

# AN INSIDER'S GUIDE

## DOG ATTACKS



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# Step by Step Dog Bite Victim Guide

## Overview



Being the victim of a dog attack can be a terrifying experience that causes both physical and psychological damage. Returning to life as normal can be a challenging task that does not occur overnight. However, there are certain things you can do to give you the best chance at recovery.

This report is designed to give people a general idea of how to proceed following a dog bite and some basic ways to achieve a better outcome.

## Texas Laws

Texas animal owners are often legally responsible for animal bites

Dog owners are usually responsible when dog bites or attacks occur in Texas. Whether or not they are responsible for a dog bite in Texas depends on the circumstances surrounding the dog bite and where the dog bite occurs, because the laws vary between counties and cities.

Generally, a dog owner may be responsible for a dog bite if:

- The owner intentionally allowed the dog to bite or attack;
- The owner knew that the dog had previously bitten a person or had the dangerous propensity to bite a person;
- The owner was in violation of the local leash law or animal control law at the time the bite occurred; or
- The owner was negligent in his or her handling of the dog at the time the bite occurred.

Typically, the homeowner insurance of the dog's owner will compensate the victim for any damages they may have suffered, like medical bills and lost wages.

## Dangerous Domestic Animals

### *Strict Liability*

A person injured by an animal can also bring a claim in a lawsuit if the animal is a dangerous domesticated animal. A domesticated animal is one that we keep in a tame condition, such as dogs, cats, and horses. A person must prove the following four elements for this claim: (1) the defendant owned or possessed the animal; (2) the animal had dangerous propensities abnormal to its class; (3) the defendant knew or had reason to know that the animal had dangerous propensities; and (4) the dangerous propensities were the producing cause of *injury*. We covered the first element in the negligent handling section above. Let's take a look at the three elements that are different.

**The second element** – that an animal has dangerous propensities abnormal to its class – simply means that a particular dog, for example, acts in a way different from other dogs. A dog that attacks people, unprovoked, or that is generally ferocious might meet this element. Whether a particular animal meets this element depends on the facts of the particular case.

**The third element** – that the defendant knew or had reason to know that the animal had dangerous propensities – is fairly straightforward. If a person knew that his dog did not like children, or that it attacked people for no reason, then this element is met. Also, this element is met even if a person did not know that his or her animal had dangerous propensities. If the person knew enough about the dog that the person should have known that it was dangerous, that knowledge is enough.

**The fourth or last element** – that the dangerous propensities were the producing cause of injury – sounds like the "proximate cause" fourth element of a negligent handling claim described above. However, there is an important difference. While proximate causation requires that a defendant foresee that his actions might cause injury, producing causation does not have the same requirement. If a defendant's actions cause injury, under a producing cause analysis, the defendant is liable even if the injury was not foreseeable. This is called "strict liability" in the law.

## Negligence

### *Negligent Handling of Animals*

“Negligence” is the claim made in most general personal injury cases. There is also a negligence claim available to those injured by a dog bite. An injured person must prove the following four things (legally known as “elements”) to prove that a person was negligent in the handling of an animal:

1. the person owned or possessed the animal;
2. the person owed a duty to exercise reasonable care to prevent the animal from injuring someone;
3. the person breached his or her duty; and
4. the person’s breach of the duty proximately caused a person’s injury. This claim differs from a claim alleging strict liability (see below), because an injured person does not need to prove that an animal was vicious or dangerous when suing for negligent handling.

**The first element** – who owned or possessed the animal – is fairly straightforward in most cases, because it is usually easy to prove who owned or possessed a dog. However, it is important to identify all people who owned or possessed the dog to locate all available insurance.

**The second element** – whether the owner or possessor of an animal owed a duty to the injured person – depends on the facts of the case. For example, in the typical animal attack case, a dog owned or possessed by a homeowner bites and injures someone. In that situation, a person owes a duty to exercise reasonable care to prevent his or her animals from injuring people. If the defendant is a landlord, the duty is different. In common areas (such as around a pool at an apartment complex), a landlord owes a duty to an injured person if the landlord (1) had actual or imputed knowledge that a dog was in a common area and (2) actually knew that the animal had vicious propensities. If the animal attack occurred in the actual leased premises (such as in an apartment), the landlord owes a duty to a non-tenant if the landlord (1) actually knew that the animal was on the leased premises; (2) actually knew that the animal had vicious propensities; and (3) was able to control the premises. Lastly, if a person is injured by livestock, the law can differ by county.

**The third element** – an owner or possessor breaching the duty – can occur in a number of very obvious ways. A person might walk a dog without a leash, tether a dog in a front yard, or let an animal roam free. A person might not take action to stop a dog attack after it has begun. A person might also fail to maintain a fence or pen, thereby allowing an animal to escape and harm someone.

**The fourth and last element** – proximate cause of injury – is simpler to understand than it sounds. “Proximate cause of injury” means that the other three elements above must have caused foreseeable (or potentially expected) harm or injury to someone. The harm is usually physical injury, but it can also include mental anguish and permanent psychological injury.

## Dog Owner Responsibility

### *Texas Dog Bite Laws*

In Texas legal liability for a dog bite is based on one of the following circumstances:

- The owner knew that the dog had bitten someone previously or had the dangerous propensity to bite a person,
- The accident was caused by the negligence of the person handling the dog,
- The accident was caused by a violation of a leash law, prohibition against dogs trespassing or running at large, or a similar animal control law, or
- The injury was caused intentionally by the person handling the dog.
- If the dog owner was not acting as an "ordinarily prudent" dog owner would and that led to the attack they could be held responsible under a theory called "negligence."

**\*There is a particular form of negligence that is referred to as "negligence per se." This occurs when the person controlling or owning the dog breaks the local municipal, city or county law.**



## Wild Animals

### *Strict Liability*

If a person is injured or killed by a wild animal kept by another person, there might a “strict liability” claim available. An injured person or her family must prove the following elements for this claim:

- (1) a person either reduced a wild animal to the person’s possession or control or introduced a wild animal into the area;
- (2) the wild animal had dangerous propensities characteristic to its class; and
- (3) the dangerous propensities were the producing cause of the plaintiff’s injury.

## Dangerous Breeds

This is a very controversial area and data can be difficult to compile given the numerous amount of dogs of multiple breeds. According to Merritt Clifton, editor of *Animal People*, the following is the order of the dogs responsible for the most number of deaths from 1982 to 2009:

1. **Pit Bull Terrier**
2. **Rottweiler**
3. **Wolf hybrid**
4. **Husky**
5. **German Shepherd**
6. **Bullmastiff (presa canario)**
7. **Chow**
8. **Akita**

You should always consult with your veterinarian or an animal behavioral expert prior to adopting any type of dog to figure out if their temperament is right for your family.

## What Happens After a Dog Bite

**What happens after a dog bite varies depending on the procedures of the law enforcement or animal control in your community. The following is a series of steps that occur in most cases:**

1) **Quarantine the Dog** – The dog will be taken into quarantine by either animal control, law enforcement or the dog's veterinarian in order to test for signs of rabies.

2) **Dangerous Dog Determination** – While in quarantine typically a Justice of the Peace, animal control or other law enforcement agencies will make a determination on whether the dog is 'dangerous.' This will be determined based on the type of attack or bite, the dog's history of dangerousness and the responsibility of the dog's owners.

3) **Release or Other Actions** - Once a determination has been made on whether or not the dog is dangerous, the authorities will make a determination of what steps the owner should be required to take.

If the dog is determined not be dangerous, the dog will typically be released to the dog's owner. If the dog is determined to be dangerous, the dog will either remain in custody or released with conditions placed on the dog's owners such as [getting insurance](#) and building an enclosure for the animal.

Unfortunately, in the vast majority of cases dangerous dogs are returned back to the owners of the dog without any precondition placed on the dog's owners to ensure another attack does not occur.

## What to Do After a Dog Bite

**Get medical attention.** After you have been bitten by a dog, the most important thing to do is to get medical attention. If you need immediate help call 911 and have an ambulance come to the scene. If you do not feel like you need an ambulance you should still go to the emergency room as soon as possible after the bite occurs. Many times dog bites are more serious than they appear.

**Check for rabies.** Whenever any dog or animal attack occurs you want to always make sure the animal is checked for rabies. If you or law enforcement cannot check the animal for rabies you want to ensure that your doctor gives you injections to protect you in case the dog was infected.

**Avoid infection.** Be sure to ask the doctor about the possibility of infection. Dog's mouths have thousands of germs and many times the infection from the dog bite can be more serious than the dog bite itself. Infections that are left untreated can lead to surgery, amputation or even death.

**Get the dog owner's name, address and homeowner's insurance policy.** You will want to be sure to get the important information of the dog's owner. In case the injuries turn out to be serious you will want to be able to locate the owner, their dog and potential homeowner's insurance policy.

**Report it to animal control or law enforcement.** It's important that you report any dog bite or attack to law enforcement. First, you want to make sure that animal control ensures that the dog was taken in to be quarantined. Next, you will want to make sure that animal control or law enforcement take appropriate actions to protect you and the public from any this happening again. If the dog bite goes unreported, there is a strong chance that the dog's owner will not take any actions to protect the public.

**Find out if the dog has bitten or attacked before.** Be sure to ask animal control, law enforcement or your neighbors if the dog has bitten or attacked anyone before. Unfortunately, many times this will not be the first time.

**Ensure that the dog was quarantined.** Even if the bite or scratch is minor you will want to make sure that the animal is checked for rabies. Typically, this includes the animal being quarantined by animal control or a veterinarian.

**Take pictures of your injury.** It is important that you document how serious your injury was, both to show animal control and for any future claims you may have against the person's homeowner's insurance.

**Do not give a recorded statement.** You may be asked to give a recorded statement by the homeowner's insurance company for the dog's owner. It is important that you decline this offer. The insurance company will use this statement against you later in any negotiations or litigation.

**If your injuries were serious speak to an attorney.** You may be entitled to have your medical bills, lost wages and other damages reimbursed to you for the dog bite. Many times this area of the law can be difficult and very hard to understand. At a minimum, get a consultation by an experienced lawyer that handles dog bite cases. You may not need to hire an attorney but it is always better to be safe than sorry.

## **Frequently Asked Questions**

### **FAQ's**

#### **Am I entitled to compensation for a dog bite?**

It depends if the dog's owner is 'liable' for the dog bite. If they are liable, a person is typically entitled to medical bills, lost wages, pain and suffering along with other damages.

#### **Who pays for my damages in dog bite cases?**

Typically, the homeowner insurance for the dog's owner will pay for any damages that you have suffered as a result of the dog's attack.

#### **How long does someone have to file a lawsuit?**

Typically, someone has up to two years to file a lawsuit from the date of their injury. Never try to calculate how long you have without the help of an attorney. There are many exceptions to the "two year" statute of limitations and we hear from people all the time that waited too long to file suit.

#### **How much does it cost to hire your firm?**

At Zinda Law Group, PLLC, we assist victims of personal injury accidents on a contingency fee basis. In other words, you pay no fees or costs unless we succeed in making a [recovery](#) on your behalf for injury from a serious accident. If there is no recovery, you will not be responsible for any court costs or litigation expenses, except for your unpaid medical bills.

#### **What should I do if I don't live near your offices?**

We handle cases all over the State of Texas and Arizona. We can evaluate your case over the phone or [by email](#). This will save you time and let us get started evaluating your case right away. We regularly travel to our clients when the injuries are serious.

#### **Do you charge to evaluate my case? (i.e. do you offer free consultations?)**

No, there is absolutely no charge for us to evaluate your potential case. We are available 7 days a week. Call us or fill out the contact us form right now!

## Hiring a Lawyer

When deciding whether or not to hire an attorney after a dog bite you should consider whether or not you will net a higher [recovery](#) after paying an attorney than before.

**When deciding to hire a lawyer ask yourself the following questions:**

### **Did I suffer very “minor” injury cases?**

The answer in this situation is ‘maybe’. It is important to always carefully consider your options. If your case involves personal injuries, a more detailed analysis is required. If the injuries are minor and you fully recover from the injuries in a few days, you may not need an attorney. Minor injuries are ones that result in less than a \$1,000.00 in medical bills and there is no scarring or continuing mental issues due to the attack.

### **Do I continue to have mental anguish due to the dog bite?**

Many times the most difficult part of a dog bite is the fear that from dogs that result after an attack. If the dog bite was frightening or you continue to have problems with fear, anxiety or distress after a dog bite you should at least consult with an attorney to see if you have a case.

### **Was I or a loved one severely injured or killed?**

If your case involves anything more than minor injuries, it is likely that you will benefit by hiring an attorney. Most people do not typically have the necessary negotiation skills, knowledge of the law and experience in evaluating damages to obtain a fair settlement value for major injury cases.

As such, when negotiating with an insurance adjuster, non-lawyers are at a distinct disadvantage. Do not be misled by the adjuster’s statements that hiring an attorney will reduce your net settlement or delay payment for your claim. [The insurance](#) industries own statistics do not support these statements. In 2004, [the Insurance Resource Council](#) completed a study that found that people who used an [attorney](#) received an average of 3½ times more money in settlement than those individuals who settled on their own. Thus, if you seek to obtain a fair settlement for your injuries, the use of an experienced personal [injury lawyer](#) is vitally required



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ATTORNEYS AND COUNSELORS AT LAW

# **Nine Common Mistakes Made After a Dog Attack**

## **1. Not Calling 911**

It is very important that you immediately seek medical attention. Even if you think you are okay, it is crucial to get checked out by a doctor to make sure everything is alright. Also, it is important to seek attention as soon as possible because many insurance companies refuse to believe the seriousness of injuries if the victim fails to quickly seek medical attention.

## **2. Not Notifying Animal Control**

The police will examine the scene thoroughly and produce information such as witness statements. If the dog ran away following the attack or if there is fear that the dog may have been carrying a disease, then it is necessary to contact animal control. These actions will establish who is responsible or liable for the dog.

## **3. Not Taking Photos**

It is important to document the initial injury and subsequent scarring. This step is particularly important because insurance companies place a tremendous amount of emphasis on these pictures. Many times, documenting your injury can make a large difference in establishing your injuries

## **4. Giving a Statement to the Insurance Company**

Giving a statement to the dog owner's insurance company could hurt your chances at being fairly compensated for the attack. Most likely they will try to trick you into creating a hole in your story or false inconsistencies. Consult an attorney before giving any recorded statements

## **5. Signing Forms**

Just like you do not want to give a recorded message to the insurance company, you should not sign anything from the dog owner's insurance company. For instance, they may attempt to get you to sign a medical authorization form which enables them to access your entire medical record history. The insurance company could use unflattering details in an attempt to hurt your settlement.

## **6. Failing to Document Everything**

After the accident, write a note to yourself. Include all the information you have gathered and can remember while it is fresh in your mind. Explain how the accident happened as best you can. In addition, keep a file documenting photographs, witnesses, medical bills, correspondences from the insurance company, and the dog owner's information.

## **7. Taking a Quick Settlement**

The injuries from a dog attack may require several months or longer of medical treatment. The insurance company does not want to be liable for severe injuries and will typically attempt to get you to settle for much less than the extent of your injuries command.

## **8. Not being 100% Honest**

Honesty is the best policy. Tell the doctors and authorities exactly what happened and exactly how you feel. False statements or even minor exaggerations can cause major problems in your claim. Often times the matter is simply your word against the dog owner's. If your word is proven to be inaccurate or unreliable, your case will be tremendously hurt.

## **9. Not Consulting with an Attorney**

Insurance companies are expert negotiators and evaluators of injury claims. They have an understanding of the law and are aware of the arguments and defenses to be made in a dog attack. In order to effectively compete with them, it is in your best interest to hire an attorney experienced in these injuries. In addition, the attorney can ensure that you don't make any mistakes that could permanently jeopardize your settlement chances.

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**About Zinda Law Group, PLLC**Representing All Types of Clients

The lawyers of Zinda Law Group, PLLC represent people who have suffered injuries due to dog bites. We know firsthand that the injuries suffered as a result of a dog bite can be severe and life-altering for both the victim and his or her family.

Experienced Litigators

Our experienced attorneys will determine if someone is responsible for your injuries. If someone is responsible, they may owe you monetary damages. These can include compensatory or punitive damages. Compensatory damages attempt to put an injured person back in the position he or she was in before being injured. They include lost wages, past and future medical expenses, and pain and suffering. In some cases, punitive damages are also awarded. Punitive damages are given to the injured person in order to penalize wrongdoers and deter others from repeating the offense.

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