has a history of severely injuring or killing humans and animals.

### **Common law Negligence:**

It is important to keep in mind that the strict liability is not the only source of liability for dog bites, or any other dog related injury. The strict liability standard only represents the heightened seriousness that the law shows towards such injuries, therefore it is still possible to be found liable for negligence relating to a dog bite or other dog related injury.

A negligence standard, also known as “common law negligence”, is more favorable to a dog owner being sued for an injury caused by their dog. To meet such a standard, the plaintiff has to show that the owner failed to exercise a reasonable standard of care in terms of preventing their dog from hurting someone. In such a situation, an injured plaintiff might have to prove in court that the dog owner was aware that their dog was aggressive, dangerous, and prone to causing injury.

Negligence can also be found if the owner violated a public safety law involving dogs. A good example of this is a leash law, if you allow your dog to wander around without a leash in an area where leashes are legally required, then any injury your dog causes is likely to be found to be a result of your negligence. This is known as “common law negligence per se”. The very fact that you violated a law related to public safety that is meant to protect the public from dog related injuries will be used to prove that you owed a duty to members of the public and that you “breached” that duty by breaking the law.

Another consequence of applying a negligence standard is that it might weaken or even eliminate the defenses that a dog owner might have under the Michigan strict liability dog bite statute. While the trespassing victim defense remains intact, evidence of provocation is no longer a defense. In order to use your victim’s provocative behavior, you (or your attorney) will have to take added steps to apply those facts to legal standards that apply to all negligence lawsuits. Typically, the victim’s provocation of the dog would be considered “assumption of risk” or “comparative negligence”. The gist behind these defenses is that the carelessness or foolishness of the victim makes them partially or even entirely at fault for their injuries. The result of such a finding may end up being reduced damages for the victim rather than completely shielding the dog owner from liability.

If the injury is not bite related (i.e. a jumping dog knocks someone over), then the lawsuit will always follow a common law negligence standard.

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## **How can a bite victim demonstrate a lack of reasonable care by the dog owner?**

Reasonable care for a dog owner is usually pretty straight forward. The most obvious scenarios are one's which would qualify under a more restrictive liability standard. For example, if you know that your dog is aggressive, then you should take steps to mitigate the risk of someone getting bitten. Such precautions might involve a muzzle or a warning given to every visitor to your property.

Less obvious scenarios can also be conceived through the use of a little common sense. Everyone knows that there are certain things that any decent dog owner should and should not do. Every dog should be trained, socialized and disciplined. An owner who flat out refuses to train their dog in any way is obviously negligent.

Dog's should not just be left in cages or chained up. Nor should dogs be beaten, neglected or abused. An owner who mistreats their dog is negligent and can be liable even if the owner is not aware that their dog has developed aggression as a result of their mistreatment.

Most dog owners keep their dogs contained on their property. Even if the dog is otherwise well behaved, you can be liable if it escapes and bites someone, because the dog would never have been in a position to bite if it had been contained properly.

It is also good practice to keep a dog on a leash in public. The only time it is not negligent to leave your dog off leash in public is if the dog is extraordinarily well trained and well behaved.

## **What is an example of a leash law which, if violated, might give rise to liability?**

A good example would be the Grose pointe leash law, which reads: "No owner of any dog may permit such a dog to stray beyond his premises unless the dog is on a leash, but no longer than 10 feet in length which leash is properly held by a person capable of restraining the actions of such dog."

In that jurisdiction, if you failed to install some sort of invisible or physical fence, if you walked the dog on a 12 foot leash, or handed a 10 foot leash to your three year old child; and someone was injured, then you would be liable even if none of these things would be considered negligent in the absence of that law.

## **Can someone other than the dog owner be held liable for a dog related injury?**

Yes, they can. If the dog owner is renting or leasing the premises, then the landlord can be liable for a dog bite if the landlord knew that the dog was vicious (see *Szkodinksi v. Griffin*). This stems from the landlord's premises liability and their responsibility to address dangerous conditions on their property. In order to avoid liability, the landlord must generally evict the owner of a vicious dog from their premises.

## **What are all of the causes of action that might arise from a dog biting someone?**

This guide has discussed the more common and relevant ones in detail. However, there are no less than 20 distinct legal causes of action that might arise from a dog biting someone:

- Negligence
- Common law strict liability
- Statutory strict liability (MI dog bite statute)
- Intentional Tort (if you command you're the dog to attack)
- Negligence per se (violating public safety law intended to prevent dog attacks)
- Residential landlord liability (if they knew the dog was vicious and failed to evict the tenant)
- Battery for intentionally causing the attack (setting up circumstances making the attack likely or certain)
- Failure to provide ID or info about rabies vaccinations.
- Intentional concealment or misrepresentation by shelter or adoption agency (vicious dog given to an unsuspecting family)
- Negligent infliction of emotional distress
- Negligent misrepresentation by shelter or adoption agency (lies about temperament or about the dog's breed)
- Intentional infliction of emotional distress (forcing a dog bite victim to encounter that dog again)
- Premises liability (lack of a functional fence or gate)
- Parental lawsuit to recover medical expenses for their child
- Loss of consortium
- Private petition to animal control
- Private nuisance (noisy or vicious dog is disruptive)
- Wrongful death





## CHAPTER 4: COMMON MISTAKES OF DOG BITE VICTIMS

Here are some mistakes you should avoid unless you want to undermine a possible dog bite lawsuit or possibly even threaten your own health.

- **Failing to see a doctor immediately:** Not only can this worsen your injuries, but any delay in treatment for the injury can be used as evidence in court that the injury itself was not serious. It can also be used to cast doubt that the injury was even caused by the dog bite. Likewise, documents from the doctor are powerful evidence for your case.
- **Failing to report the dog bite to the police:** This is similar to seeking medical attention in the sense that delays are evidence that can be used against you by the defendant dog owner. The police can also help you collect valuable evidence
- **Failing to collect valuable evidence:** Immediately after you are bitten, you need to make sure that you identify witnesses, photograph the scene/dog/bite wound, and take written statements (if possible). Anything you can get that can prove your version of events is important.
- **Failing to accurately identify the breed of the biting dog.** Not only is this an easy way for the defendant dog owner to undermine your story, it is also irresponsible and harmful to the community at large. Distorted dog bite statistics are often the basis of misguided laws, such as breed bans, which

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will be discussed in a later chapter. Furthermore, a successful dog bite case can often lead to irresponsible owners either losing their dogs, or being persuaded to take steps to control their animals.

- **Speaking to the insurance adjuster:** Do not speak to any insurance adjuster who works for the defendant's insurance company. This person's only job and goal is to help the insurance company avoid liability. They generally do this by trying to paint the situation as being the victim's fault. If they succeed, your entire lawsuit could fail and you could end up paying the medical bills entirely out of pocket.
- **Failing to retain a lawyer:** While dog bites may be relatively common occurrences, this does not always translate to winning in court. Dog bites, like other injuries, are dealt with using very specific and nuanced legal standards and procedures. If the defendant dog owner has the advantage in legal counsel, this can be a huge disadvantage to you. Remember, it is not always about what is actually true, but what you can prove in court.



## CHAPTER 5: CRIMINAL LIABILITY FOR DOG OWNERS

### When can a Michigan dog owner be charged with a crime as a result of a dog bite/injury?

There are really only three scenarios where a dog can put their owner at risk of criminal liability. One such scenario is if the breed of the dog violates a city or states breed ban/breed specific legislation (discussed in its own chapter in this guide). This can result in penalties even if the dog never attacked anyone.

The second such scenario is a “negligence per se” situation where the owner of an attacking dog violated a public safety law (such as a leash law) that was designed to prevent dog attacks. Not only would violating that statute strengthen the victim’s lawsuit, but the lawbreaking owner will be subject to whatever criminal penalties are listed in the statute.

The third scenario where a dog attack can result in criminal charges against the owner is if the dog in question has been labeled abnormally dangerous. Michigan dangerous dog laws establish numerous requirements for the owners of dangerous dogs. These requirements are often conditions imposed in exchange for not having the dog euthanized. These conditions might include having to muzzle a dog or keeping it confined on your property. You may also be required to buy liability insurance or obtain a special license.

The degree of criminal liability a dog owner might be exposed to depends on the severity of the injuries as well as the severity of the breach of any requirements or conditions imposed by a dangerous dog law.

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For example, if a dangerous dog escapes confinement and injures someone, then the owner is guilty of a misdemeanor. The same is true for injuries arising from the violation of any other dangerous dog requirement.

If the injuries are severe enough, the defendant owner might even be charged with a felony. If the dog attack results in the death of the victim, then the owner can be charged with involuntary manslaughter.

An owner who commands their dog to attack or otherwise uses the dog as a weapon can be charged with aggravated assault or even murder.

### **Can a dog be euthanized for biting/aggressive behavior? When will the government take dogs from irresponsible owners?**

A single biting incident will not usually result in a dog being put down, nor does Michigan have a two bite rule. Instead, Michigan law requires that when a dog has caused serious injury or death to a person or pet (aside from the exempted scenarios) must be brought before a magistrate to determine whether or not it is a dangerous. If it is found to be dangerous, then the judge will order the animals destruction. They might also impose requirements pursuant to a dangerous dog statute.

As for removing dogs from their owner's custody, that requires a court order based on the owner's violation of a state or municipal law.





## CHAPTER 6: DOG BITES AND CHILDREN

### **Are children at greater risk from dog bite injuries?**

Over half of all dog bite victims are children, with over a quarter of all child dog bite injuries resulting in a visit to the emergency room. Dog bites frequently rank among the top ten causes of non-fatal injuries in children of all age groups.

The reason for this elevated risk, aside from a child's relative physical frailty, is the fact that their short stature means dog bites are frequently to the child's face and neck (rather than the arms, torso, or legs typical of dog attacks on adults). Children are also a greater risk because their relative youth and immaturity makes them more likely to engage in behaviors that irritate, harass, or cause pain to a dog and thus provoke a bite.

Never leave a child alone with a dog unsupervised, even if you trust that dog's demeanor.

These facts and figures, as well as those mentioned in the "basic facts" chapter should serve as a warning that dog bites are a serious hazard to both adults and children. All parents and dog owners should be aware of this risk and take the necessary precautions. The basic facts chapter will also equip you with all of the information you need to prevent and respond to dog bite injuries.



## CHAPTER 7: DETERMINING DOG BITE DAMAGES

The level of liability that will be imposed for dog bites or other injuries depends on how the injuries are defined or categorized under Michigan law. Is the lawsuit being brought under the Michigan dog bite statute? Or some other category of liability? Does that category recognize any defenses? Does that category take the victim's relative fault into account? Was there any fault on the part of the plaintiff whatsoever? If so, what portion of the damage is the fault of the defendant dog owner? Once the portion of fault is determined, we must then determine how much damage was actually inflicted. Regardless of which form the lawsuit takes, damages stemming from dog bites or dog related injuries consist of any and all of the following:

- Any and all medical expenses arising from the injury
- Any lost wages resulting from missed work (from injury induced disability as well as doctor's appointments)
- Pain and suffering resulting from the injuries
- Compensation for permanent scarring that resulted from the injuries.

Damages arising from dog bites and other injuries are typically paid for by the defendant dog owner's homeowners insurance. This is typically done before a lawsuit is even filed, which usually puts the insurer on the hook for the entirety of the bill, regardless of relative fault of the victim. Insurance will be discussed in more detail in a later chapter. The important thing to understand is that the plaintiff and the insurer will negotiate and eventually settle on an amount of damages.



However, if the defendant owner is uninsured, then the case will have to be settled in court. At which point relative fault and total damages will be decided based on the outcome of certain discovery procedures (discussed in a later chapter).



## CHAPTER 8: PROCEDURE FOR DOG BITE/ INJURY LAWSUITS

A dog bite/injury lawsuit will follow some of the same steps and procedures that are used in other personal injury lawsuits. It will start with a complaint filed by the injured victim and their attorney. The complaint will list the basis for the defendant dog owner's fault/liability as well as the injuries that form the basis of the lawsuit. The defendant will then be given the opportunity to respond with an answer in which they may deny or admit to any of the facts alleged in the complaint. However, any fact admitted to in the answer is automatically conceded at trial.

Following the exchange of complaint and answer, the case will enter discovery. At this stage, both parties will utilize certain evidence gathering tools in order to develop proof of their side of the story at trial. Both parties will use a combination of interrogatories (mandatory written inquiries) as well as depositions (questioning done under oath) to gather evidence which includes, but is not limited to, any of the following:

- Descriptions of and health information regarding the dog
- The dog's history of aggression or lack thereof
- Prior complaints by other people or from animal control
- Certain restraint measures such as muzzling that may have been used on the dog

- Any attack or guard training that the dog underwent
- Any warning signs used on the property
- Identifying an veterinarian or other expert who would general knowledge about dogs or specific information about that particular dog
- The dog owner's insurance coverage
- Statements from first hand witnesses
- Any other evidence relied upon in the complaint

Depending on what is produced in discovery as well as the actions of both parties, the case might end in a settlement or be decided at trial by a judge or a jury.

### **What is the statute of limitations for dog bite cases?**

The statute of limitations for dog bite cases is three years from the moment of the injury. You must file your lawsuit within this timeframe or your lawsuit will automatically fail.



## CHAPTER 9: BREED BANS/ BREED SPECIFIC LEGISLATION. ARE THEY EFFECTIVE?

Breed Specific Legislation, colloquially known as a breed ban, is a particular law which prohibits the ownership of a particular dog breed. These laws are usually passed at the municipal level, and typically target Pit Bull type dogs and other large breeds. The rationale behind such legislation is the reputation a certain dog breed might have for aggression or the sheer capability that particularly powerful dog breed might have to cause injury.

However, most experts believe that such laws are dubiously effective and often misguided or counterproductive. Statistically speaking, the vast majority of the dogs of any particular breed will not exhibit atypical or unnatural aggressive behavior. As a consequence a sweeping breed band will do more to punish innocent dog owners and their dogs than it will to promote public safety.

These experts also cast doubt on the statistical basis for the breeds targeted by these laws. They argue that the numbers supposedly showing disproportionate aggression or injuries caused by “pit bull type dogs” are highly suspect. “Pit bull” is often used as a default when the breed of the attacking dog is unknown and studies have shown a distressing tendency to misidentify the dog breed involved in a dog bite incident.

Owners of prohibited breeds will often attempt to subvert these laws by confining their dogs inside their houses 24/7. They will also refrain from seeking the services from veterinarians or dog trainers. This is not

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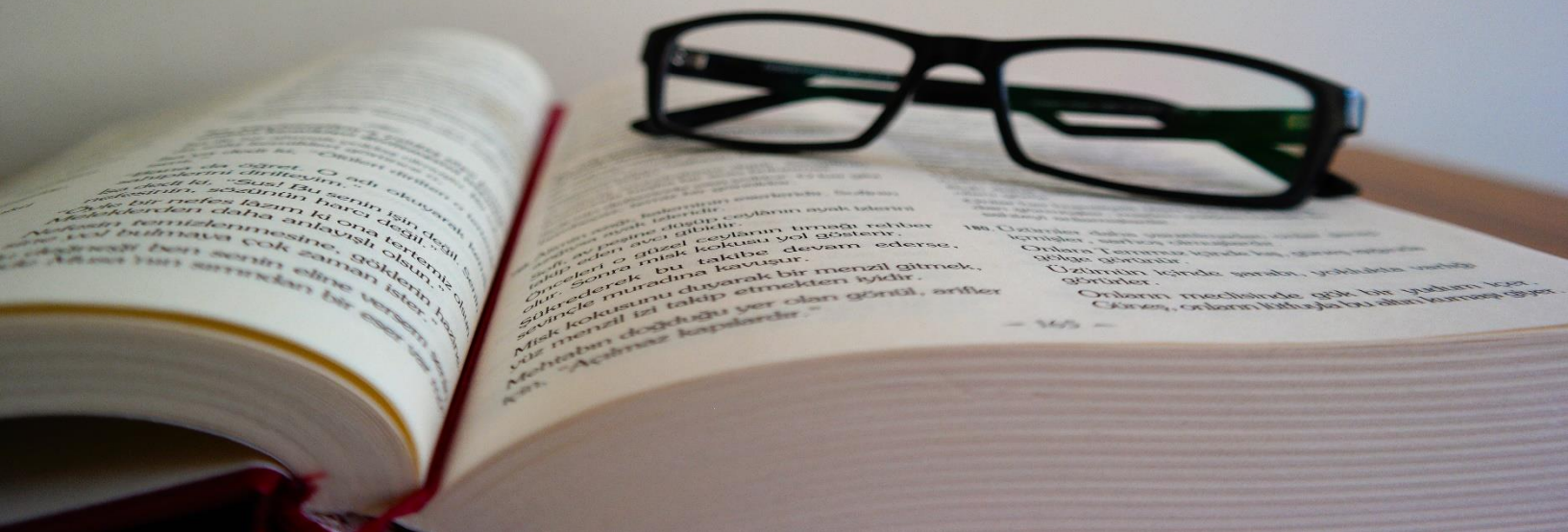
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only counterproductive in terms of promoting non-aggressive dog behavior, it is also harmful to the health of the dogs.

It is also asserted by critics of BSA's that such laws actually undermine the public safety in terms of preventing or punishing dog bite injuries. So many resources are expended enforcing the bans against both dangerous and safe dogs that the police and animal control have fewer resources to deal with actual cases of dog aggression across the general canine population.





## CHAPTER 10: EFFECTS OF DOG BITES ON INSURANCE AND VICE VERSA

A major effect of homeowners insurance on dog bite cases is that it prevents the majority of incidents from ending in lawsuits. Most dog bite cases are settled out of court with the dog owner's insurance company.

The insurance company and the bite victim will often enter lengthy negotiations during which the victim and their attorney will share the evidence and documentation that would also be used at trial in order to establish the owner's fault, as well as the extent of the victim's injuries. This usually results in a settlement that is more beneficial to the victim than if they had to undergo an expensive trial.

The prevalence and expense of dog bite injuries also has an effect on insurance. Irresponsible dog owners may see their own personal premiums increase. However, such increases may also be experienced by everyone who has homeowners or any liability insurance which covers dog bite cases. Some studies suggest that dog bites account for as much as one quarter of all homeowner's insurance claims. Thus, it is logical to conclude that if society took extra precautions to guard against dog aggression and dog bite incidents, it would result in substantial reductions in insurance premiums for everyone.

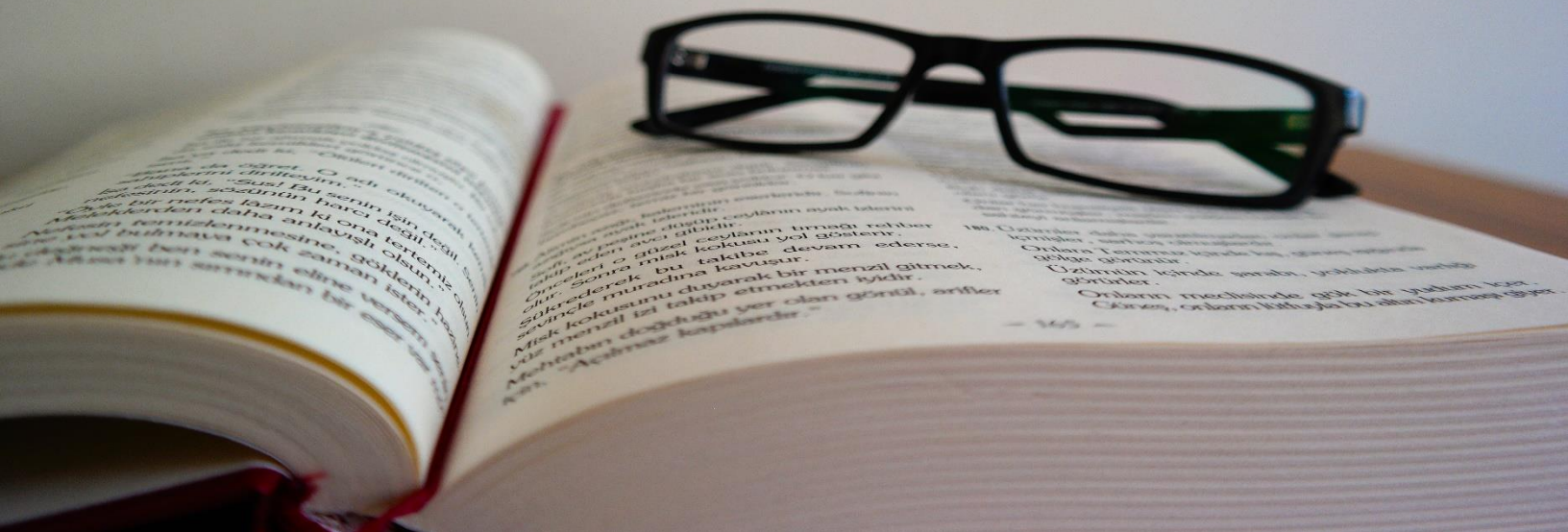




## CHAPTER 11: THE ADVANTAGES OF HIRING A LAWYER FOR A DOG BITE CASE

While dog bite cases might seem simple and straightforward on the surface, they are just as complex and nuanced as any other legal action. The legal standards and procedures used by courts and lawyers in lawsuits are esoteric and can be difficult to manage for a layman without specialized legal training or experience. A lawyer is better equipped to fashion evidence into arguments tailored to the tests and standards employed by the court in dog injury cases. An attorney is often trained to speak and write persuasively. A good attorney is also a skilled detective who knows how to effectively and efficiently procure evidence that is both relevant and persuasive.

Even if the incident is likely to be settled out of court, having the services of an attorney who is skilled and knowledgeable regarding dog injury cases is likely to increase the total compensation you receive for your injuries.



## CHAPTER 12: HELPFUL CASE LAW AND CITATIONS

Several Michigan cases have already been mentioned in this guide. Here are the full citations for those and other relevant cases. These might be helpful to you or your attorney in your dog bite case.

- *Zeni v Anderson*, 397 Mich 117, 128-129 (1976) (violation of a public safety statute can give rise to negligence liability)
- *Gould v Atwell*, 205 Mich App 154, 158 (1994) (Liability for injuries caused by out of control animals)
- *Nicholes v. Lorenz* (Mich. 1976), 237 N.W.2d 468 (Under MI statute, owner is limited to defenses outlined in the statute. However, the plaintiff may not introduce evidence of the dog's prior history or behavior in order to discredit the provocation)
- *Szkodzinski v. Griffin*, 171 Mich. App. 711, 431 N.W.2d 51 (1988) (landlord premises liability for vicious dog owned by tenant)



## CHAPTER 13: DOG BITE LAWS IN THE OTHER 49 STATES (AND DC)

### Alabama

Owner only liable if the bite occurred on their property

### Alaska

No Statute. Owner will often be found liable (either negligence or strict liability) if the dog had dangerous tendencies that the owner was aware of

### Arizona

Owner is strictly liable for any bite injuries caused by an escaped dog or while the dog is out in public. The only defense is provocation by the bite victim.

### Arkansas

No Statute. The owner can be sued under a negligence claim if they are negligent in mitigating the risk of a dog bite. If the owner knows about a dog's dangerous tendencies or pattern of aggressive behavior, they can

be sued under a strict liability claim.

## California

If the victim was in public or was lawfully on private property, the owner is strictly liable for the bite.

## Colorado

Statute creates a strict liability claim for dog bites in addition to negligence. A statutory strict liability claim may only be brought in cases where there has been serious bodily injury. Colorado is also a “one bite” dangerous propensity state. The owner must have knowledge of the dog’s dangerous tendencies, which is usually found to exist if the dog has ever bitten someone before.

## Connecticut

The owner is liable unless the victim was trespassing or was abusing the dog. It is presumed, unless proven otherwise, children under the age of seven are not trespassing.

## Delaware

The owner is liable for any and all damage caused by the dog.

## District of Columbia

If there is contributory negligence by the bite victim, they may be barred from recovery for their injuries.

## Florida

The owner can be found liable even if it is the dog’s first bite. However, the damage reward will be reduced by the percentage of the victim’s fault (comparative negligence). Furthermore, an owner is completely shielded from liability if they post a clearly visible “bad dog” sign.

## Georgia

An owner can be found liable if they keep a “dangerous” or “vicious” dog and allow it to run free, but only if the attack is unprovoked. Furthermore, the owner is shielded from liability if they comply with certain steps required by regulation in order to mitigate the hazard of an aggressive dog. These steps include: registering the dog, maintaining an enclosure, posting warning signs, implanting a microchip in the dog, and purchasing \$50,000 worth of liability insurance.

## Hawaii

The owner is only liable if they were negligent or if the dog had dangerous tendencies (strict liability). They are liable even if they did not know that the dog was vicious or dangerous.



**Idaho**

The owner is liable if they were negligent or if they had knowledge of the dog's dangerous tendencies (strict liability).

**Illinois**

The owner is liable for all injuries even if they were not caused by a bite, so long as the victim was not trespassing and did not provoke the dog.

**Indiana**

The owner is strictly liable if the victim was carrying out a duty imposed by law at the time that they were bitten. Otherwise, the plaintiff must show that the owner was negligent or had knowledge that the dog was vicious/aggressive (strict liability).

**Iowa**

The owner is strictly liable if the dog bites or attempts to bites a person or domestic animal. The only exception is if the dog had rabies and the owner didn't know that at the time.

**Kansas**

The owner is liable if they were negligent or had knowledge that the dog was aggressive/vicious (strict liability).

**Kentucky**

The owner of a dog is liable for all damage that dog causes to property, people, and livestock. Any person is legally permitted to shoot a dog that is seen attacking someone.

**Louisiana**

The owner is only liable if the bite victim can prove that the owner could have prevented the incident.

**Maine**

The owner is liable if the incident occurred off of that owner's property (i.e. the dog was not contained on the owner's property and the victim was no a willing guest of the owner.)

**Maryland**

The dog owner is only liable if the victim can prove that the owner knew the dog was vicious/dangerous. Furthermore, if that victim was even 1% at fault, they cannot receive a reward for their damages (contributory



negligence).

### **Massachusetts**

The dog owner is liable for any damage cause by their dog unless the victim was trespassing or provoking the dog. If the victim was under the age of seven, it is presumed unless proven otherwise that the child was neither trespassing nor provoking the dog.

### **Minnesota**

Liability is absolute, even if the victim was partly at fault. Comparative fault is never even considered by the court.

### **Mississippi**

“One bite rule”. The owner is only liable if they had knowledge of the dogs dangerous tendencies, which may manifest as a previous incident where the dog bit someone.

### **Missouri**

The owner is liable for any damage to person, property, or livestock if the victim was in public or lawfully on private property. However, the damages will be reduced based on the relative fault of the victim.

### **Montana**

Dog owners are strictly liable for all damage caused by their dog, but only if the incident took place in an incorporated city or town.

### **Nebraska**

Strict liability, unless the dog had a history of being playful and mischievous, in which case a “one bite rule” applies (i.e. the owner must be aware that the dog has bitten someone before).

### **Nevada**

No statute. Common law holds that the owner is liable if they were negligent in a way that caused the injury. The owner is guilty of a felony if the bite was caused by a dog that was “vicious” (had caused someone severe injuries in the past) and was more than simply “dangerous” (had bitten someone at least twice in the last 18 months).

### **New Hampshire**

Owner is liable for both bites as well as injuries caused by mischievous behavior

## **New Jersey**

The owner is strictly liable for damage caused when the victim is either in public or lawfully on private property.

## **New Mexico**

The owner is only liable if they were negligent or had knowledge that the dog was aggressive/vicious (strict liability).

## **New York**

Strict liability for medical expenses deriving from a dog bite, but all other damages require proof that the owner knew that the dog was dangerous.

## **North Carolina**

No liability unless the owner willingly, knowingly, or intentionally allowed their dog to run around in violation of the “running at large law. In other words, keeping your dog reasonably contained is a shield against liability.

## **North Dakota**

The Owner is only liable if the victim can prove that they were negligent and that the negligence caused the injury (negligence only, no strict liability).

## **Ohio**

Owners liable for any injury caused by their dog. Trespass by the victim is a defense. If you reasonably fear that a dog will bite you, then you are protected from liability if you maim or kill that dog.

## **Oklahoma**

The owner is responsible for any and all damages unless the victim trespassed or provoked the dog.

## **Oregon**

The owner is liable if they knew or should have known that their dog had dangerous tendencies (strict liability)

## **Pennsylvania**

Strict liability for all damages if the owner was aware of the dog’s dangerous tendencies. If the owner didn’t know, then they are only liable for all damages arising from severe injuries. For non-severe injuries they

would only be liable for direct medical expenses.

### **Rhode Island**

Confining/containing the dog is a shield against liability. If the dog bites a person twice, and the owner is liable for both bites, then the damage penalty for the second bite will be doubled.

### **South Carolina**

Owner liable for all damages against victims who are in public or lawfully on private property.

### **South Dakota**

The owner is liable if they knew or should have known that their dog had dangerous tendencies (strict liability) or was negligent.

### **Tennessee**

Owner is strictly liable, whether or not they knew about their dog's dangerous tendencies. The owner is not liable if the bite victim was a trespasser. This system demands that owners be aware of whether or not their dog is dangerous.

### **Texas**

The owner is liable if they knew or should have known that their dog had dangerous tendencies (strict liability), was negligent, violated a leash law, or intentionally caused their dog to attack.

### **Utah**

Owner is strictly liable, whether or not they knew about their dog's dangerous tendencies. The government is shielded from liability for the actions of police dogs.

### **Vermont**

The owner is liable if they knew or should have known that their dog had prior dangerous behavior (strict liability).

### **Virginia**

Common law duty of a dog owner to exercise reasonable care to prevent dog bites (negligence only), but owner must have knowledge of the dog's dangerous tendencies unless the owner was negligent or otherwise broke the law.

## Washington

Owner is strictly liable, whether or not they knew about their dog's dangerous tendencies. The only defense is provocation.

## West Virginia

If the owner allows the dog to "run at large", they are liable for any damage that occurs while the dog is uncontained.

## Wisconsin

First bite (no knowledge of dangerous tendencies): The owner is strictly liable for any and all damage to people, livestock, and property. The will also be fined \$50-500 if the dog injures a person, domestic animal, property, deer, game birds, or the eggs of game birds (civil infraction).

Second bite (knowledge of the dog's dangerous tendencies): The owner is strictly liable for double the amount of damage caused by the dog. No "second bite" claim if damage was to property or animals. Only the normal amount of damages.

## Wyoming

The owner is liable if the victim proves negligence or knowledge of the dog's dangerous tendencies (strict liability).