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Details:

(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2009-10

(session year)

### Assembly

(Assembly, Senate or Joint)

### Committee on ... Criminal Justice (AC-CJ)

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

**McAdams, Nancy**

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**From:** Rep.Milroy  
**Sent:** Friday, March 19, 2010 3:17 PM  
**To:** Taylor, Lena; Turner, Bob; Rep.Turner; Kleefisch, Joel; Rep.Kleefisch; Friske, Donald; Rep.Friske; Rep.Kramer; Rep.Ripp; Rep.Brooks; Kramer, Bill; Ripp, Keith; Brooks, Ed; Rep.Kessler; Rep.Staskunas; Rep.Hraychuck; Rep.Pasch; Rep.Soletski; Staskunas, Tony; Hraychuck, Ann; Pasch, Sandy; Soletski, James; Sen.Taylor; Sullivan, Jim; Sen.Sullivan; Erpenbach, Jon; Sen.Erpenbach; Sen.Grothman; Grothman, Glenn; Sen.Hopper; Hopper, Randy  
**Cc:** 'Kathi Tucker'; Polly Niemi; Sen.Jauch; Barry, Sarah  
**Subject:** Leg Council memo re: Sub of AB 747, animal cruelty

**Attachments:** Animal Cruelty Sub Amendment to AB747.pdf; 19ab747\_ms.pdf



19ab747\_ms.pdf  
(39 KB)

Dear Committee Chairs and Members,

Attached is a Substitute Amendment to Assembly Bill 747, Windchill's Law, related to animal cruelty. I've also attached a Legislative Council memo outlining the changes in the Sub.

Members of Windchill's Legacy and I have attempted to work with organizations that had concerns with the original language in AB 747. After reviewing the Sub, several of them have changed their stance from opposed to neutral. The other organizations that have not changed their status have not responded to us.

I would appreciate knowing if we can count on your vote to proceed with the bill. You can let me know by responding to this e-mail or by calling my office at 266-0640.

Thank you for your consideration!

Nick Milroy

09s0326  
not included  
Packet

attached



## WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director  
Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE NICK MILROY  
FROM: Melissa Schmidt, Staff Attorney  
RE: Assembly Substitute Amendment \_\_ (LRBa0326/1) to 2009 Assembly Bill 747  
DATE: March 19, 2010

This memorandum, prepared at your request, explains the changes that Assembly Substitute Amendment \_\_ (LRBa0326/1) (the substitute amendment) makes to 2009 Assembly Bill 747 (the bill).

### **Provisions of Assembly Substitute Amendment – (LRBa0326/1)**

The substitute amendment makes various changes to the bill, including the following:

1. Deletes changes to the definition of “cruel” in s. 951.13, Stats. The bill adds the phrase “failing to prevent” to the definition. The substitute amendment leaves the definition of “cruel” unchanged from current law.
2. Creates an exception for violations of s. 951.13, Stats. (providing proper food and drink to confined animals) for: (1) bona fide experiments carried on for scientific research; or (2) normal and accepted veterinary practices. The bill does not create this exception.
3. Redefines what constitutes abandoning an animal under s. 951.15, Stats. Under the substitute amendment, abandoning an animal means “to leave an animal previously under the care or possession of the person *without making arrangements* for the animal’s proper care, sustenance, and shelter.” The bill uses the phrase, “*without making reasonable arrangements.*”
4. Includes the ability for a person to receive a Class C forfeiture penalty for a violation of ss. 951.02, 952.13, 951.14, or 951.15, Stats., without requiring an additional element of intent, recklessness, or negligence. This penalty is allowed under current law, and is eliminated under the bill. The substitute amendment also allows a Class A forfeiture penalty for violating one of these four provisions within three years after a humane officer issues an abatement order, which is also allowed under current law, but eliminated under the bill.
5. Makes negligent violations of ss. 951.02, 951.13, 951.14, or 951.15, Stats., a Class B misdemeanor. Under current law, negligently violating one of these provisions is a Class A

misdemeanor. The bill eliminates the ability to charge a person with a negligent violation of one of these provisions.

6. Amends how certain violations of ss. 951.02, 951.13, 951.14, or 951.15, Stats., are penalized if committed while ***“in the presence of a child.”*** The substitute amendment ***creates a penalty enhancer*** for circumstances where, “in the presence of a child,” a person either negligently violates these provisions, or violates one of these provisions and intentionally or recklessly causes harm. Under the penalty enhancer, the maximum term of imprisonment ***may be increased by not more than two years.***

The bill does not use a penalty enhancer to increase the penalty for certain violation of one of the four provisions. Instead, under the bill, violating one of these four provisions with intent to cause harm while in the presence of a child was either a Class I, D, or C felony. Violating one of these four provisions and recklessly causing harm was either a Class A misdemeanor, or a Class G or F felony.

7. Defines “in the presence of a child” to mean ***“in the physical presence of a child, in or on the premises of the child’s home, or under circumstances in which a reasonable person would know that the act may be seen or heard by the child.”*** The bill does not define this phrase.
8. Decreases some of the penalties created by the bill for a violation of ss. 951.02, 951.13, 951.14, or 951.15, Stats., where the person either intentionally causes harm or recklessly causes harm. Under the substitute amendment, the penalties are decreased as follows:
  - a. For a violation of ss. 951.02, 951.13, 951.14, or 951.15, Stats., where the person ***intentionally causes harm*** to an animal:
    - i. If ***bodily harm*** is the consequence, under the substitute amendment the penalty is a ***Class A misdemeanor***. This is the same as the bill.
    - ii. If ***great bodily harm*** is the consequence, under the substitute amendment the penalty is a ***Class H felony***; under the bill, the penalty is a Class E felony.
    - iii. If ***death*** is the consequence, under the substitute amendment the penalty is a ***Class G felony***; under the bill, the penalty is a Class D felony.
  - b. For a violation of ss. 951.02, 951.13, 951.14, or 951.15, Stats., where the person ***recklessly causes harm*** to an animal:
    - i. If ***bodily harm*** is the consequence, under the substitute amendment the penalty is a ***Class B misdemeanor***. This is the same as the bill.
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    - iii. If ***death*** is the consequence, under the substitute amendment, the penalty is a ***Class H felony***; under the bill, the penalty is a Class F felony.
9. Allows a sentencing court to order a person to undergo a psychological assessment and to participate in anger management counseling treatment or psychological counseling or treatment if the person was convicted of either a ***felony or misdemeanor*** under ch. 951. The bill allows the court to make such an order only for a ***felony*** conviction.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices at 266-2298.

MS:ty



## McAdams, Nancy

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**From:** Keleher, Marylou  
**Sent:** Friday, March 26, 2010 2:23 PM  
**To:** McAdams, Nancy  
**Subject:** RE: AB 747

Here's what I have:

Turner Yes  
Kessler Yes  
Staskunas Yes  
Hraychuck No, unless we really need her  
Soletski Yes  
Pasch Yes  
Kleefisch No  
Friske – waiting to hear – his staff just sent it to him today.  
Kramer ?  
Brooks ?  
Ripp – He told Kathi & Polly that his concerns are addressed with the Sub Amendment and he would call me today, but I haven't heard from him yet. I just called his office and his aide said he would give him a call and let me know.

Kleefisch told Nick that he thinks he will be the only "no" vote. Of course, we didn't tell him that Hraychuck would be voting no.

So in other words, we have 5 solid, with Hraychuck willing to support if we're desperate, and believe that Friske and Ripp will support. Kramer & Brooks have been non-committal, but we're hoping that they will follow Friske's lead rather than Kleefisch's.

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**From:** McAdams, Nancy  
**Sent:** Friday, March 26, 2010 2:02 PM  
**To:** Keleher, Marylou  
**Subject:** AB 747

Hi Marylou,

Have you been able to talk to your boss yet? If not, I'm going to call Bob and tell him the vote right now is 6-5 with Hraychuck a no unless needed and Friske a possible. That includes Bob's vote. Is this accurate?

Nancy

Nancy McAdams  
Office of State Rep. Robert Turner  
223 North Capitol  
P.O. Box 8953  
Madison, WI 53708-8953  
Phone: 608-266-0731  
Fax: 608-282-3661





**George, Lorna**

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**From:** Rep. Turner  
**Sent:** Wednesday, March 31, 2010 10:00 AM  
**To:** Rep. Kessler; Rep. Staskunas; Rep. Hraychuck; Rep. Soletski; Rep. Pasch; Rep. Kleefisch; Rep. Friske; Rep. Kramer; Rep. Brooks; Rep. Ripp  
**Cc:** Rep. Milroy  
**Subject:** Legislative Council Memo on Assembly Substitute Amendment 1 to Assembly Bill 747  
**Attachments:** AB 747 Substitute Amendment Legislative Council memo.pdf

Dear Committee Members:

Attached is a Legislative Council Memo explaining the changes made to Assembly Bill 747 by Assembly Substitute Amendment 1. I hope you find it helpful.



AB 747 Substitute  
Amendment Le...

Sincerely,

State Rep. Robert Turner, Chair  
Assembly Criminal Justice Committee  
223 North Capitol  
P.O. Box 8953  
Madison, WI 53708-8953  
Phone: 608-266-0731  
Fax: 608-282-3661

Packet



## WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director*  
*Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE NICK MILROY  
FROM: Melissa Schmidt, Staff Attorney  
RE: Assembly Substitute Amendment \_\_ (LRBa0326/1) to 2009 Assembly Bill 747  
DATE: March 19, 2010

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The bill does not use a penalty enhancer to increase the penalty for certain violation of one of the four provisions. Instead, under the bill, violating one of these four provisions with intent to cause harm while in the presence of a child was either a Class I, D, or C felony. Violating one of these four provisions and recklessly causing harm was either a Class A misdemeanor, or a Class G or F felony.

7. Defines "in the presence of a child" to mean "***in the physical presence of a child, in or on the premises of the child's home, or under circumstances in which a reasonable person would know that the act may be seen or heard by the child.***" The bill does not define this phrase.
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If you have any questions, please feel free to contact me directly at the Legislative Council staff offices at 266-2298.

MS:ty



Hello, my name is Ann LaBelle.

AB 747

Date?

Although I do not live in your state I grew up in WI. I am 53 years old now. When I was 17 years old I had to make a terrible decision to sell my beloved horses to a Mink Rancher to be slaughtered for mink feed. There was a drought that year and there was not enough hay. The farmers that had hay needed it for their dairy cattle. I want you to understand the significance of making that decision. To do that I need to tell you that my mother committed suicide when I was 9 years old and my father was killed in a single engine plane accident when I was 11 years old. I want you to know that I am sincere and authentic. At that time I transferred all of my passion over to the horses. When it became apparent that I would not find hay for my horses, I sold them. I made the decision myself. I made the decision because I would not let my friends starve. I was a 17 year old girl in love with my horses. Can you even imagine how hard that was and how terrible it was to load them into the truck that came for them that day. The reason I am telling you this story is not because I want your sympathy. I want you to understand that even though I loved my horses I did not want them to suffer.

On February 9, 2008, a nine month colt was rescued from his home in South Haven, WI. This actually made National Headlines at the time. The colt was found on the ground too weak to stand, starved and covered in ice and snow. He had been starved and did not have access to shelter with the wind chill range that day between 40 to 55 degrees below zero. The people that rescued him began to call him WindChill. While great effort was made to save the colt, he died 20 days later. I believe that the way that baby fought for his life struck a cord with everyone who came into contact with him, either personally or through the media. It was amazing to see him change from having given up on life to actually start to gain weight and strength. I watched him struggle to stand and when he finally got to his feet, struggle to stay standing. Even though his life was now filled with all of the food he could eat and all the love that he could stand, his body was just too damaged to maintain life. I do not want his suffering to be in vain. There was no reason for this to happen. These people were adults. The way that "WindChill" suffered before he was rescued was horrible and cruel. The people responsible for the neglect were charged with animal negligence, but received a slap on the wrist for their negligence. That case has been settled and is done. I am looking to the future.

I believe that a message must be sent to people who do not provide adequate food, water, shelter and care for animals in their care. When that happens it is only because the people responsible do not care about the animals, they do not care if they are suffering. Please help us to change and have laws that are severe enough that at least some people would be more apt to take care of their horses or at least see that they are re-homed or euthanized humanely. Please note that while this bill creates stiffer penalties for great bodily harm and death of an animal, it also maintains an avenue for the court to use its discretion in sentencing including anger management and counseling.

I would like to ask that you co-sponsor WI Assembly Bill #747 (WindChill's Law), which calls for the long waited strengthening of the laws on animal abuse and neglect.

Please take the lead in this law, "WindChill's Law". Even though I do live in MN, My heart has been and always be in Wisconsin. I would like to know that the state that I love is a leader in this small but important area of legislature.

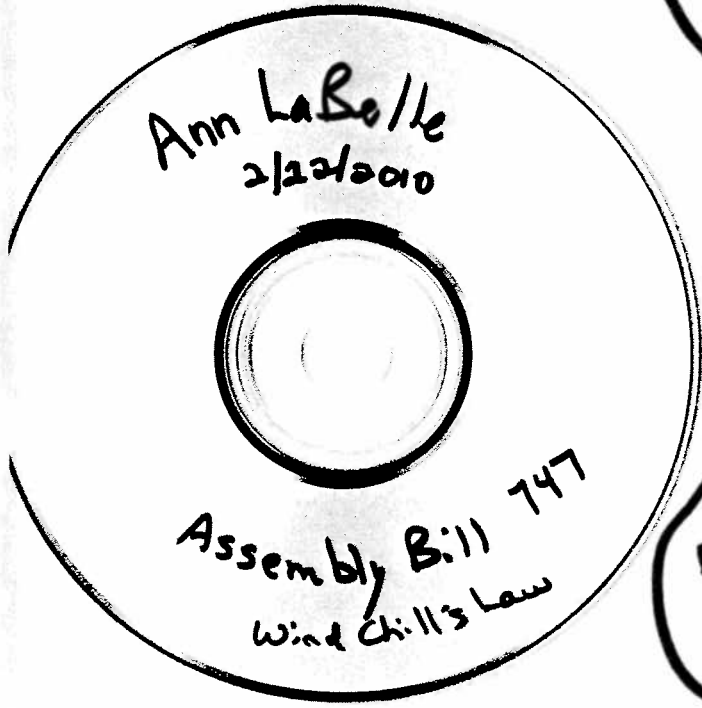
Thank you in advance

Ann LaBelle

Assembly Bill #747



WindChill's Law



Farmington,  
MN.

Audio  
Testimony

AB 747  
Date Submitted ?





AB 747      Date ?

This is my written testimony for ASB 747, WindChill's Law sponsored by Representative Nick Milroy

Hello my name is Paula Moore. I was born and raised in Wisconsin and for 35 years I taught in Wisconsin schools. I am asking each of you to support WindChill's Law.

I have to tell you in all my 59 years I had never been around horses until 2 years ago when I got a call to help with a 9 month old colt. That first day I saw WindChill, I did not know if I could stomach coming back. I was so horrified at what I saw.

I did come back and I spent the next 18 days at WindChill's side. I came back because WindChill and I had a lot in common. We both had suffered terribly from abuse and neglect by the people who had been responsible for taking care of us. We both were fighters, not giving up, and we both had such a will to live that ran deep inside ourselves.

**I survived. WindChill did not.**

I cannot begin to tell you how deep the anger is that I have at the amount of suffering WindChill went through. The judge repeatedly told the person that what she did to WindChill was a criminal act and how much WindChill suffered.

To think that this **extreme neglect of WindChill was done in just 4 months time and done in the presence of her young son, who, while WindChill was being rescued, asked the rescuers if they were finally here to help the little horse.**

Since WindChill's death, I have continued working with other neglected and abused horses. I am even angrier when I see a young spunky black colt named Chaos, who was born this past summer, and realize what WindChill's emaciated body should have been and the beautiful horse WindChill could have been.

I have seen firsthand the connection between animal and human abuse and neglect. In my 35 years of teaching, I have had several students who started out abusing animals which led to further human abuse. In fact on the day of WindChill's plea bargain sentencing, one of my former students, 21 years old, stepped out of the elevator in an orange jumpsuit for a pre-trial hearing in regards to molesting a child. He was known early in life for hanging cats and dogs.

Over the past year in memory of WindChill, I have had the privilege of visiting schools in Wisconsin and Minnesota, telling WindChill's story. Many teachers and counselors tell me that the presentations open the door for children to tell about their own abuse and abuses they have seen parents and relatives do to their pets. It is hard to hear what these kids have experienced and seen.

Just recently at the last school presentation, a 4th grade teacher said "What was done to WindChill was cruelty beyond belief and she asked what made people step over that line." One of her 4<sup>th</sup> grade students answered, "They knew they would not get caught."

I am asking each of you on the Criminal Justice Committee today to pass WindChill's Law to send a strong message loud and clear to those people who think they can get away with abusing and neglecting animals. This Law tells them there will be consequences.

Paula Moore

118 E. 7<sup>th</sup> St.

Duluth, MN 55805

[pmoore221@live.com](mailto:pmoore221@live.com)



Date?

Chairman and members of the committee,

My name is Joy Brand and I represent the Dog Federation of Wisconsin. The Dog Federation of Wisconsin is pleased to comment on AB-747.

Dog Federation of Wisconsin is comprised of dog owners and fanciers from throughout the State of Wisconsin.

Our membership is comprised of owners and enthusiasts who work and train their dogs for participation in many activities which include therapy, hunting, sledding, agility and many others. Attached to this statement is an organizational copy of our member clubs, various informational websites and some contact information.

We are extremely concerned about the proposed wording changes to our state animal cruelty statute which is Chapter 951. The wording in this proposed bill encompasses every facet of pet ownership and would have unintended consequences.

This bill changes the definition of cruelty to include "failing to prevent". Technically you are asserting that anyone that is not guilty of cruelty is probably guilty of failure to prevent the act of yourself or someone else. This circular theory causes EVERYONE to be guilty of one or the other.

This bill uses HUMAN descriptions in its penalties section: "bodily harm" and "great bodily harm". Those definitions as defined in statute Chapter 939 (Crimes General Provision) are as follows:

"Bodily Harm" means physical pain or injury, illness, or any impairment of physical condition. "Great Bodily Harm" means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss of impairment of the function of any bodily member or organ or other serious bodily injury.

Under criminal law, as it affects humans, you must prove intent. A slap is considered an assault. A pinch on the rear is 4<sup>th</sup> degree sexual assault. You have to prove intent on the part of the perpetrator, before they can be charged. Under the crimes against animals Chapter – Mistreatment Statute 951.02 no intent is required for conviction (per State v. Stanfield, 105 Wis. 2d 553, 314 N.W. 2d 339 (1982)). Are we raising the status of animals to a status higher than a human?

According to this proposal citizens that breed, hunt, train, and own pets could be accused of misdemeanors and felonies, unintentionally. Let me give you a few examples:

Animal husbandry and grooming practices can be the cause of physical pain, especially in dogs. Those of us that clip toe nails on our dogs will undoubtedly hit the "quick" (especially on black nails) and cause pain to our dogs. Those dogs that don't like this process will undoubtedly struggle and be quite vocal.

Breeders that dock tails and have dew claws removed at the age of 3 days can be charged with felonies. If you are mentoring children in appropriate methods of husbandry in

certain breeds of dogs you have now enhanced that felony. Whether individuals agree or disagree with animal husbandry practices they are there for a reason.

The wording in this bill also includes those of us that train our dogs to be good companions and workers. Trainers use things called "Prong Training Collars". These collars are used to get the dogs attention by giving them a pinch (which yes is a physical pain). Dogs that are contained with invisible fencing are jolted with a shock when they go outside their containment area and yes both under this human definition of bodily harm would cause the owners to be charged with cruelty. Dogs that find a way outside of a physical fenced in area, and are subsequently hit by cars, could be charged with "failure to prevent".

Dogs that love to work by doing the jobs that they were bred for can end up getting their owners charged with cruelty. Dogs that do agility, hunt and pull sleds are more susceptible to injury because they are moving fast, can fall and tear tendons and muscles. Under the human guidelines for what constitutes bodily harm and under the animal cruelty statute which doesn't need intent, our working dogs could no longer do what they were bred or trained to do.

What does that have to do with just the change in penalty section of the statute? If there is a penalty the element must be defined by the officer writing up the complaint. Those elements need to be defined at report writing time when the complaint is written up. So, whether it is written in specifics in the statute or in the penalty section, it must be written and defined.

The issue that created "Windchill's Law" may have resulted in a charge. I suspect it was the lack of appropriate report writing skills on behalf of the investigating officer writing the report and not the statute itself. That is an issue that can be dealt with by the law enforcement training and standards board and the in-service training that each officer must go through to be recertified.

The other issue that was mentioned in an analysis I read was to punish people that did not treat their animals. The little dog that had broken legs because it was hit by a car and the owner refused to treat it. Does that mean that an individual whose dog is dying of cancer should be charged with a crime because they are going to decline extraordinary measures? Does that mean that individuals that can't afford the glaucoma medications for their dogs should be charged with a crime? Both of those diseases are expensive to treat and painful but veterinarians and pharmacies for the most part want payment when services and products are delivered.

The unintended consequence of this proposal is that it will discourage individuals from visiting veterinarians for fear that they will be turned in for declining expensive treatment options. Or, they will avoid veterinarians for simple treatments because they are fearful it could be something that will be expensive.

For these reasons we oppose Assembly Bill AB-747



**Dog Federation of Wisconsin**  
**742 S. Indiana Ave.**  
**West Bend, WI 53095**

*We own dogs and we vote!*

For dog related issues that are brought to the legislature, please contact the Dog Federation of Wisconsin with any questions you may have.

To Contact Specific Individuals:

Gary Goyke Legislative Representative	Joy Brand President	Tracey Johnston Vice President
(608) 237-8108 gnregoyke@mailbag.com	(414) 254-9057 Joy@dfow.net	(262) 424-2694 Tracey@dfow.net

**As of February 17, 2010 DFOW represents the following member clubs**

Alaskan Malamute Club of America, Inc. + Alaskan Malamute Club of Wisconsin, Inc. Badger Golden Retriever Club Badgerland Basset Hound Club, Inc. + Badgerland Cavalier King Charles Spaniel Club Badgerland Miniature Pinscher Club, Inc. + Bernese Mountain Dog Club of SE Wisconsin Burlington WI Kennel Club Boxer Club of Milwaukee, Inc. + Central Wisconsin Sporting Spaniel Club Combined Specialty Clubs of Greater Milwaukee ++ Doberman Pinscher Club of Greater Milwaukee English Cocker Spaniel Club of Southeastern WI Fancier Cocker Spaniel Club of SE WI Fox River Beagle Club German Shepherd Dog Club of Wisconsin German Shorthaired Pointer Club of Wisconsin + Great Dane Club of Milwaukee, Inc. + Greater Milwaukee Lhasa Apso Club + Greater Milwaukee Norwegian Elkhound Association Greater Milwaukee Poodle Club Greater Milwaukee Samoyed Fanciers, Inc. + Greater Milwaukee Shetland Sheepdog Club Green Bay Shetland Sheepdog Club Irish Setter Club of Milwaukee, Inc K-9 Obedience Training Club	Kenosha Kennel Club, Inc Kettle Moraine Kennel Club Milshore Miniature Schnauzer Club, Inc. + Milwaukee Bulldog Club Northern Flyway Golden Retriever Club Old English Sheepdog Club of Southeastern Wisconsin Oshkosh Kennel Club Packerland Kennel Club Paper Cities Kennel Club Samoyed Association of Madison, Inc. Shih Tzu Club of Wisconsin's Fox Valley Shih Tzu Club of Southeastern Wisconsin + Soft Coated Wheaten Terrier Club of Greater Milwaukee + Southern WI Sporting Spaniel Club The Chihuahua Club of Greater Milwaukee, Inc. + Waukesha Kennel Club West Allis Training Kennel Club Western Waukesha County Dog Training Club Winnegamie Dog Club Wisconsin Chow Chow Club Wisconsin English Springer Spaniel Association Wisconsin Interstate Search and Rescue K-9 Team  ++Combined Specialty Clubs of Greater Milwaukee represents these individual clubs (+). In addition to our member clubs, there are many individual members within the DFOW organization.
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**Corporate Sponsors**

Cedar Creek Pet Resort

Olympia Conference Center

**Websites of interest:**

www.dfow.net  
 www.NAIAonline.org  
 www.akc.org  
 www.ukcdogs.com  
 www.akcCHF.org  
 www.adoa.org

Dog Federation of Wisconsin  
 National Animal Interest Alliance  
 American Kennel Club  
 United Kennel Club (Kalamazoo, MI)  
 American Kennel Club Canine Health Foundation  
 American Dog Owners Association



# Testimony



Date?

307 South Paterson Street, Suite 1  
Madison, Wisconsin 53703  
Phone: (608) 255-0539 Fax: (608) 255-3560

**To:** Members of the Assembly Committee on Criminal Justice  
**From:** Tony Gibart, Policy Coordinator, 608-255-0539 ext 310, [tonyg@wcadv.org](mailto:tonyg@wcadv.org)  
**Re:** Assembly Bill 747

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Chairman Turner and Members of the Committee, thank you for the opportunity to submit testimony on Assembly Bill 747--Windchill's Law. My name is Tony Gibart, and I represent the Wisconsin Coalition Against Domestic Violence (WCADV). I am providing testimony for informational purposes. The subject of this legislation, animal abuse, has serious implications, beyond the health and well-being of animals. To fully understand the significance of animal abuse, the Committee must understand the deep connection between animal abuse and domestic violence.

## **Animal abuse and domestic violence are closely linked.**

Animals are often used as a means to control domestic violence victims. Family pets are commonly a first target because abusers understand and exploit the deep bond between pets and family members. Animals become pawns that batterers use to coerce, control and intimidate their victims. Abusers often threaten, harm or kill the family pet to ensure victims will not leave or report abuse. When abusers harm animals, the message abusers send to victims is clear: I could do this to you. In short, animal abuse in a home perpetuates an environment of fear and terror.

Studies show there is a strong connection between animal abuse and domestic violence:

- A survey conducted by The National Coalition Against Domestic Violence found that out of the 50 largest shelters for battered women in the United States, 85% of the women and 63% of the children entering shelters discussed incidents of pet abuse in their family.
- In Wisconsin, a study of battered women revealed that in four out of five cases, abusive partners had also been violent toward pets or livestock.<sup>1</sup>

## **Animals should be included in protective orders.**

Protecting pets can help protect human victims of domestic violence. Currently, animals are very rarely included in domestic violence protection orders in Wisconsin. Victims fleeing a violent relationship may not have the means or capacity to take their pets with them, and most shelters do not allow victims to be accompanied by an animal. When victims fear the abuser will exact revenge on the animal, they are less likely to leave an abusive relationship.

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<sup>1</sup> Turner, Nancy (2000). Animal Abuse and the Link to Domestic Violence. *Police Chief* 67(6), 28-30.



Ten states have enacted legislation that includes provisions for pets in domestic violence protection orders. In these states, a protection order may prohibit the respondent from inflicting harm onto the victim's pet. Assembly Bill 747 would explicitly permit Wisconsin courts to direct an individual who is subject to a restraining order to refrain from mistreating or threatening to harm the victim's pets or animals. If victims felt their pets would be safe, they would be more inclined to leave abusive environments. Including pets in protection orders involving domestic abuse will offer a victim an alternative to staying in a violent relationship out of fear for her pet's safety.

Thank you for the opportunity to provide testimony today. I also want to thank the sponsors for working on this important issue. I ask that the Committee account for the effect animal abuse has on the safety of victims of domestic violence as it considers this legislation.



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My name is Kathi Tucker, Executive Director of the WindChill Legacy, Ltd.

I have spent most of my life pulling animals out of some pretty horrific situations and bringing them back to health. Like the kitten tied to a whiskey bottle left by the water's edge waiting for the tide to come in, or Ebby, who spent her first 18 years of life as a show horse, only to end up in a field with her teeth in such bad shape that the sharp points had shredded the inside of her mouth, causing such terrible abscesses that she could no longer eat. She was standing in front of a hay bale, while she slowly starved to death. I have waited a lifetime for the opportunity to speak for them, for the silent ones and I thank you for the opportunity to do so now.

Every year The Animal Legal Defense Fund releases a report ranking the animal protective laws of every state and territory of the USA. In their 2009 study, IL ranked first, MI ranked 3<sup>rd</sup> and WI ranked 18<sup>th</sup>. The majority of the strengths that put IL in the lead and MI 3<sup>rd</sup> in this study are the same changes, some to a lesser degree that we are asking for in this new Bill. Some of you may be aware that the Humane Society did a similar study. The reason that I chose not to quote their study is because it included a larger amount of exemptions that are not affected by the changes written in AB747. For example all of the current WI trapping, hunting, and agriculture exemptions, such as the normal animal husbandry practices statutes remain unchanged. Remaining unchanged as well is the statute pertaining to normal and accepted veterinary practices and scientific research.

After Rep. Milroy gave us the first draft of this bill, we reached out to groups that we felt may have concerns over new animal legislation being introduced. We phoned, sent letters along with a copy of the draft to The NRA, US Sportsmen's Alliance, WI Wildlife Federation, WI Towns Association, WI Farm Bureau and the WI Trappers Association. We asked that they review the bill draft in its early stage and share with us their concerns, if any, so that we could address them prior to the next draft. None of the groups responded.

I truly believe that AB 747 offers long term savings for the state of WI. Not only will the strengthening of our animal cruelty laws act as a deterrent to abusers, the removal of other animals from the abusers care and property checks for a longer period will save on prosecuting repeat offenders during that time. Justice Department and other studies have shown time and time again that animal abuse is a stepping stone to domestic abuse, child abuse and at its worse, serial killing. I don't know what it costs the state to prosecute domestic violence repeat offenders or even for that matter what it cost the state of WI to prosecute Jeffrey Dahmer, who started his infamous career dissecting animals before moving on to humans. It stands to reason that it would be far better to prosecute an animal abuse case at the beginning of the violent cycle than repeat domestic violence offenders or worse. AB747 gives the courts the option to require counseling or anger management and that alone should help to prevent future prosecution.

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## DOG FEDERATION OF WISCONSIN CLAIMS ABOUT AB 747

### 1. ALERT STATES:

“This bill goes beyond the scope of protecting children and in the process could make anyone that uses any type of aversive training (i.e. prong or choke collars) method or who breed is traditionally docked or cropped or those that have dew claws removed, or perhaps cause a nail to bleed when cutting too close to the quick, a felon if done in the front of a child.”

#### RESPONSE:

False. Lawful activities are currently protected and will remain protected under AB 747. Under the current law, “cruel” means causing unnecessary and excessive pain or suffering or unjustifiable injury or death. The proposed change to the definition of “cruel” in AB 747 is the addition of “failing to prevent” unnecessary and excessive pain or suffering or unjustifiable injury or death. The examples provided by DFC have not, and would not, constitute “cruel” as defined either under the existing or proposed law. In addition, the current law exempts “normal and accepted veterinary practices” which would include such activities as tail docking/cropping, claw removal, etc. (statute 951.02).

### 2. ALERT STATES:

“Our current animal cruelty laws do not offer specific exclusions for livestock management, hunting, trapping, or docking/dewclaw removal/cropping of animals...”

#### RESPONSE:

False. Again, lawful activities are currently protected and will remain protected under AB 747. In order for a person to violate the animal cruelty law, their actions (or failure to act should AB 747 become law) must be unnecessary, excessive or unjustifiable (951.01(2)). All examples presented in the claim fall outside of this requirement and would not be in violation of the law.

Beyond this clear exemption however, there are additional more specific exemptions, already in place, that fully exclude “normal and accepted veterinary practices” and “scientific research” (951.02); the “taking of wild animals” e.g. hunting, fishing and trapping (chapter 29); “slaughter of animals” (951.015(1)); and “normally accepted husbandry practices” in relation to sheltering “farm animals” (951.14).

### 3. ALERT STATES:

“As this bill deals with two unrelated sections of WI Statutes, the wording in 813.12 that specifically states “mistreatment of an animal owned or cared for by the petitioner,” is not applicable to the section regarding animal cruelty and therein threatens all warm-blooded enterprises in the State.”

#### RESPONSE:

Part-true/Part-false. The claim that the proposed clause “mistreatment of an animal owned or cared for by the petitioner” does not apply to the animal cruelty sections is correct. This clause is only applicable in the domestic violence sections of the law. Its sole purpose and effect is to allow courts to protect animals in domestic violence cases by giving them the opportunity to include them in temporary restraining orders that are issued by the courts – something that fifteen other states already expressly authorize their courts to do. This provision will have no impact, whatsoever, on any “warm-blooded enterprise in the state”.

4. ALERT STATES:

“Section 948.057 titled ‘Causing a child to commit a crime against an animal’ is new.”

RESPONSE:

True. This provision is intended to help protect children from the effects of animal abuse and animal abusers. There is over two decades of research demonstrating a high correlation between those who abuse animals and those who are violent with people. Abusers will often commit the abuse in front of children, or force them to participate, in order to threaten, control and emotionally abuse them.

5. ALERT STATES:

“This bill changes the definition of cruel... by adding ‘or failing to prevent’...”

RESPONSE:

True. Under AB 747, affirmative acts and failures to act would be considered cruelty when such activity is not exempted. (See RESPONSE to #2).

6. ALERT STATES:

“If a person uses a prong collar, or an electric collar for either containment or training and it is done in front of a child, you could be charged with a Class I felony.”

RESPONSE:

False. Activities involving containment or training of animals would be protected activities and exempt from the cruelty law. (See RESPONSE to #2).

7. ALERT STATES:

“If you dock, crop, or remove dew claws in front of a child, you could be charged with a Class E felony.”

RESPONSE:

False. The increased penalty only applies to non-lawful (non-exempted) activities that violate the provisions of this law. The activities described in the claim, have not, and would not be in violation of this provision.

8. ALERT STATES:

“If you hunt, trap, or slaughter animals for food in front of a child, you could be charged with a Class C felony.”

RESPONSE:

False. Hunting, trapping and slaughtering animals for food are protected activities and already exempt from the cruelty law. (See RESPONSE to #2).

9. ALERT STATES:

“mistreatment of animals conviction...does not require proof of intent or negligence. Just doing the activity is enough.”

RESPONSE:

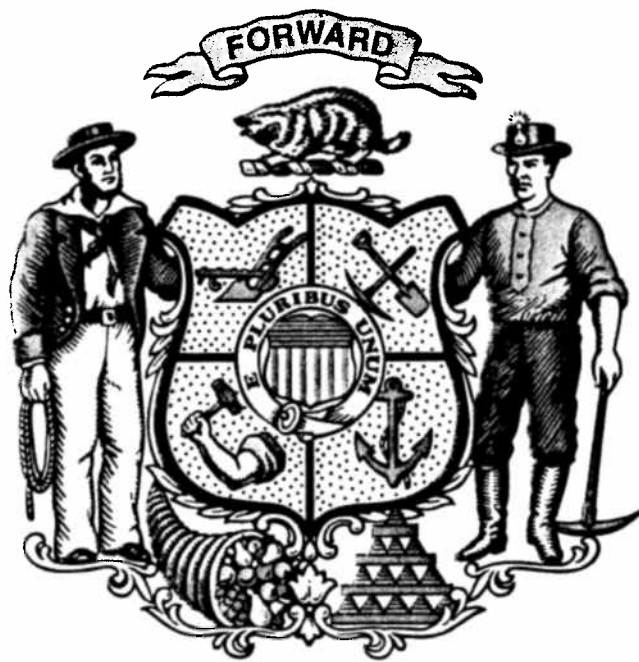
False. A criminal conviction for mistreatment of an animal (951.02), either as a misdemeanor or felony, requires that the offender acted either intentionally or negligently. (951.18)

10. ALERT STATES:

“This bill will effect even those that don’t breed.”

RESPONSE:

False. The current law, as well as the changes proposed by AB 747, will have no impact on those participating in any lawful activity anywhere in the state.





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WindChill's Law Testimony by Polly Niemi

WindChill's Law is truly a grassroots effort by caring citizens. The WindChill's Legacy members didn't even know each other just over two years ago when Kathi and Jeff Tucker dropped everything in their lives to help a little horse. My husband Gary is a retired Air Force Colonel, and we both seek missions where we can serve, making a difference for the greater good. He and I weren't horse people but offered to help because help was needed. Kathi told me WindChill would steal our hearts: she was so right. We eagerly appeared at Raindance Farms just outside of Superior WI every day of the rest of his short life. We hugged him, brushed him, massaged his battered little legs, helped lift him up, and cheered him on with every small victory. And we fell in love with him.

When the case against his abusers went to trial, I was in the courtroom every day of every hearing. As a subpoenaed witness, I learned from the D.A. how difficult it was for her to prosecute the case. These people watched a baby horse starve to death outside their kitchen window! How can that NOT be prosecuted? When one abuser made a plea bargain to testify against the other because he had domestic abuse charges pending, and the other abuser bargained for a slap on the wrist, I wanted to know if that was common everywhere in the U.S. WindChill's Law Task Force was formed: I, a schoolteacher, facilitated it, and a pharmacist, a mental health facility administrator, a licensed psychologist who previously worked with domestic abuse, and a ski instructor volunteered to research this. None of us are involved with any animal rights' groups.

We divided up the 50 states, and they read every statute concerning animals for every state, including some that were still in legislative committees. The best ones were inserted into our current WI statutes where they seemed to fit. I then edited that 25 page document into 7 pages including end notes citing the states of origin for the changes. We met regularly during the process, discussing what we were seeking and why, as well as what current statutes were fine as they are. When we were satisfied that we had created the best document possible, we met with Representative Nick Milroy who enthusiastically accepted our document. He agreed to draft this bill from it and sponsor the resulting legislation.

The document resulting in Assembly Bill 747 was written from our hearts and souls, and it was written for all those who are battered and neglected through no fault of their own. Most of all, it was written with love and hope, because we deserve laws that protect animals and children who have no voice and have no choice. I cannot even imagine how the pre-school child of WindChill's abusers feels, having witnessed domestic abuse and parents who let a baby starve in the field in front of their house. How he felt when he asked Kathi, "Are you finally here to help the little horse?"

I will tell you about abuse in front of and involving a little girl and how it affected her. Nobody talks about it so I have no information before my grandmother. She and her sisters worked at logging camps in northern MN where she met my grandfather, who died when I was 3. I loved being at her farm for the peace, room, and baby animals. But I was scared to death of

her, seeing her beat the animals with her huge stick. I was told that growing up, my dad was also no stranger to her stick. She kicked my dog and threw my cat down the basement stairs in rages when she stayed with us. My dad also went into rages, not hitting, instead berating and belittling, telling me how stupid and worthless I was. My mother was afraid of the anger, so she would try to soothe him as we scurried away. My pets were my solace in the dark places within myself where I hid. And we were always told it was our fault for provoking my dad. My first marriage was a disaster, and it was my divorce that made me realize how much I didn't want my children to be like me. It's taken me my whole life and many professional sessions to break that cycle for my children. I'm not fixed, never will be. But I learned different behaviors, like telling them I was too angry to deal right then and going for a walk or into my garden. My children are successful, confident women who don't believe in the core of their beings that they are totally worthless humans who are always responsible for everything that goes wrong. It took professional help after 3 generations to stop the circle.

WindChill's Law addresses anger issues, abuse, and neglect by clarifying restraining orders, provides for evaluation, anger management, and counseling in sentencing, as well as increasing penalties for those who believe the laws of our state don't apply to them. The citizens of WI know what is right and wrong, and know that this is part of an ugly circle of violence, generation after generation, that must change.



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On Saturday February 9th, 2008 we rescued a 9 month old colt from a farm in our area. Frigid conditions mixed with high winds (30mph, wind chill of -50F) finally overcame the little guy's already weakened condition. Suffering from dehydration, malnourishment, hypothermia and frostbite, we loaded the colt we've been calling WindChill into one of our horse trailers and raced for home. Hoping that we could save him.

We could not.

The local newspaper did a front page story on the horrifying rescue and word spread like wild fire over the AP and several TV stations. Our frozen little colt, who was fighting so hard to live, made the national news when FOX NY picked up the story. The over whelming support and public outcry over how this baby horse was left to suffer, brought thousands of people all over the United States and other countries together for a common cause.

The experts warned us from the beginning not to get our hopes up, because the odds were just overwhelmingly stacked against this little horse. We never told WindChill that. We accepted each day with him as a gift, we watched his progress in awe - as did the entire nation. This little horse became a beacon of hope for so many who had lost their faith in humanity. He taught us that no matter what happens in your life, no matter how unfair, you can still have faith and you can find love to carry you to a better place. He found the good in the world.

The abusers in this case received a slap on the wrist for their crime, as do so many other animal abusers, we made a promise to all those animals out there, silently enduring their suffering, that we would be their voice.

To his memory we dedicate our efforts to combat equine neglect and abuse.