

[Home \(/\)](#)[Solutions \(/solutions.html\)](/solutions.html)[Facts and Figures \(/facts-and-figures.html\)](/facts-and-figures.html)[Attorney Kenneth M. Phillips \(/meet-kenneth-phillips/meet-kenneth-phillips.html\)](/meet-kenneth-phillips/meet-kenneth-phillips.html)

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Solutions for victims, lawyers, canine professionals and dog owners

Kansas Dog Bite Law

Kansas is a one bite state.

- [Overview](#)
- [Litigation forms and other materials for attorneys \(/store/dog-bite-litigation-forms-for-plaintiffs-lawyers.html\)](/store/dog-bite-litigation-forms-for-plaintiffs-lawyers.html)
- [If your case involves injury to a dog, see What To Do If Your Dog Is Injured or Killed \(/store/what-to-do-if-your-dog-is-injured-or-killed.html\)](/store/what-to-do-if-your-dog-is-injured-or-killed.html)

Overview

Kansas adopted the British "one bite rule" in 1897. *Mills v. Smith*, 9 Kan. App. 2d 80, 673 P.2d 117 (Kan.App. 1983); *Carl, Administratrix v. Ackard*, 114 Kan. 640, 644, 220 P. 515 (1923); *Hahn v. Kordula*, 5 Kan. App. 142, 48 Pac. 896 (1897); see also PIK Civ.2d 12.91. The one-bite rule was created in the 1600s for villagers whose dogs, sheep, goats, chickens, pigs and other animals wandered the streets freely and slept in people's homes. In the USA, 32 states and the District of Columbia have rejected the antiquated and unfair one-bite rule either wholly or partially. Amazingly, the Kansas state legislature has not done so yet.



(See The One-Bite Rule (/one-bite-rule/one-bite-rule.html) and contrast it with strict liability laws at Legal Rights of Dog Bite Victims in the USA (/legal-rights-of-dog-bite-victims-in-usa/legal-rights-of-dog-bite-victims-in-the-usa.html).)

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A dog bite victim who is injured in Kansas must prove either that the dog owner had "scienter" or was negligent. The scienter cause of action requires proof that the dog had the dangerous propensity to bite people and that the dog owner knew it or should have known it prior to the accident in question. Negligence is the unreasonable failure to do something or not do something, which results in injury to a person whom the defendant has a duty to not injure. Read more about these causes of action at Legal Rights of Dog Bite Victims in the USA (/legal-rights-of-dog-bite-victims-in-usa/legal-rights-of-dog-bite-victims-in-the-usa.html).

Interestingly, Kansas courts apply other modern rules of law when those rules make it harder for a dog bite victim to recover compensation. Even in cases where the defendant is strictly liable, Kansas courts will apply principles of comparative fault, measuring the plaintiff's fault (if any) against that of the defendant so that the victim receives less than the full value of the injury. Mills v. Smith, 9 Kan. App. 2d 80, 673 P.2d 117 (Kan.App. 1983); Lester v. Magic Chef, Inc., 230 Kan. 643, 645, 641 P.2d 353 (1982); see the comparative fault statute, K.S.A. 60-258a.

Kansas holds landlords liable for dog bites in some cases. In Bundy v. Sky Meadows Trailer Park, 1989 WL 125379 (Oh. Ct. App. 1989), the plaintiff was bitten by a dog owned by another resident of a trailer park owned and operated by Sky Meadows. The plaintiff sued Sky Meadows and the dog's owners for negligence resulting in the dog bite. Facts were established to indicate that Sky Meadows had actual knowledge that the dog ran freely around the trailer park and had bitten other children in the past. Furthermore, Sky Meadows had a rule stating that "animals must not run at large," which was never enforced against the owners of this particular dog, despite its past attacks on children. 1989 WL at *1-2.

The Bundy court first distinguished a mobile home trailer park from an apartment complex because the common premises of the park and the residents' conduct may be restricted or controlled by park rules. The court held that Sky Meadows had a duty to enforce the rules and regulations of the trailer park; hence, by contract, Sky Meadows had a duty to prevent animals from roaming the premises of the park. Further, the court stated a "special relation" existed due to the fact that Sky Meadows had knowledge of the dog's vicious propensities and promulgated rules prohibiting animals from running at large. Notice and knowledge of a dog's propensity to roam and attack children obligates the trailer park operator to take affirmative action. 1989 WL at *2-3.

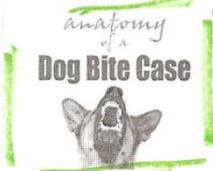
Kansas makes a dog owner responsible for injuries caused by "dog fright." Henkel v. Jordan, 7 Kan. App. 2d 561, 644 P.2d 1348 (Kan.App.1982). In that case, the issue was whether the defendants could properly be held liable for personal injuries suffered by a plaintiff when, frightened by defendant's "bouncy, pesky, yappy little dog," he lost control of and fell from a bicycle. The dog owners had been put on notice by numerous individuals that the dog had frightened people who passed along the street. The court held that the facts could support a finding of negligence.

"one bite rule" = you liable if you knew the dog was vicious.



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