

# State of Wisconsin



2015 Senate Bill 450

Date of enactment: **March 1, 2016**  
Date of publication\*: **March 2, 2016**

## 2015 WISCONSIN ACT 233

AN ACT *to repeal* 173.12 (1m), 173.12 (2), 173.12 (3), 173.13 (1) (a) 7., 173.21 (1) (c), 173.22 (3) (a) 1. and 173.22 (3) (a) 3.; *to renumber* 173.12 (1); *to renumber and amend* 173.19; *to amend* 173.12 (title), 173.13 (1) (a) 8., 173.13 (3) (title), 173.13 (3) (a), 173.13 (3) (b), 173.21 (1) (a), 173.21 (4), 173.22 (1), 173.22 (3) (a) (intro.), 173.23 (1m) (intro.), 173.23 (2), 173.23 (3) (a) (intro.), 173.23 (3) (a) 3., 173.23 (3) (e), 173.24 (1), 951.18 (4) (b) 2. and 968.20 (1) (intro.); and *to create* 173.19 (1m), 173.19 (3) and 173.22 (4) of the statutes; **relating to:** animals believed to have been involved in crimes against animals, when a stray or abandoned animal may be considered unclaimed, and a court order relating to an animal taken into or held in custody.

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

**SECTION 1.** 173.12 (title) of the statutes is amended to read:

**173.12 (title) Animal fighting; seizure.**

**SECTION 2.** 173.12 (1) of the statutes is renumbered 173.12.

**SECTION 3.** 173.12 (1m) of the statutes is repealed.

**SECTION 4.** 173.12 (2) of the statutes is repealed.

**SECTION 5.** 173.12 (3) of the statutes is repealed.

**SECTION 6.** 173.13 (1) (a) 7. of the statutes is repealed.

**SECTION 7.** 173.13 (1) (a) 8. of the statutes is amended to read:

173.13 (1) (a) 8. An animal ~~mistreated in violation of~~ used in any crime under ch. 951 or that constitutes evidence of a crime under ch. 951.

**SECTION 8.** 173.13 (3) (title) of the statutes is amended to read:

173.13 (3) (title) NOTIFICATION OF OWNER.

**SECTION 9.** 173.13 (3) (a) of the statutes is amended to read:

173.13 (3) (a) If a humane officer or law enforcement officer takes custody of an animal with the knowledge of the owner, the humane officer or law enforcement officer shall explain the procedure by which the owner can recover the animal, including the procedure under s. 173.22, and the procedure to be followed if the animal is not returned to the owner. If the humane officer or law enforcement officer takes custody of the animal under sub. (1) (a) 8., the humane officer or law enforcement officer shall explain the provisions of s. 173.22 (4) to the owner.

**SECTION 10.** 173.13 (3) (b) of the statutes is amended to read:

173.13 (3) (b) If a humane officer or law enforcement officer takes custody of an animal without the knowledge of the owner, the humane officer or law enforcement officer shall promptly notify the owner in writing if he or she can be identified and located with reasonable effort. The notice shall explain the procedure by which the owner can recover the animal, including the procedure under s. 173.22, and the procedure to be followed if the animal is not returned to the owner. The notice shall also inform the owner that the owner must notify any person with a

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

lien on the animal that the animal has been taken into custody. If the humane officer or law enforcement officer takes custody of the animal under sub. (1) (a) 8., the notice shall explain the provisions of s. 173.22 (4).

**SECTION 11.** 173.19 of the statutes is renumbered 173.19 (1) and amended to read:

173.19 (1) ~~–A– Except as provided in sub. (1m), a political subdivision or person contracting under s. 173.15 (1) may treat any animal taken into custody under s. 173.13 (1) (a) 1., as an unclaimed animal subject to s. 173.23 (1m) if, within 4 days after custody is taken of the animal, it is not claimed by and returned to its owner under s. 173.23 (1).~~

(2) Except as provided in sub. (3), a political subdivision or person contracting under s. 173.15 (1) may treat any animal taken into custody under s. 173.13 (1) (a) 3., 4., or 9. as an unclaimed animal subject to s. 173.23 (1m) if, within 7 days after custody is taken of the animal, it is not claimed by and returned to its owner under s. 173.23 (1), except that an animal taken into custody under s. 173.13 (1) (a) 3. or 4. may not be treated as unclaimed if its owner files a petition under s. 173.22 (1) within 7 days after custody is taken.

**SECTION 11m.** 173.19 (1m) of the statutes is created to read:

173.19 (1m) Notwithstanding sub. (1), a political subdivision or person contracting under s. 173.15 (1) may not euthanize the animal taken into custody under s. 173.13 (1) (a) 1. before 7 days have elapsed after custody is taken, except to alleviate physical suffering or to protect the safety of shelter staff, volunteers, or the public.

**SECTION 12.** 173.19 (3) of the statutes is created to read:

173.19 (3) If an animal is taken into custody under s. 173.13 (1) (a) 3., 4., or 9. and also taken into custody under s. 173.13 (1) (a) 1., only sub. (1) applies to that animal.

**SECTION 13.** 173.21 (1) (a) of the statutes is amended to read:

173.21 (1) (a) There are reasonable grounds to believe that the owner has ~~mistreated the animal in violation of~~ used the animal in a crime under ch. 951 or that the animal constitutes evidence of a crime under ch. 951.

**SECTION 14.** 173.21 (1) (c) of the statutes is repealed.

**SECTION 15.** 173.21 (4) of the statutes is amended to read:

173.21 (4) RETURN. ~~–A– Except with respect to an animal taken into custody under s. 173.13 (1) (a) 8., a political subdivision or person contracting under s. 173.15 (1) having custody of an animal withheld under sub. (1) shall release the animal to the owner at the direction of the humane officer or law enforcement officer that took custody of the animal if the requirements of s. 173.23 (1) (a) to (c) are satisfied.~~

**SECTION 16.** 173.22 (1) of the statutes is amended to read:

173.22 (1) PETITION. A person claiming that an animal that he or she owns was improperly taken into custody under s. 173.13 (1) (a) 3., 4., 5., or 6. ~~or 8.~~ or is wrongfully withheld under s. 173.21 (1) (b) or (d) may seek return of the animal by petitioning for an order from the circuit court for the county in which the animal was taken into custody or in which it is held.

**SECTION 17.** 173.22 (3) (a) (intro.) of the statutes is amended to read:

173.22 (3) (a) (intro.) If the animal ~~was taken into custody under s. 173.13 (1) (a) 8. or~~ is withheld under s. 173.21 (1) (b) or (d), the court shall order the animal returned to the owner unless it determines that one of the following conditions is satisfied:

**SECTION 18.** 173.22 (3) (a) 1. of the statutes is repealed.

**SECTION 19.** 173.22 (3) (a) 3. of the statutes is repealed.

**SECTION 20.** 173.22 (4) of the statutes is created to read:

173.22 (4) HOLDING AN ANIMAL INVOLVED IN A CRIME. (a) An owner of an animal taken into custody under s. 173.13 (1) (a) 8. or withheld under s. 173.21 (1) (a) may apply for the animal's return to the circuit court for the county in which the animal was taken into custody. No application under this paragraph may be made more than 30 days after the animal was seized. The court shall order such notice as it considers adequate to be given the district attorney, the political subdivision or person contracting under s. 173.15 (1) with custody of the animal, and all persons who have or may have an interest in the animal. The court shall hold a hearing to hear all claims to the animal's ownership within 20 days after a timely application is filed, and the hearing shall be given preference.

(b) In the hearing under par. (a), the court shall determine if the animal is needed as evidence or if there is reason to believe that the animal was involved in any crime under ch. 951. If the court determines that the animal is needed as evidence or that there is reason to believe that the animal was involved in any crime under ch. 951, the court shall order the animal to be retained in custody. If the court determines that the animal is not needed as evidence and that there is not reason to believe that the animal was involved in a crime under ch. 951, the court shall order the animal returned to the owner.

(c) If the owner files a timely application under par. (a) and the court orders the animal to be retained in custody under par. (b), no payment is due under par. (f) until 30 days after the court order. If the court orders an animal to be returned to its owner under par. (b), no payment is due under par. (f).

(d) If an animal that was taken into custody under s. 173.13 (1) (a) 8. or is withheld under s. 173.21 (1) (a) is in custody and its owner is charged with a crime under ch. 951, one of the following applies:

1. If all of the charges are dismissed or the owner is found not guilty of all charges, the political subdivision or person contracting under s. 173.15 (1) with custody of the animal shall return the animal to the owner unless the owner is subject to the restrictions under s. 951.08 (2m) or the animal has been treated as unclaimed or is otherwise subject to a disposition under s. 173.23.

2. If the owner is convicted of a crime under ch. 951, the animal shall be treated as unclaimed under s. 173.23 (1m), except that the charges under s. 173.23 (1m) (a) 4. do not apply if the court assesses the charges as expenses under s. 173.24.

(e) If an animal that was taken into custody under s. 173.13 (1) (a) 8. or is withheld under s. 173.21 (1) (a) is in custody and the district attorney or the department of justice notifies the political subdivision or person contracting under s. 173.15 (1) with custody of the animal that the animal's owner will not be charged with a crime under ch. 951, the political subdivision or person contracting under s. 173.15 (1) with custody of the animal shall return the animal to its owner unless the owner is subject to the restrictions under s. 951.08 (2m) or the animal has been treated as unclaimed or is otherwise subject to a disposition under s. 173.23.

(f) Subject to par. (g), the owner of an animal taken into custody under s. 173.13 (1) (a) 8. or withheld under s. 173.21 (1) (a) is personally liable to the political subdivision or person contracting under s. 173.15 (1) with custody of the animal for the cost of the custody, care, and treatment of the animal. The political subdivision or person contracting under s. 173.15 (1) shall notify the owner in writing that he or she must pay for the outstanding costs of custody, care, or treatment of the animal upon demand. The political subdivision or person contracting under s. 173.15 (1) may demand such payment no more frequently than every 14 days and shall do so by 1st class mail to the owner's last-known address. If the amount demanded is received within 30 days of the mailing of the demand, the political subdivision or person contracting under s. 173.15 (1) shall keep the animal in custody. Except as provided in par. (c), if the amount demanded is not received within 30 days of the mailing of the demand, the political subdivision or person contracting under s. 173.15 (1) shall treat the animal as unclaimed under s. 173.23 (1m), except that the charges under s. 173.23 (1m) (a) 4. do not apply if the court assesses the charges as expenses under s. 173.24. The owner of the animal may challenge the reasonableness of the amount demanded under this paragraph by filing a petition with the court within 20 days after the date the demand is mailed. The owner may not file a petition challenging the reasonableness of the amount demanded more than 20 days after the date the demand is mailed.

(g) The costs for which a person may be liable under par. (f) may include no more than \$30 per day in boarding costs for each animal in custody.

**SECTION 21.** 173.23 (1m) (intro.) of the statutes is amended to read:

173.23 (1m) UNCLAIMED ANIMALS. (intro.) A political subdivision or a person contracting under s. 173.15 (1) that has custody of an animal considered unclaimed under sub. (3) (a) 3., (5) (c), or (6) or s. 173.13 (3) (c) or 173.19, or 173.22 (4) (d) 2. or (f) or an unwanted animal may do any of the following:

**SECTION 22.** 173.23 (2) of the statutes is amended to read:

173.23 (2) ANIMALS NOT RETURNED TO OWNER. If an animal in the custody of a political subdivision, other than an animal to which sub. (1m) applies, is not returned to the owner under sub. (1) or (5) (b) or s. 173.12 (2), 173.21 (4) or 173.22 or disposed of under sub. (4) or (5) (a) or s. 173.12 (3), it shall be disposed of under a court order under sub. (3) or s. 951.18 (4).

**SECTION 23.** 173.23 (3) (a) (intro.) of the statutes is amended to read:

173.23 (3) (a) (intro.) A political subdivision or person contracting under s. 173.15 (1) may petition the circuit court for an order doing any of the following with respect to an animal taken into custody by a law enforcement officer or a humane officer or withheld under s. 173.21 (1):

**SECTION 24.** 173.23 (3) (a) 3. of the statutes is amended to read:

173.23 (3) (a) 3. Authorizing the sale, destruction, treatment as unclaimed under sub. (1m), or other disposal of the animal.

**SECTION 25.** 173.23 (3) (e) of the statutes is amended to read:

173.23 (3) (e) The court shall issue its order after hearing and may grant, modify and grant, or deny the petitioned-for relief, after considering the interests of the animal, the owner of the animal, the political subdivision, and the public. The court may not consider the impact of any payments made under s. 173.22 (4) (f) on these interests.

**SECTION 26e.** 173.24 (1) of the statutes is amended to read:

173.24 (1) A court shall assess the expenses under this section, minus any amounts paid under s. 173.22 (4) (f), in any case in which there has been a search authorized under s. 173.10 or in which an animal has been seized because it is alleged that the animal has been used in or constitutes evidence of any crime under ch. 951.

**SECTION 26s.** 951.18 (4) (b) 2. of the statutes is amended to read:

951.18 (4) (b) 2. If the court is sentencing a person covered under s. 173.12 (3) (a) 173.22 (4) (d) 2. and an animal has been seized under s. 173.12 173.13 (1) (a) 8., the court shall act in accordance with s. 173.12 (3) 173.22 (4) (d) 2.

**SECTION 27.** 968.20 (1) (intro.) of the statutes is amended to read:

968.20 (1) (intro.) Any person claiming the right to possession of property seized pursuant to a search warrant or seized without a search warrant, except for an animal taken into custody under s. 173.13 (1) or withheld from its owner under s. 173.21 (1) (a), may apply for its return to the circuit court for the county in which the property was seized or where the search warrant was returned. The court shall order such notice as it deems adequate to be given the district attorney and all persons

who have or may have an interest in the property and shall hold a hearing to hear all claims to its true ownership. If the right to possession is proved to the court's satisfaction, it shall order the property, other than contraband or property covered under sub. (1m) or (1r) or s. 473.42, 173.21 (4), or 968.205, returned if:

**SECTION 28. Initial applicability.**

(1) This act first applies to animals taken into custody on the effective date of this subsection.

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