



## Frequently Asked Questions

The Maryland Court of Appeals issued an opinion in April 2012 in a case called *Tracey v. Solesky* declaring “pit bull” dogs “inherently dangerous,” holding dog owners – *and anyone with the right to control the dog’s presence on the premises*—automatically liable for bites or other injuries. Maryland lawmakers have made multiple attempts to address the impacts of this ruling, but have so far been unable to agree on the details. Here are the answers to some frequently asked questions about this ruling and the legislative efforts to reverse it.

### 1. Does *Solesky* mean I can’t have a “pit bull” anymore in Maryland?

No. This ruling is different than “breed specific legislation” that either bans or places restrictions on a particular breed or type of dog. This ruling only applies if a dog bites someone and the victim sues the dog owner (or property owner where the dog was kept) in court to recover medical expenses, lost wages, pain and suffering or other damages. This ruling is also completely separate from county “dangerous dog” procedures that govern actions an owner must take if his/her dog acts aggressively or causes harm. Those local laws address what happens to the dog; the ruling addresses how the victim is compensated.

### 2. Does this mean my landlord can come and take my dog?

No. Regardless of the type of dog you have, your landlord cannot just show up and force either you or your dog out. Landlords have to follow the law, give advance notice of eviction proceedings, and go through a legal process to remove tenants or their pets. In this case, the legal process could be as short as 14 days, but it could take weeks or months to be resolved.

### 3. Does this ruling apply to mixed-breed dogs?

No. In August 2012, the Court limited its ruling to true “pit bulls,” specifically excluding mixed breed dogs from the new rule. However, the Court did not include a definition of “pit bull.”

### 4. What is “liability” and how does it work?

“Liability” is a legal term that simply means someone has responsibility for damage caused to someone else. For example, if you cause a car accident, you would be liable for the damages to the other person, and potentially would be responsible for paying for the damage to the car, covering the cost of any medical treatment or physical therapy, etc. There is a whole spectrum of liability standards that apply in different cases, from automatic liability with no opportunity to offer any defenses, to liability based on negligence, or failure to exercise reasonable care.

### 5. What was the law before *Solesky* – and why can’t we just go back to that standard?

The law for dog bites in Maryland has been created by the courts through individual dog bite cases instead of being enacted by the legislature. This kind of court-made law is called “common law.” Prior to *Solesky*, a dog bite victim was required to show that an owner knew, or should have known, the dog was dangerous based on its past behavior in order to recover for his/her damages. A similar standard also applied to landlords. Under *Solesky*, the owner or landlord’s knowledge of the dog’s past behavior is irrelevant if the dog is a “pit bull.” Most legislators want to create a comprehensive statute, rather than simply overturning the ruling and going back to the common law.



**6. Why haven't legislators been able to fix this? Are there some legislators who are anti-pit bull?**

From the initial hearing, lawmakers agreed that the Court of Appeals got it wrong. They all believe—as we do—that dog bite liability laws should not be based on breed and that third parties should not be strictly liable. They understand that singling out a particular type of dog is a bad policy, and that holding landlords and other property owners strictly liable is having devastating impacts. The challenge has been working out the details of a breed neutral liability standard for dog owners. There are significant policy differences between the approaches preferred by the Senate—which tends to favor strict liability—and the House, which prefers a standard closer to the common law.

**7. How do other states handle dog bite liability? What is “strict liability”?**

Legislatures in thirty-two states have modified the common law by passing a statute that governs dog bite cases, and in these states, some form of “strict liability” applies. That means that a dog owner can be liable even if he/she had no reason to believe the dog was dangerous. But each state law is a little bit different. Some states only hold a dog owner liable if the dog had previously been deemed dangerous, others impose strict liability only for dogs running at large, and some have more broad applications of strict liability. The remaining eighteen states still rely on the common law and require some showing that the owner was negligent (i.e. knew or should have known the dog was dangerous).

**8. Doesn't strict liability mean I would be liable, with no opportunity to defend myself, if my dog bit someone?**

No. The legislature has considered various versions of strict liability bills and all of them include specific ways the dog owner can defend his/her dog. For example, strict liability legislation that has been considered in Annapolis would not hold a dog owner responsible if the dog was provoked, if the person who was bitten was trespassing or committing a crime, or if the dog was a military or police dog. These are examples of common defenses available under strict liability laws.

**9. Can people still get homeowners insurance in states with some kind of strict liability?**

Yes. Thirty-two states have some form of strict liability and dog owners in those states still obtain homeowner's insurance. Because the laws vary and insurance companies handle policies differently, it's difficult to guess the exact effect of a strict liability law on insurance availability. But other states that have made the switch from the common law to some type of strict liability don't seem to have experienced a dramatic change in the availability of insurance.

**10. How would the “rebuttable presumption” work?**

Last January, leaders in the House and Senate proposed compromise legislation to stave off another stalemate due to their differences in opinion about the best policy. Instead of either establishing some form of strict liability or going back to the common law prior to *Solesky*, they proposed a middle ground – the establishment of a rebuttable presumption that a dog owner is responsible for damages caused by his/her dog. This means that the assumption would be that a dog owner knew or should have known that his/her dog had a dangerous propensity, and it would be up to the dog owner to present evidence to rebut this presumption – i.e. evidence that the dog was friendly, never threatened anyone, had no dangerous tendencies, etc. Prior to *Solesky*, the burden was on the victim of the dog bite to prove the dog owner DID have reason to believe the dog was dangerous. Under this standard, the burden would be shifted to the dog owner.



### **11. Which committees and legislators will be considering this issue?**

Each bill that is introduced in the Maryland General Assembly – in the House of Delegates or in the Senate – is assigned to a specific committee depending on the subject matter of the bill. This issue will be considered by the House Judiciary Committee and the Senate Judicial Proceedings Committee, so those legislators serving on those committees are crucial.

#### **House Judiciary Committee:**

Chairman Joseph Vallario  
Vice-Chair Kathleen Dumais  
Delegate Curt Anderson  
Delegate Sam Arora  
Delegate Jill Carter  
Delegate Luke Clippinger  
Delegate John Cluster  
Delegate Frank Conaway  
Delegate Glen Glass  
Delegate Michael Hough  
Delegate Kevin Kelly  
Delegate Susan Lee  
Delegate Susan McComas  
Delegate Michael McDermott  
Delegate Keiffer Mitchell  
Delegate Neil Parrott  
Delegate Samuel Rosenberg  
Delegate Luiz Simmons  
Delegate Michael Smigiel  
Delegate Darren Swain  
Delegate Kris Valderrama  
Delegate Geraldine Valentino-Smith  
Delegate Jeff Waldstreicher

#### **Senate Judicial Proceedings Committee:**

Chairman Brian Frosh  
Vice Chair Lisa Gladden  
Senator James Brochin  
Senator Joseph Getty  
Senator Jennie Forehand  
Senator Nancy Jacobs  
Senator Anthony Muse  
Senator Jamie Raskin  
Senator Christopher Shank  
Senator Norman Stone  
Senator Bobby Zirkin

### **12. How can I keep up-to-date on this issue, and where can I refer people who need help?"**

"Like" the HSUS-Maryland and B-More Dog pages on Facebook, and sign up for our email lists to keep up with new developments and calls to action. The Humane Society of the United States has set up a special website and hotline and these are great places to get information and refer others to for help. Visit [humanesociety.org/protectmddogs](https://humanesociety.org/protectmddogs) or call 1-855-MDDOGS1 (1-855-633-6471).