



2005 ASSEMBLY BILL 353

April 22, 2005 - Introduced by Representatives BERCEAU, HAHN, SHERMAN, SHERIDAN, M. WILLIAMS, BIES, HINES, GRIGSBY, POCAN, BENEDICT, OTT and GUNDERSON, cosponsored by Senators MILLER, ROESSLER, LASSA, CARPENTER and HARS DORF. Referred to Committee on Criminal Justice and Homeland Security.

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:** harassment of, causing injury to, or theft of a
5 service dog 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.)

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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 bill 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 bill, a person who does any of the following, knowing that the dog involved is a service dog, is guilty of a Class A misdemeanor: 1) recklessly interferes with the use of a service dog by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user after receiving a request to stop behavior that is interfering with the dog; 2) recklessly allows his or her dog to interfere with the use of a service dog by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user; or 3) recklessly injures a service dog or recklessly allows his or her dog to injure a service dog. In addition, a person who intentionally injures a service dog or intentionally allow his or her dog to injure a service dog, knowing that that dog is a service dog, is guilty of a Class I felony. A person who intentionally causes the death of a service dog or steals a service dog is guilty of a Class H felony.

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

<i>Crime</i>	<i>Maximum fine</i>	<i>Maximum term of confinement</i>	<i>Maximum sentence length</i>
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

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

13 (2) No person may recklessly allow his or her dog to interfere with the use of
14 a service dog by obstructing or intimidating it or otherwise jeopardizing its safety or
15 the safety of its user.

16 (3) No person may recklessly injure a service dog or recklessly allow his or her
17 dog to injure a service dog.

18 (4) No person may intentionally injure a service dog or intentionally allow his
19 or her dog to injure a service dog.

20 (5) No person may intentionally cause the death of a service dog.

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1 **(6)** No person may take possession of or exert control over a service dog without
2 the consent of its owner or user and with the intent to deprive another of the use of
3 the service dog.

4 **SECTION 3.** 951.18 (2s) of the statutes is created to read:

5 **951.18 (2s)** Any person who violates s. 951.097 (1) (b), (2), or (3), knowing that
6 the dog that is the victim is a service dog, is guilty of a Class A misdemeanor. Any
7 person who violates s. 951.097 (4), knowing that the dog that is the victim is a service
8 dog, is guilty of a Class I felony. Any person who violates s. 951.097 (5) or (6), knowing
9 that the dog that is the victim is a service dog, is guilty of a Class H felony.

10 **SECTION 4.** 951.18 (4) (a) 1. of the statutes is renumbered 951.18 (4) (a) 1.
11 (intro.) and amended to read:

12 **951.18 (4) (a) 1. (intro.)** In this paragraph, “pecuniary loss” ~~has the meaning~~
13 ~~described in s. 943.245 (1).~~ means any of the following:

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

15 **951.18 (4) (a) 1. a.** All special damages, but not general damages, including the
16 money equivalent of loss resulting from property taken, destroyed, broken, or
17 otherwise harmed and out-of-pocket losses, such as medical expenses.

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

19 **951.18 (4) (a) 1. b.** Reasonable out-of-pocket expenses incurred by the victim
20 resulting from the filing of charges or cooperating in the investigation and
21 prosecution of an offense under this chapter.

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

23 **951.18 (4) (a) 1. c.** Expenses in keeping any animal that is involved in the crime.

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

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

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

7 951.18 (4) (a) 1. e. In a case under s. 951.095 or 951.097, all related veterinary
8 and care expenses.

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

10 951.18 (4) (a) 1. f. In a case under s. 951.095 or 951.097, the medical expenses
11 of the animal's user, the cost of training the animal's user, and compensation for
12 income lost by the animal's user.

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

14 951.18 (4) (a) 2. A sentencing court shall require a criminal violator to pay
15 restitution to a person, including any local humane officer or society or county or
16 municipal pound or a law enforcement officer or conservation warden, for any
17 pecuniary loss suffered by the person as a result of the crime, ~~including expenses in~~
18 ~~keeping any animal that is involved in the crime.~~ This requirement applies
19 regardless of whether the criminal violator is placed on probation under s. 973.09.
20 If restitution is ordered, the court shall consider the financial resources and future
21 ability of the criminal violator to pay and shall determine the method of payment.
22 Upon the application of any interested party, the court shall schedule and hold an
23 evidentiary hearing to determine the value of any pecuniary loss under this
24 paragraph.

25 **(END)**