SENATE BILL 181 (LRB -2609)

An Act to renumber and amend 951.18 (4) (a) 1.; to amend 951.18 (4) (a) 2.; and to create 951.01 (5), 951.097, 951.18 (2s), 951.18 (4) (a) 1. a., 951.18 (4) (a) 1. b., 951.18 (4) (a) 1. c., 951.18 (4) (a) 1. d., 951.18 (4) (a) 1. e. and 951.18 (4) (a) 1. f. of the statutes; relating to: harassment of, causing injury to, or theft of a service dog and providing penalties. (FE)

2005

03-07.	S.	Introduced by Senators **Risser**, **Miller**, **Roessler**, **Lassa**, **Carpenter** and **Harsdorf**; cosponsored by Representatives **Berceau**, **Hahn**, **Sherman**, **Sheridan**, **M. Williams**, **Bies**, **Hines**, **Grigsby**, **Pocan**, **Molepske**, **Benedict**, **Ott** and **Gunderson**.	
04-20.	S.	Read first time and referred to committee on Judiciary, Corrections and Privacy	178
04-29.	S.	Fiscal estimate received.	
04-29.	S.	Fiscal estimate received.	

2006

02-14.	S.	Public hearing held.	
02-14.	S.	Executive action taken.	
02-21.	S.	Report introduction and adoption of Senate Substitute Amendment 1 recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0 **(LRB s0550)**	608
02-21.	S.	Report passage as amended recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0	608
02-21.	S.	Available for scheduling.	
02-22.	S.	Fiscal estimate received.	
02-22.	S.	Placed on calendar 2-23-2006 by committee on Senate Organization.	
02-23.	S.	Read a second time	622
02-23.	S.	Senate substitute amendment 1 **adopted**	622
02-23.	S.	Ordered to a third reading	622
02-23.	S.	Rules suspended	622
02-23.	S.	Read a third time and **passed**	622
02-23.	S.	Senator Taylor added as a coauthor	621
02-23.	S.	Ordered immediately messaged	624
02-27.	A.	Received from Senate	850
02-27.	A.	Read first time and referred to committee on Rules	851
03-07.	A.	Rules suspended to withdraw from committee on Rules and take up	917
03-07.	A.	Read a second time	917
03-07.	A.	Ordered to a third reading	918
03-07.	A.	Rules suspended	918
03-07.	A.	Read a third time and **concurred in**, Ayes 95, Noes 0	918
03-07.	A.	Ordered immediately messaged	918
03-08.	S.	Received from Assembly concurred in.	

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2005
ENROLLED BILL

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ADOPTED DOCUMENTS:

☐ Orig ☐ Engr S SubAmdt 1 05 50550/1

Amendments to above (if none, write "NONE"): None

Corrections – show date (if none, write "NONE"): None

Topic Rel

3/10/06
Date

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SENATE SUBSTITUTE AMENDMENT 1,

TO 2005 SENATE BILL 181

February 21, 2006 – Offered by COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY.

1 AN ACT ***to renumber and amend*** 951.18 (4) (a) 1.; ***to amend*** 951.18 (4) (a) 2.;
2 and ***to create*** 951.01 (5), 951.097, 951.18 (2s), 951.18 (4) (a) 1. a., 951.18 (4) (a)
3 1. b., 951.18 (4) (a) 1. c., 951.18 (4) (a) 1. d., 951.18 (4) (a) 1. e. and 951.18 (4) (a)
4 1. f. of the statutes; **relating to:** interfering with the use of, causing injury to,
5 causing the death of, or the theft of a service dog and restitution for offenses
6 relating to service, police, and fire animals and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, no person may do any of the following to an animal that is used by a law enforcement agency or fire department to perform its functions or duties: 1) frighten, intimidate, threaten, abuse, or harass the animal; or 2) strike (with or without a weapon), shove, kick, or otherwise subject the animal to physical contact. (These prohibitions do not apply to acts done by or with the authorization of the animal's handler or rider or to acts done in the course of training the animal.) The penalties for violating these prohibitions depend on the extent of the harm inflicted on the animal and the mental state of the actor. Generally, an offender is subject to a forfeiture (a civil penalty) of up to $1,000. But if the person knows that the animal is used by a law enforcement agency or fire department to perform its

functions or duties, the person is guilty of: 1) a Class A misdemeanor, if the violation is intentional or negligent; 2) a Class I felony, if the violation is intentional and the person causes injury to the animal; or 3) a Class H felony, if the violation is intentional and the person causes the death of the animal. (See the table below for the penalties that apply to these classes of crimes.)

If a person is convicted of one of these crimes, the court must require the person to pay restitution to any person or entity incurring pecuniary loss as a result of the crime. Under current law, "pecuniary loss" includes: 1) the money equivalent of any loss or damage resulting from the offense; 2) reasonable out–of–pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and prosecution of the crime; and 3) expenses in keeping any animal that is involved in the crime.

This substitute amendment creates new crimes involving dogs that are trained for the purpose of assisting persons with sensory, mental, or physical disabilities or accommodating such disabilities (service dogs). Under the substitute amendment, a person who does any of the following, knowing that the dog involved is a service dog, is guilty of the type of offense specified:

Conduct	*Class of offense*
Recklessly interfering with the use of a service dog after receiving a request to stop behavior that is interfering with the dog	Class B misdemeanor
Intentionally interfering with the use of a service dog after receiving a request to stop behavior that is interfering with the dog	Class A misdemeanor
Recklessly allowing his or her dog to interfere with the use of a service dog	Class B misdemeanor
Intentionally allowing his or her dog to interfere with the use of a service dog	Class A misdemeanor
Recklessly injuring a service dog or recklessly allowing his or her dog to injure a service dog	Class A misdemeanor
Intentionally injuring a service dog or intentionally allowing his or her dog to injure a service dog	Class I felony
Recklessly causing the death of a service dog	Class I felony
Intentionally causing the death of a service dog	Class H felony
Unlawfully taking possession of a service dog	Class H felony

The following table lists the penalties that apply to crimes discussed in this analysis:

Crime	*Maximum fine*	*Maximum term of confinement*	*Maximum sentence length*
Class B misdemeanor	$ 1,000	90 days	90 days
Class A misdemeanor	$10,000	9 months	9 months

Class I felony	$10,000	1.5 years	3.5 years
Class H felony	$10,000	3 years	6 years

The substitute amendment also makes the provisions in current law relating to restitution in cases involving law enforcement agency or fire department animals applicable to service dogs. In addition, the substitute amendment specifies that "pecuniary loss" includes the following for cases involving either law enforcement agency or fire department animals or service dogs: 1) the value of a replacement animal, if needed, the cost of training a replacement animal, or the cost of retraining the affected animal; 2) all related veterinary and care expenses; and 3) the medical expenses of the animal's user, the cost of training the animal's user, and compensation for income lost by the animal's user.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 951.01 (5) of the statutes is created to read:

2 951.01 **(5)** "Service dog" means a dog that is trained for the purpose of assisting
3 a person with a sensory, mental, or physical disability or accommodating such a
4 disability.

5 **SECTION 2.** 951.097 of the statutes is created to read:

6 951.097 **Harassment of service dogs. (1)** (a) Any person may provide notice
7 to another person in any manner that the latter person's behavior is interfering with
8 the use of a service dog and may request that the latter person stop engaging in that
9 behavior.

10 (b) No person, after receiving a notice and request under par. (a) regarding a
11 service dog, may do any of the following:

12 1. Recklessly interfere with the use of the service dog by obstructing or
13 intimidating it or otherwise jeopardizing its safety or the safety of its user.

14 2. Intentionally interfere with the use of the service dog by obstructing or
15 intimidating it or otherwise jeopardizing its safety or the safety of its user.

1 **(2)** (a) No person may recklessly allow his or her dog to interfere with the use
2 of a service dog by obstructing or intimidating it or otherwise jeopardizing its safety
3 or the safety of its user.
4 (b) No person may intentionally allow his or her dog to interfere with the use
5 of a service dog by obstructing or intimidating it or otherwise jeopardizing its safety
6 or the safety of its user.
7 **(3)** (a) No person may recklessly injure a service dog or recklessly allow his or
8 her dog to injure a service dog.
9 (b) No person may intentionally injure a service dog or intentionally allow his
10 or her dog to injure a service dog.
11 **(4)** (a) No person may recklessly cause the death of a service dog.
12 (b) No person may intentionally cause the death of a service dog.
13 **(5)** No person may take possession of or exert control over a service dog without
14 the consent of its owner or user and with the intent to deprive another of the use of
15 the service dog.
16 **SECTION 3.** 951.18 (2s) of the statutes is created to read:
17 951.18 **(2s)** Any person who violates s. 951.097 (1) (b) 1. or (2) (a), knowing that
18 the dog that is the victim is a service dog, is guilty of a Class B misdemeanor. Any
19 person who violates s. 951.097 (1) (b) 2., (2) (b), or (3) (a), knowing that the dog that
20 is the victim is a service dog, is guilty of a Class A misdemeanor. Any person who
21 violates s. 951.097 (3) (b) or (4) (a), knowing that the dog that is the victim is a service
22 dog, is guilty of a Class I felony. Any person who violates s. 951.097 (4) (b) or (5),
23 knowing that the dog that is the victim is a service dog, is guilty of a Class H felony.
24 **SECTION 4.** 951.18 (4) (a) 1. of the statutes is renumbered 951.18 (4) (a) 1.
25 (intro.) and amended to read:

951.18 **(4)** (a) 1. (intro.) In this paragraph, "pecuniary loss" ~~has the meaning described in s. 943.245 (1).~~ means any of the following:

SECTION 5. 951.18 (4) (a) 1. a. of the statutes is created to read:

951.18 **(4)** (a) 1. a. All special damages, but not general damages, including the money equivalent of loss resulting from property taken, destroyed, broken, or otherwise harmed and out–of–pocket losses, such as medical expenses.

SECTION 6. 951.18 (4) (a) 1. b. of the statutes is created to read:

951.18 **(4)** (a) 1. b. Reasonable out–of–pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and prosecution of an offense under this chapter.

SECTION 7. 951.18 (4) (a) 1. c. of the statutes is created to read:

951.18 **(4)** (a) 1. c. Expenses in keeping any animal that is involved in the crime.

SECTION 8. 951.18 (4) (a) 1. d. of the statutes is created to read:

951.18 **(4)** (a) 1. d. In a case under s. 951.095 or 951.097, the value of a replacement animal, if the affected animal is incapacitated or dead; the cost of training a replacement animal; or the cost of retraining the affected animal. The court shall base any determination of the value of a replacement service dog on the value of the service dog to the user and not on its cost or fair market value.

SECTION 9. 951.18 (4) (a) 1. e. of the statutes is created to read:

951.18 **(4)** (a) 1. e. In a case under s. 951.095 or 951.097, all related veterinary and care expenses.

SECTION 10. 951.18 (4) (a) 1. f. of the statutes is created to read:

951.18 **(4)** (a) 1. f. In a case under s. 951.095 or 951.097, the medical expenses of the animal's user, the cost of training the animal's user, and compensation for income lost by the animal's user.

1 **SECTION 11.** 951.18 (4) (a) 2. of the statutes is amended to read:

2 951.18 **(4)** (a) 2. A sentencing court shall require a criminal violator to pay
3 restitution to a person, including any local humane officer or society or county or
4 municipal pound or a law enforcement officer or conservation warden, for any
5 pecuniary loss suffered by the person as a result of the crime~~, including expenses in~~
6 ~~keeping any animal that is involved in the crime~~. This requirement applies
7 regardless of whether the criminal violator is placed on probation under s. 973.09.
8 If restitution is ordered, the court shall consider the financial resources and future
9 ability of the criminal violator to pay and shall determine the method of payment.
10 Upon the application of any interested party, the court shall schedule and hold an
11 evidentiary hearing to determine the value of any pecuniary loss under this
12 paragraph.

13 **(END)**