

APDT POSITION STATEMENT DANGEROUS DOG LAWS

The Association of Professional Dog Trainers (APDT) recognizes the need to protect the public from dangerous dogs, and that the public safety goal can be achieved in a way that respects all parties involved – from the person or animal who was attacked, to the dog owners and dogs who are the subject of dangerous dog or reckless owner proceedings.

Dangerous dog laws must focus on the actual behavior of a dog in a particular incident. Laws that discriminate based on breed or breed type, rather than the behavior of the individual dog, are neither effective nor reasonable. Studies have shown that breed discriminatory laws do not reduce the incidence of dog bites.ⁱ Given this evidence, APDT takes the position that dangerous dog laws must be breed neutral.ⁱⁱ Additionally, dangerous dog laws in the form of statewide statutes (rather than ordinances that vary from locality to locality) provide more consistency.

APDT believes the following components make for a well-crafted dangerous dog statute:

1. Due process protections: Dangerous dog laws must provide due process protections to ensure that dog owners receive fair notice and the opportunity to be heard. The best dangerous dog laws provide a judicial proceeding rather than an administrative hearing, and treat the matters as civil proceedings, but with the due process and procedural protections found in criminal cases.ⁱⁱⁱ Some of these protections include a heightened standard of proof^{iv} and the right to cross-examine witnesses and produce evidence and witnesses in the dog owner's defense. The law should also allow animal control to assess whether the owner can ensure the safety of the community pending trial, and if so, allow the dog to remain in the home pending trial.^v
2. Clear definition of "dangerous": Dangerous dog statutes must provide a clear and unambiguous definition of "dangerous." The definition of "dangerous" must avoid vague terms such as "attack" or "vicious propensities"^{vi}, and should require a certain level of contact. For bites to a human to be considered "dangerous," APDT recommends that the bite at a minimum punctures the skin, as described in Level 3 in Dr. Ian Dunbar's Dog Bite Scale (<http://apdt.com/wp-content/uploads/2017/01/ian-dunbar-dog-bite-scale.pdf>). For bites to a dog to be considered "dangerous," APDT recommends that the bite at a minimum results in serious injury to the dog, as described in Level 5 in Cara Shannon's Dog to Dog Bite Hierarchy (https://raisingcanine.com/Bite_Hierarchy_Charts.pdf).
3. Clear defenses and exemptions: Not every bite lacks justification, and dangerous dog laws should provide defenses and exemptions accordingly. Examples of defenses that are appropriate include when the animal acts in response to pain or provocation, or if defending him/herself or the dog's offspring, owner or owner's property. Examples of exemptions include: a working dog engaged in official duties at the time of the act; a dog bite to the dog's owner or another animal in the household; and a dog bite to another animal who comes on the dog's own property.
4. Allowance for expert testimony and evidence: Dangerous dog statutes and courts should allow for expert testimony and evidence on assessing and understanding the level of injury, the

circumstances of the incident, and canine behavior. These experts can weigh in on important aspects of a dangerous dog case, such as whether the dog was responding to provocation, whether the dog's actions were reasonable or justified under the circumstances, and what behavior modification and training follow up is appropriate for the dog and owner.^{vii} This is an area where certified applied animal behaviorists, board certified veterinary behaviorists, behavior consultants, and trainers can contribute. However, these experts should have experience and competency in dog bite cases and should adhere to LIMA principles. (Refer to APDT's Position Statement on LIMA for further information.) Behavior consultants and trainers should also at a minimum have a behavior certification such as "Certified Dog Behavior Consultant" (CDBC) through the International Association of Animal Behavior Consultants or "Certified Behavior Consultant Canine – Knowledge Assessed" (CBCC-KA) through the Certification Council for Professional Dog Trainers.

5. Fair consequences upon finding of dangerous: Upon a finding that the dog is dangerous, statutes should impose fair conditions that focus on public safety, which may include: requiring the dog to be licensed, microchipped, and spayed or neutered; restitution for medical and veterinary bills that were actually incurred; requiring the owner to carry liability insurance that covers dog bites; having a proper enclosure or fence on the owner's property; muzzling the dog when off the property; and requiring the owner to register the dog and to notify the court of any change in ownership, change in address, or further bite incidents. To the extent possible, courts should have the flexibility to impose individualized conditions, such as attending reactive dog classes, requiring a behavior modification and training program, and/or consulting with a veterinary behaviorist. In less egregious cases, courts should have the ability to continue the case without a dangerous finding, impose relevant conditions on the owner, and dismiss the case upon compliance.

APDT points to the dangerous dog laws in Illinois and Virginia as examples of well-crafted dangerous dog laws that contain most if not all of the above components:

- Illinois: 510 Ill.L.C.S. 5/15.1:
<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1704&ChapterID=41>
- Virginia: Virginia Code Section 3.2-6540:
<https://law.lis.virginia.gov/vacode/title3.2/chapter65/section3.2-6540/>

Dangerous dog laws are only one aspect of the issue. Dangerous dog cases often involve dogs with behavior issues. However, even the "best" dog may be placed in an unfair scenario due to the actions or inactions of his or her owner or handler. "Reckless owner" laws target individuals who are more likely to place dogs in unsafe circumstances, and allow courts to restrict or even prohibit ownership and possession of companion animals. Most commonly, these restrictions or prohibitions are imposed upon conviction of certain felonies^{viii}, animal cruelty^{ix} or animal fighting^x, or a finding of repetitive negligence^{xi}. These "reckless owner" laws complement dangerous dog laws by targeting individuals whose actions or inactions can put even the "best" dog in a scenario that could lead to a dangerous dog proceeding.

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ⁱ See ASPCA Position Statement on Breed Specific Legislation and cited references at <https://www.aspca.org/about-us/aspca-policy-and-position-statements/position-statement-breed-specific-legislation>.

ⁱⁱ For a good example of breed neutral language in a state dangerous dog code, refer to Va. Code § 3.2-6540(G): “No canine or canine crossbreed shall be found to be a dangerous dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited.”

ⁱⁱⁱ As an example, see Va. Code § 3.2-6540(F) (stating that dangerous dog proceedings are governed by procedure for appeal and trial as provided for criminal misdemeanors, including allowing for trial by jury).

^{iv} See Va. Code § 3.2-6540(F) (applying beyond a reasonable doubt standard to civil dangerous dog proceedings).

^v As an example, see Va. Code § 3.2-6540(C) (“If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered.”)

^{vi} For example, see Helmert v. City of Des Moines, No. 17-0794 in the Court of Appeals of Iowa, filed April 4, 2018 (finding undefined phrase “vicious propensities” unconstitutionally vague).

^{vii} For example, see 510 Ill.L.C.S. 5/15, §15(a), and 510 Ill. L.C.S. 5/15.1, §15.1(a), allowing for testimony of a certified applied behaviorist, board certified veterinary behaviorist, or other recognized expert as relevant to the court’s determination of whether the dog’s behavior was justified, and 510 Ill.L.C.S. 5/15.1, §15.1(d)(1), allowing for an evaluation of the dog by a certified applied behaviorist, board certified veterinary behaviorist, or other recognized expert in the field, and completion of training or other treatment.

^{viii} For examples, refer to 20 Ill. Comp. Stat. 5/12-36 (restricts felons from owning unsterilized dogs); 510 Ill. Comp. Stat. 5 *et seq.* (making it a misdemeanor for those convicted of forcible felonies, felony gun violations, drug violations, or felony violations of the Humane Care for Animals Act to own an unsterilized dog or a dog previously declared “vicious”).

^{ix} See Va. Code §3.2-6570(G).

^x See Va. Code §3.2-6571(D).

^{xi} See Tacoma, Washington “Problem Pet Owner” ordinance (Section 17.01.010 through 17.06.050) that allows for a declaration of an individual as a “problem pet owner” if the individual commits three or more animal control violations in a twenty-four month period and allows animal control to seize the individual’s companion animals.