

Dogs that Attack Persons

Chapter 822, Subchapter A, Health and Safety Code

BEGINNING THE PROCESS:

(1) Any person (including county attorney, city attorney, or peace officer) files sworn complaint with county, justice, or municipal court alleging:

- a dog has caused the death of or serious bodily injury to a person
- by attacking, biting, or mauling the person



Question for Judge:

Is there probable cause to believe the dog caused the death of or serious bodily injury to the person as stated in the complaint?

NO



Judge does not issue seizure warrant

NO



Judge shall order dog released to:

- its owner
- the person from whom dog was seized, or
- any other person authorized to take possession of the dog

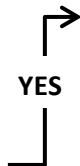
If none of these circumstances are present, judge may order the dog destroyed

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Presumably, if judge may not or chooses not to order the dog destroyed, dog would have to be released to owner or person from whom the dog was seized.

There is NO right to appeal judge's determination

YES



(2) Judge issues seizure warrant and sets hearing date for not later than 10th day after warrant is issued

Court shall give written notice of hearing date to:

- the owner of the dog or person from whom the dog is seized and
- the person who made the complaint



AT THE HEARING:

Question for Judge:

Did the dog cause the death of the person by attacking, biting, or mauling the person?

YES



Judge shall order dog destroyed

UNLESS



Judge may not order the dog destroyed if:

- dog was being used for protection of a person or property, attack occurred in dog's enclosure that was reasonably certain to prevent dog from escaping and provided notice of dog's presence, and injured person was at least 8 years old and was trespassing in the enclosure;
- attack occurred in dog's enclosure, and injured person was at least 8 years old and was trespassing in the enclosure;
- attack occurred while peace officer was using the dog for law enforcement purposes;
- dog was defending a person from assault or property from damage or theft by the injured person; or
- injured person was younger than 8 and occurred in dog's enclosure that was reasonably certain to keep a child from entering.

