

**1999 DRAFTING REQUEST**

**Bill**

Received: **05/11/1999**

Received By: **gibsom**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Council - JLC**

By/Representing: **Gordon Anderson**

This file may be shown to any legislator: **NO**

Drafter: **gibsom**

May Contact:

Alt. Drafters:

Subject: **Nat. Res. - fish and game**

Extra Copies: **1 JEO**

**Pre Topic:**

No specific pre topic given

**Topic:**

Law enforcement authority for wardens

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1							
/P2	gibsom 08/24/1999	wjackson 08/26/1999	mclark 08/26/1999	_____			
/P3	gibsom 08/26/1999	wjackson 08/31/1999	martykr 09/01/1999	_____	lrb_docadmin 09/01/1999		S&L
/1	gibsom 09/09/1999	wjackson 09/10/1999	martykr 09/10/1999	_____	lrb_docadmin 09/10/1999	lrb_docadmin	S&L 09/23/1999

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/P3	gibsom 08/26/1999	wjackson 08/31/1999	martykr 09/01/1999	_____	lrb_docadmin 09/01/1999		S&L

1 9/10 WLj  
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 km 9/10

FE Sent For:

<END>

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1?	gibsom	1/2 WLJ 8/26 1/3 WLJ 8/31	JLC COM. 1-20 CM	_____	_____		
FE Sent For:			MRC 8/26 Km 8/31	MRC/CMH <END> 8/26 HH Km 2/1			

**AN ACT** *to amend* 23.50 (1), 29.921 (1), 29.921 (5) and 951.01 (4); and *to create* 29.921 (1m) of the statutes; **relating to:** authorizing conservation wardens to enforce trespass laws and prohibitions on shooting at caged or staked wild animals and to make arrests under misdemeanor warrants.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This draft was prepared for the joint legislative council's special committee on conservation laws enforcement. It expands the authority of conservation wardens in 3 areas, enforcement of trespass law, prohibitions on shooting caged or staked wild animals and arrests under misdemeanor warrants.

1. ***Trespass.*** Currently, conservation wardens are not authorized to enforce violations of s. 943.13, stats., the trespass law. This draft authorizes wardens to do so subject to the limitation that they may do so only if the warden determines, while carrying out his or her statutory duties, that a violation has been committed. The authority to issue processes and to arrest for violations is discretionary. The primary duty to respond to trespass complaints remains with sheriff's and police departments.

2. ***Shooting at caged or staked wild animals.*** Currently, s. 951.09, stats., provides:

"No person may instigate, promote, aid or abet as a principal, agent, employe, participant or spectator, or participate in the earnings from, or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon, any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size. Nothing in this section prohibits the shooting of any wild game in its wild state or the shooting of game birds and waterfowl at licensed game farms or licensed shooting preserves."

This law does not apply to the shooting of wild game in its wild state or the shooting of game birds or waterfowl at licensed game farms or licensed shooting preserves. However, shooting any other animal that is staked out, caged or otherwise intentionally confined in a man-made

enclosure, regardless of size, is illegal. This is penalized as a Class C forfeiture. However, any person who intentionally or negligently violates any of this law, is guilty of a Class A misdemeanor. A Class C forfeiture is penalized by a forfeiture not to exceed \$500. A Class A misdemeanor is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both.

This draft allows a conservation warden to enforce s. 951.09 when the animal involved is a "wild animal" as defined in s. 29.001 (90), stats., "any mammal, bird, fish or other creature of a wild nature endowed with sensation and the power of voluntary motion". The effect of the change will be to permit conservation wardens to issue citations for shooting at caged or staked wild animals where the operation is not pursuant to a game farm or shooting preserve license issued by the department of natural resources (DNR) or the shooting is not of the wild game in its wild state.

3. *Misdemeanor warrants.* Currently, a conservation warden who has completed an approved law enforcement training program, been certified as qualified to be a law enforcement officer and complied with applicable requirements is authorized to arrest a person pursuant to an arrest warrant for a felony or arrest a person who has committed a crime in the presence of a warden. However, the conservation warden may not arrest a person who is the subject to an arrest warrant for a misdemeanor.

This draft removes this restriction, thus permitting the warden to make an arrest pursuant to *any* arrest warrant.

**SECTION 1.** 23.50 (1) of the statutes is amended to read:

23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit court to recover forfeitures, penalty assessments, jail assessments, applicable weapons assessments, applicable environmental assessments, applicable wild animal protection assessments, applicable natural resources assessments, applicable fishing shelter removal assessments, applicable snowmobile registration restitution payments and applicable natural resources restitution payments for violations of ss. 77.09, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5), 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81 and 299.64 (2) and s. 951.09 when a wild animal as defined in s. 29.001 (90) is involved, subch. VI of ch. 77, this chapter and chs. 26 to 31 and of ch. 350, and any administrative rules promulgated thereunder,

violations of rules of the Kickapoo reserve management board under s. 41.41 (7) (k) or violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77.

**NOTE:** This provision authorizes the DNR to utilize its citation procedures specified in ss. 23.50 to 23.85 for enforcement by conservation wardens of prohibitions on shooting of caged or staked animals if a wild animal is involved.

**SECTION 2.** 29.921 (1) of the statutes is amended to read:

29.921 (1) **GENERALLY.** The department and its wardens may execute and serve warrants and processes issued under any law enumerated in ss. 23.50 (1), 167.31, 346.19, 940.24, 941.20, 948.60, 948.605 and 948.61 and, subject to sub. (1m), 943.13 in the same manner as any constable may serve and execute the process; and may arrest, with or without a warrant, any person detected in the actual violation, or whom the officer has probable cause to believe is guilty of a violation of any of the laws cited in this subsection, whether the violation is punishable by criminal penalties or by forfeiture, and may take the person before any court in the county where the offense was committed and make a proper complaint. For the purpose of enforcing any of the laws cited in this subsection, any officer may stop and board any boat and stop any vehicle, if the officer reasonably suspects there is a violation of those sections.

**NOTE:** This provision gives the DNR and its conservation wardens the authority to enforce trespass laws, subject to limitations created by s. 29.921 (1m), as created by this draft.

**SECTION 3.** 29.921 (1m) of the statutes is created to read:

29.921 (1m) **TRESPASS.** The department and its wardens are not the primary enforcers of s. 943.13 and may act as provided in sub. (1) with respect to violations of s. 943.13 only if in the course of the warden's duties under s. 23.50 (1) and this section a person is determined to have committed a violation.

**NOTE:** This provision states the intent that other law enforcement agencies will remain the primary enforcers of the trespass law, but conservation wardens, during the course of their duties and in the exercise of their discretion, as their work load permits, may enforce the trespass law.

**SECTION 4.** 29.921 (5) of the statutes is amended to read:

29.921 (5) **ADDITIONAL ARREST POWERS.** In addition to the arrest powers under sub. (1), a warden who has completed a program of law enforcement training approved by the law enforcement standards board, has been certified as qualified to be a law enforcement officer under s. 165.85 (4) (b) 1. and has complied with any applicable requirements under s. 165.85 (4) (bn) 1. while on duty and in uniform or on duty and upon display of proper credentials may assist another law enforcement agency as defined under s. 165.83 (1) (b) including making an arrest at the request of the agency, may arrest a person pursuant to an arrest warrant ~~concerning the commission of a felony~~ or may arrest a person who has committed a crime in the presence of the warden. If the warden makes an arrest without the presence of another law enforcement agency, the warden shall cause the person arrested to be delivered to the chief of police or sheriff in the jurisdiction where the arrest is made, along with the documents and reports pertaining to the arrest. The warden shall be available as a witness for the state. A warden may not conduct investigations for violations of state law except as authorized in ss. 23.11 (4), 29.924 (1) and 41.41 (12). A warden acting under the authority of this subsection is considered an employe of the department and is subject to its direction, benefits and legal protection. The authority granted in this section does not apply to county conservation wardens or special conservation wardens.

**NOTE:** This provision authorizes a conservation warden who has completed a training program approved by the law enforcement standards board to arrest a person pursuant to an arrest warrant for a misdemeanor, as well as for a felony.



**SECTION 5.** 951.01 (4) of the statutes, as affected by 1997 Wisconsin Act 192, is amended to read:

951.01 (4) "Law enforcement officer" has the meaning assigned under s. 967.02 (5) and includes a humane officer under s. 58.07 but does not include a conservation warden appointed under s. 23.10 except when a wild animal as defined in s. 29.001 (90) is involved.

**NOTE:** This provision gives a conservation warden the powers of other law enforcement officers under ch. 951, relating to crimes against animals but only when a wild animal is involved.

(END)

Thurs  
noon

Editors,

Please do a partial edit of this omitting the following

1. The LC NOTES

2. Treatments of 29.921(1), (1m) and (5). (This will need to be done by Jufen)

Thanks

MBW



Thurs. noon

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

4 This bill is explained in the <sup>(CS)</sup> Notes provided by the joint legislative council in the bill.

Gen. Cat

1 AN ACT <sup>Gen. Cat</sup> to amend 23.50 (1), 29.921 (1), 29.921 (5) and 951.01 (4); and to create  
2 29.921 (1m) of the statutes; relating to: authorizing conservation wardens to  
3 enforce trespass laws and prohibitions on shooting at caged or staked wild  
4 animals and to make arrests under misdemeanor warrants.

Analysis by the Legislative Reference Bureau

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

PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on conservation laws enforcement. It expands the authority of conservation wardens in ~~the~~ areas of enforcement of trespass law, prohibitions on shooting caged or staked wild animals and arrests under misdemeanor warrants.

1. *Trespass.* Currently, conservation wardens are not authorized to enforce violations of s. 943.13, stats., the trespass law. This draft authorizes wardens to do so subject to the limitation that they may do so only if the warden determines, while carrying out his or her statutory duties, that a violation has been committed. The authority to issue processes and to arrest for violations is discretionary. The primary duty to respond to trespass complaints remains with sheriff(s) and police departments.

2. *Shooting at caged or staked wild animals.* Currently, s. 951.09, stats., provides:

“No person may instigate, promote, aid or abet as a principal, agent, employe, participant or spectator, or participate in the earnings from, or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon, any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size. Nothing in this section prohibits the shooting of any wild game in its wild state or the shooting of game birds and waterfowl at licensed game farms or licensed shooting preserves.”

This law does not apply to the shooting of wild game in its wild state or the shooting of game birds or waterfowl at licensed game farms or licensed shooting preserves. However, shooting any other animal that is staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size, is illegal. This is penalized as a Class C forfeiture. However, any person who intentionally or negligently violates any of this law, is guilty of a Class A misdemeanor. A Class C forfeiture is penalized by a forfeiture not to exceed \$500. A Class A misdemeanor is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed <sup>nine</sup> months, or both.

This draft allows a conservation warden to enforce <sup>§ 951.09</sup> when the animal involved is a “wild animal” as defined in s. 29.001 (90), <sup>stats.</sup> states “any mammal, bird, fish or other creature of a wild nature endowed with sensation and the power of voluntary motion”. The effect of the change will be to permit conservation wardens to issue citations for shooting at caged or staked wild animals where the operation is not pursuant to a game farm or shooting preserve license issued by the department of natural resources (DNR) or the shooting is not of the wild game in its wild state.

3. *Misdemeanor warrants.* Currently, a conservation warden who has completed an approved law enforcement training program, been certified as qualified to be a law enforcement officer and complied with applicable requirements is authorized to arrest a person pursuant to an arrest warrant for a felony or arrest a person who has committed a crime in the presence of a warden. However, the conservation warden may not arrest a person who is the subject to an arrest warrant for a misdemeanor.

<sup>No</sup> This draft removes this restriction, thus permitting the warden to make an arrest pursuant to any arrest warrant.

1 SECTION 1. 23.50 (1) of the statutes is amended to read:

2 23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit  
3 court to recover forfeitures, penalty assessments, jail assessments, applicable  
4 weapons assessments, applicable environmental assessments, applicable wild  
5 animal protection assessments, applicable natural resources assessments,  
6 applicable fishing shelter removal assessments, applicable snowmobile registration  
7 restitution payments and applicable natural resources restitution payments for  
8 violations of ss. 77.09, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5), 283.33, 285.57  
9 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81 <sup>plain</sup> and 299.64 (2) <sup>of</sup> and <sup>of</sup> s. 951.09 <sup>STAT "s."</sup>  
10 when a wild animal as defined in s. 29.001 (90) is involved, subch. VI of ch. 77, this

1 chapter and chs. 26 to 31 and of ch. 350, and any administrative rules promulgated  
2 thereunder, violations of rules of the Kickapoo reserve management board under s.  
3 41.41 (7) (k) or violations of local ordinances enacted by any local authority in  
4 accordance with s. 23.33 (11) (am) or 30.77.

NOTE: This provision authorizes the DNR to utilize its citation procedures specified  
in ss. 23.50 to 23.85 for enforcement by conservation wardens of prohibitions on shooting  
of caged or staked animals if a wild animal is involved.

5 SECTION 2. 29.921 (1) of the statutes is amended to read:

6 29.921 (1) GENERALLY. The department and its wardens may execute and serve  
7 warrants and processes issued under any law enumerated in ss. 23.50 (1), 167.31,  
8 346.19, 940.24, 941.20, 948.60, 948.605 and 948.61 and, subject to sub. (1m), <sup>s.</sup> 943.13  
9 in the same manner as any constable may serve and execute the process; and may  
10 arrest, with or without a warrant, any person detected in the actual violation, or  
11 whom the officer has probable cause to believe is guilty of a violation of any of the  
12 laws cited in this subsection, whether the violation is punishable by criminal  
13 penalties or by forfeiture, and may take the person before any court in the county  
14 where the offense was committed and make a proper complaint. For the purpose of  
15 enforcing any of the laws cited in this subsection, any officer may stop and board any  
16 boat and stop any vehicle, if the officer reasonably suspects there is a violation of  
17 those sections.

NOTE: This provision gives the DNR and its conservation wardens the authority  
to enforce trespass laws, subject to limitations created by s. 29.921 (1m), as created by this  
draft.

18 SECTION 3. 29.921 (1m) of the statutes is created to read:

19 29.921 (1m) TRESPASS. The department and its wardens are not the primary  
20 enforcers of s. 943.13 and may act as provided in sub. (1) with respect to violations

of s. 943.13 only if in the course of the warden's duties under s. 23.50 (1) and this section a person is determined to have committed a violation.

NOTE: This provision states the intent that other law enforcement agencies will remain the primary enforcers of the trespass law, but conservation wardens, during the course of their duties and in the exercise of their discretion, as their work load permits, may enforce the trespass law.

SECTION 4. 29.921 (5) of the statutes is amended to read:

29.921 (5) ADDITIONAL ARREST POWERS. In addition to the arrest powers under sub. (1), a warden who has completed a program of law enforcement training approved by the law enforcement standards board, has been certified as qualified to be a law enforcement officer under s. 165.85 (4) (b) 1. and has complied with any applicable requirements under s. 165.85 (4) (bn) 1. while on duty and in uniform or on duty and upon display of proper credentials may assist another law enforcement agency as defined under s. 165.83 (1) (b) including making an arrest at the request of the agency, may arrest a person pursuant to an arrest warrant <sup>plain space</sup> concerning the ~~commission of a felony~~ or may arrest a person who has committed a crime in the presence of the warden. If the warden makes an arrest without the presence of another law enforcement agency, the warden shall cause the person arrested to be delivered to the chief of police or sheriff in the jurisdiction where the arrest is made, along with the documents and reports pertaining to the arrest. The warden shall be available as a witness for the state. A warden may not conduct investigations for violations of state law except as authorized in ss. 23.11 (4), 29.924 (1) and 41.41 (12). A warden acting under the authority of this subsection is considered an employe of the department and is subject to its direction, benefits and legal protection. The authority granted in this section does not apply to county conservation wardens or special conservation wardens.

NOTE: This provision authorizes a conservation warden who has completed a training program approved by the law enforcement standards board to arrest a person pursuant to an arrest warrant for a misdemeanor, as well as for a felony.

INSERT ✓  
5-1

1  
2  
3  
4  
5  
6

SECTION 5. 951.01 (4) of the statutes, as affected by 1997 Wisconsin Act 192,

is amended to read:

STET

951.01 (4) "Law enforcement officer" has the meaning assigned under s. 967.02

(5) and includes a humane officer under s. 58.07 but does not include a conservation warden appointed under s. 23.10 except when a wild animal ~~is involved~~ <sup>for purposes of enforcing s. 951.09</sup> is involved.

NOTE: This provision gives a conservation warden the powers of other law enforcement officers under ch. 951, relating to crimes against animals but only when a wild animal is involved.

← INSERT ✓  
5-3

7

(END)

~~by SECTION (Act)~~  
EFFECTIVE DATES. This bill takes effect on the day after publication except as follows:  
(1) The amendment of section 951.01(4) takes effect on December 1, 1999

Section #. 29.931 (2) <sup>(a) ✓</sup> of the statutes is amended to read:

29.931 (2) ~~SEIZURE AND CONFISCATION OF OBJECTS, SALE OF PERISHABLE PROPERTY~~ (a) The department and its wardens shall seize and hold, subject to the order of the court for the county in which the alleged offense was committed, any vehicle, boat or object declared by this chapter to be a public nuisance, or which they have probable cause to believe is being used in violation of this chapter or s. 167.31, 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61 or is being used in the commission of a crime relating to a submerged cultural resource in violation of s. 44.47. If it is proven that the vehicle, boat or object is a public nuisance or that within 6 months previous to the seizure the vehicle, boat or object was used in violation of this chapter or s. 167.31, 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61 or was used in the commission of a crime relating to a submerged cultural resource in violation of s. 44.47, it shall be confiscated if the court directs in its order for judgment.

(b) Any perishable property seized by the department or its wardens may be sold at the highest available price, and the proceeds of the sale turned into court for disposition as the court directs.

History: 1997 a. 248 ss. 108 to 110, 712.

<sup>or</sup> <sup>a violation</sup>  
~~is being used in violation of s. 951.09~~  
crime involving a wild animal

<sup>or</sup> <sup>a</sup>  
~~was used in violation of s. 951.09 involving~~  
a wild animal



Section #. 173.01 (2) of the statutes <sup>as created by 1997</sup> Wisconsin Act 192, is amended to read:—

173.01 (2) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

History: 1997 a. 192.

but does not include a conservation warden appointed under s. 23.10 except for purposes when a wild animal as defined in s. 29.001 (90) is involved

of enforcing s. 95.09



INSERT 5-1  
(end)

SECTION ~~X~~. CR; 173.01 (A) ✓

<sup>A</sup> <sup>Ⓢ</sup>  
173.01 (A) "Wild animal" has the meaning given  
951.01

in s. ~~951.01~~ (5) ✓

Auto Ref (A)  
SECTION # ~~951.01(4)~~ of the statutes,  
Wisconsin Act 192 and 1999 Wisconsin Act... (this act), is  
amended to read:

173.10

~~173.10 Investigation of cruelty complaints. A person may apply for a search warrant under s. 968.12 if there is reason to believe that a violation of ch. 951 has taken place or is taking place. If the court is satisfied that probable cause exists, it shall issue a search warrant directing a law enforcement officer in the county to proceed immediately to the location of the alleged violation with a doctor of veterinary medicine, if the court determines that a veterinarian is necessary for purposes of the search, and directing the law enforcement officer to search the place designated in the warrant, retaining in his or her custody subject to the order of the court such property or things as are specified in the warrant, including any animal. If the person applying for the search warrant is a humane officer, the warrant shall direct that the humane officer accompany the law enforcement officer who is directed to perform the search. The warrant shall be executed and returned to the court which issued the warrant in accordance with ss. 968.15 and 968.17. This section does not affect other powers and duties of law enforcement officers.~~

~~951.01 - ANNOT.~~

951.01 (4) "Law enforcement officer" has the meaning assigned under s. 967.02 (5) but does not include a conservation warden appointed under s. 23.10 Wisconsin S. 165.85 (2) (c)

951.16

~~951.16 Investigation of cruelty complaints. A person may apply for a search warrant under s. 968.12 if there is reason to believe that a violation of this chapter has taken place or is taking place. If the court is satisfied that probable cause exists, it shall issue a search warrant directing a law enforcement officer in the county to proceed immediately to the location of the alleged violation with a doctor of veterinary medicine, if the court determines that a veterinarian is necessary for purposes of the search, and directing the law enforcement officer to search the place designated in the warrant, retaining in his or her custody subject to the order of the court such property or things as are specified in the warrant, including any animal. The warrant shall be executed and returned to the court which issued the warrant in accordance with ss. 968.15 and 968.17. This section shall not affect other powers and duties of law enforcement officers.~~

951.18(4)(a)2

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

951.18 - ANNOT.

NOTE: Subd. 2. is amended eff. 12-1-99 by 1997 Wis. Act 192 to read:

951.18 - ANNOT.

except when, for purposes of enforcing s. 951.09, a wild animal is involved



INSERT 5-3  
(cont.)

SECTION # <sup>CR,</sup> 951.01(5) ✓

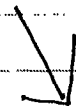
B

④ 951.01(5) "Wild animal" has the meaning given in

~~S. 29.01(907)~~ means an animal of a wild nature

<sup>endowed</sup>  
~~endowed~~ with sensation and the power of voluntary

motion.



Section #. 951.015<sup>✓</sup> of the statutes is amended to read:

**951.015 Construction and application.** This chapter may not be interpreted as controverting any law regulating the taking of a wild animal ~~as defined in s. 29.001 (90)~~, the trapping of animals, the use of live animals in dog trials or in the training of hunting dogs or the slaughter of animals by persons acting under state or federal law.

**History:** 1973 c. 314; 1983 a. 27 s. 2202 (38); 1987 a. 332 s. 54; Stats. 1987 s. 951.015; 1997 a. 248.



INSERT  
5-3  
(cont.)

as affected by 1997 Wisconsin Act 192

Section #. 951.18 (1) of the statutes is amended to read:

951.18 (1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05, 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 (1) is subject to a Class C forfeiture. Any person who intentionally or negligently violates any of those sections is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.02, resulting in the mutilation, disfigurement or death of an animal, is guilty of a Class E felony. Any person who intentionally violates s. 951.02 or 951.06, knowing that the animal that is the victim is used by a law enforcement agency to perform agency functions or duties and causing injury to the animal, is guilty of a Class E felony.

NOTE: Sub. (1) is amended eff. 12-1-99 by 1997 Wis. Act 192 to read:

951.18 (1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05, 951.06, 951.07, 951.09, 951.10, 951.11,

951.13, 951.14 or 951.15 is subject to a Class C forfeiture. Any person who violates any of these provisions within 3 years after a humane officer <sup>or law enforcement officer</sup> issues an abatement order under s. 173.11 prohibiting the violation of that provision is subject to a Class A forfeiture. Any person who intentionally or negligently violates any of those sections is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.02, resulting in the mutilation, disfigurement or death of an animal, is guilty of a Class E felony. Any person who intentionally violates s. 951.02 or 951.06, knowing that the animal that is the victim is used by a law enforcement agency to perform agency functions or duties and causing injury to the animal, is guilty of a Class E felony.

History: 1973 c. 314; 1977 c. 173; 1981 c. 160; 1983 a. 95; 1985 a. 48 s. 2; 1985 a. 263; 1987 a. 248; 1987 a. 332 ss. 54, 64; Stats. 1987 s. 951.18; 1987 a. 403 s. 256; 1989 a. 56 s. 259; 1989 a. 223; 1993 a. 192; 1997 a. 27, 192.

No  
(B)

No  
(B)



INS 5-3 (end)

(No CS) (B)

SECTION # . EFFECTIVE DATES This bill takes effect on the

day after publication, except as follows:

¶ (1) The treatment of sections <sup>91</sup> 173.01 (2) and (4) <sup>of the statutes</sup> and the  
amendment of <sup>Section</sup> 951.01 (4) (by <sup>CS</sup> SECTION <sup>AUTO REG</sup> ↓) of the statutes

take effect on December 1, 1999, or <sup>on</sup> the day after  
publication, whichever is later.

I am not sure this  
Eff date is done right  
What if there happens  
to the first hit of  
951.01 (4) if the  
bill passes after 12/1/99?  
Editor,  
lets discuss.

10

10





D-Note  
noon

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

1 AN ACT ~~to amend~~ 23.50 (1), 29.921 (1), 29.921 (5), 29.931 (2)(a), 173.01 (2), 951.01  
2 (4), 951.01 (4), 951.015 and 951.18 (1); and **to create** 29.921 (1m), 173.01 (4) and  
3 951.01 (5) of the statutes; **relating to:** authorizing conservation wardens to  
4 enforce trespass laws and prohibitions on shooting at caged or staked wild  
5 animals and to make arrests under misdemeanor warrants.

*Analysis by the Legislative Reference Bureau*

FE-SL

This bill is explained in the NOTES provided by the joint legislative council in the bill.

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

PREFATORY NOTE: This ~~draft~~<sup>bill</sup> was prepared for the joint legislative council's special committee on conservation laws enforcement. It expands the authority of conservation wardens in three areas: enforcement of trespass law, prohibitions on shooting caged or staked wild animals and arrests under misdemeanor warrants.

1. *Trespass.* Currently, conservation wardens are not authorized to enforce violations of s. 943.13, stats., the trespass law. This ~~draft~~<sup>bill</sup> authorizes wardens to do so subject to the limitation that they may do so only if the warden determines, while carrying out his or her statutory duties, that a violation has been committed. The authority to issue processes and to arrest for violations is discretionary. The primary duty to respond to trespass complaints remains with sheriff and police departments.

2. *Shooting at caged or staked wild animals.* Currently, s. 951.09, stats., provides:

“No person may instigate, promote, aid or abet as a principal, agent, employe, participant or spectator, or participate in the earnings from, or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon, any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size. Nothing in this section prohibits the shooting of any wild game in its wild state or the shooting of game birds and waterfowl at licensed game farms or licensed shooting preserves”.

This law does not apply to the shooting of wild game in its wild state or the shooting of game birds or waterfowl at licensed game farms or licensed shooting preserves. However, shooting any other animal that is staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size, is illegal. This is penalized as a Class C forfeiture. However, any person who intentionally or negligently violates any of this law, is guilty of a Class A misdemeanor. A Class C forfeiture is penalized by a forfeiture not to exceed \$500. A Class A misdemeanor is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both.

This ~~draft~~<sup>bill</sup> allows a conservation warden to enforce s. 951.09, stats., when the animal involved is a “wild animal” as defined in s. 29.001 (90), stats.: “any mammal, bird, fish or other creature of a wild nature endowed with sensation and the power of voluntary motion”. The effect of the change will be to permit conservation wardens to issue citations for shooting at caged or staked wild animals where the operation is not pursuant to a game farm or shooting preserve license issued by the department of natural resources (DNR) or the shooting is not of the wild game in its wild state.

3. *Misdemeanor warrants.* Currently, a conservation warden who has completed an approved law enforcement training program, been certified as qualified to be a law enforcement officer and complied with applicable requirements is authorized to arrest a person pursuant to an arrest warrant for a felony or arrest a person who has committed a crime in the presence of a warden. However, the conservation warden may not arrest a person who is the subject of an arrest warrant for a misdemeanor. This ~~draft~~<sup>bill</sup> removes this restriction, thus permitting the warden to make an arrest ~~pursuant to any arrest warrant~~<sup>for any crime</sup> bill  
D-N-E

1 SECTION 1. 23.50 (1) of the statutes is amended to read:

2 23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit  
3 court to recover forfeitures, penalty assessments, jail assessments, applicable  
4 weapons assessments, applicable environmental assessments, applicable wild  
5 animal protection assessments, applicable natural resources assessments,  
6 applicable fishing shelter removal assessments, applicable snowmobile registration  
7 restitution payments and applicable natural resources restitution payments for  
8 violations of ss. 77.09, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5), 283.33, 285.57  
9 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81 and 299.64 (2) and of s. 951.09

1 when a wild animal as defined in s. 29.001 (90) is involved, subch. VI of ch. 77, this  
 2 chapter and chs. 26 to 31 and of ch. 350, and any administrative rules promulgated  
 3 thereunder, violations of rules of the Kickapoo reserve management board under s.  
 4 41.41 (7) (k) or violations of local ordinances enacted by any local authority in  
 5 accordance with s. 23.33 (11) (am) or 30.77.

NOTE: This provision authorizes the DNR to utilize its citation procedures specified  
 in ss. 23.50 to 23.85 for enforcement by conservation wardens of prohibitions on shooting  
 caged or staked animals if a wild animal is involved.

6 **SECTION 2.** 29.921 (1) of the statutes is amended to read:

7 29.921 (1) **GENERALLY.** The department and its wardens may execute and serve  
 8 warrants and processes issued under any law enumerated in ss. 23.50 (1), 167.31,  
 9 346.19, 940.24, 941.20, 948.60, 948.605 and 948.61 and, subject to sub. (1m), s.  
 10 943.13 in the same manner as any constable may serve and execute the process; and  
 11 may arrest, with or without a warrant, any person detected in the actual violation,  
 12 or whom the officer has probable cause to believe is guilty of a violation of any of the  
 13 laws cited in this subsection, whether the violation is punishable by criminal  
 14 penalties or by forfeiture, and may take the person before any court in the county  
 15 where the offense was committed and make a proper complaint. For the purpose of  
 16 enforcing any of the laws cited in this subsection, any officer may stop and board any  
 17 boat and stop any vehicle, if the officer reasonably suspects there is a violation of  
 18 those sections.

NOTE: This provision gives the DNR and its conservation wardens the authority  
 to enforce trespass laws, subject to limitations created by s. 29.921 (1m), as created by this  
 draft.

19 **SECTION 3.** 29.921 (1m) of the statutes is created to read:

20 29.921 (1m) **TRESPASS.** The department and its wardens ~~are not the primary~~  
 21 ~~enforcers of s. 943.13 and~~ may act as provided in sub. (1) with respect to violations

1 of s. 943.13 only if in the course of the warden's duties under s. 23.50 (1) and this  
2 section a person is determined to have committed a violation.

NOTE: This provision <sup>provides</sup> ~~states the intent~~ that other law enforcement agencies will remain the primary enforcers of the trespass law, but conservation wardens, during the course of their duties and in the exercise of their discretion, as their work load permits, may enforce the trespass law.

3 SECTION 4. 29.921 (5) of the statutes is amended to read:

4 29.921 (5) ADDITIONAL ARREST POWERS. In addition to the arrest powers under  
5 sub. (1), a warden who has completed a program of law enforcement training  
6 approved by the law enforcement standards board, has been certified as qualified to  
7 be a law enforcement officer under s. 165.85 (4) (b) 1. and has complied with any  
8 applicable requirements under s. 165.85 (4) (bn) 1. while on duty and in uniform or  
9 on duty and upon display of proper credentials may assist another law enforcement  
10 agency as defined under s. 165.83 (1) (b) including making an arrest at the request  
11 of the agency, may arrest a person pursuant to an arrest warrant concerning the <sup>PLAIN</sup>  
12 commission of a felony <sup>crime</sup> or may arrest a person who has committed a crime in the  
13 presence of the warden. If the warden makes an arrest without the presence of  
14 another law enforcement agency, the warden shall cause the person arrested to be  
15 delivered to the chief of police or sheriff in the jurisdiction where the arrest is made,  
16 along with the documents and reports pertaining to the arrest. The warden shall be  
17 available as a witness for the state. A warden may not conduct investigations for  
18 violations of state law except as authorized in ss. 23.11 (4), 29.924 (1) and 41.41 (12).  
19 A warden acting under the authority of this subsection is considered an employe of  
20 the department and is subject to its direction, benefits and legal protection. The  
21 authority granted in this section does not apply to county conservation wardens or  
22 special conservation wardens.

~~Stricken law results in coverage of all offenses - felony, misd. & forfeitures~~

NOTE: This provision authorizes a conservation warden who has completed a training program approved by the law enforcement standards board to arrest a person pursuant to an arrest warrant for a misdemeanor, as well as for a felony.

1 SECTION 5. 29.931 (2) (a) of the statutes is amended to read:

2 29.931 (2) (a) The department and its wardens shall seize and hold, subject to  
3 the order of the court for the county in which the alleged offense was committed, any  
4 vehicle, boat or object declared by this chapter to be a public nuisance, or which they  
5 have probable cause to believe is being used in violation of this chapter or s. 167.31,  
6 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61, or is being used in a violation of  
7 s. 951.09 involving a wild animal or is being used in the commission of a crime  
8 relating to a submerged cultural resource in violation of s. 44.47. If it is proven that  
9 the vehicle, boat or object is a public nuisance or that within 6 months previous to  
10 the seizure the vehicle, boat or object was used in violation of this chapter or s. 167.31,  
11 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61, or was used in a violation of s.  
12 951.09 involving a wild animal or was used in the commission of a crime relating to  
13 a submerged cultural resource in violation of s. 44.47, it shall be confiscated if the  
14 court directs in its order for judgment.

15 SECTION 6. 173.01 (2) of the statutes, as created by 1997 Wisconsin Act 192, is  
16 amended to read:

17 173.01 (2) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c)  
18 but does not include a conservation warden appointed under s. 23.10 except for  
19 purposes of enforcing s. 951.09 when a wild animal as defined in s. 29.001 (90) is  
20 involved.

21 SECTION 7. 173.01 (4) of the statutes is created to read:

22 173.01 (4) "Wild animal" has the meaning given in s. 951.01 (5).

23 SECTION 8. 951.01 (4) of the statutes is amended to read:

SECTION 8

given in

1 951.01 (4) "Law enforcement officer" has the meaning assigned under s. 967.02  
2 (5) and includes a humane officer under s. 58.07 but does not include a conservation  
3 warden appointed under s. 23.10 except when, for purposes of enforcing s. 951.09, is  
4 involved.

a wild animal

NOTE: This provision gives a conservation warden the powers of other law enforcement officers under ch. 951, relating to crimes against animals but only when a wild animal is involved.

5 SECTION 9. 951.01 (4) of the statutes, as affected by 1997 Wisconsin Act 192 and  
6 1999 Wisconsin Act .... (this act), is ~~amended~~ <sup>repealed and recreated</sup> to read:

given in (PLAIN)

7 951.01 (4) "Law enforcement officer" has the meaning assigned under s. 967.02  
8 (5) given in s. 165.85 (2)(c) but does not include a conservation warden appointed  
9 under s. 23.10 except when, for purposes of enforcing s. 951.09, a wild animal is  
10 involved.

PLAIN

11 SECTION 10. 951.01 (5) of the statutes is created to read:

12 951.01 (5) "Wild animal" means an animal of a wild nature endowed with  
13 sensation and the power of voluntary motion.

14 SECTION 11. 951.015 of the statutes is amended to read:

15 **951.015 Construction and application.** This chapter may not be  
16 interpreted as controverting any law regulating the taking of a wild animal as  
17 defined in s. 29.001(90), the trapping of animals, the use of live animals in dog trials  
18 or in the training of hunting dogs or the slaughter of animals by persons acting under  
19 state or federal law.

20 SECTION 12. 951.18 (1) of the statutes, as affected by 1997 Wisconsin Act 192,  
21 is amended to read:

22 951.18 (1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05,  
23 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 is subject to a

1 Class C forfeiture. Any person who violates any of these provisions within 3 years  
 2 after a humane officer or law enforcement officer issues an abatement order under  
 3 s. 173.11 prohibiting the violation of that provision is subject to a Class A forfeiture.  
 4 Any person who intentionally or negligently violates any of those sections is guilty  
 5 of a Class A misdemeanor. Any person who intentionally violates s. 951.02, resulting  
 6 in the mutilation, disfigurement or death of an animal, is guilty of a Class E felony.  
 7 Any person who intentionally violates s. 951.02 or 951.06, knowing that the animal  
 8 that is the victim is used by a law enforcement agency to perform agency functions  
 9 or duties and causing injury to the animal, is guilty of a Class E felony.

10 **SECTION 13. Effective dates.** This bill takes effect on the day after  
 11 publication, except as follows:

12 (1) The treatment of sections 173.01 (2) and (4) of the statutes and the  
 13 ~~amendment~~ <sup>amendment</sup> of section 951.01 (4) ~~(by SECTION 9)~~ of the statutes take effect on  
 14 December 1, 1999, or on the day after publication, whichever is later.

15 (END)

*and  
 repeal recreation*

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

3  
LRB-3061/P<sup>3</sup>dn  
MGG:wlj:mrc

1. 1997 Wisconsin Act 192, which goes into effect this coming December 1, made numerous changes to ch. 951. Under the law as it stands today, "law enforcement officer" is used in the following provisions: ss. 951.15 (2), 951.16 and 951.18 (4) (a) 2. and (b) 1. On December 1, 1999, s. 951.15 (2) is repealed, and s. 951.16 is renumbered to s. 173.10. Section 951.18 (4) (a) 2. and (b) 1. are not changed substantively. Since ch. 173 now covers the substantive provisions found in ss. 951.15 (2) and 951.16, the question arises whether a conservation warden is included in the definition of "law enforcement officer" under ch. 173. See s. 173.01 (2). These two definitions do not mesh well. Since I assume the intent is to allow conservation wardens to have the powers granted to other law enforcement officers when it comes to enforcing s. 951.09 when wild animals are involved, this draft contains the same language regarding conservation wardens in the two definitions.

2. I created a definition for wild animal for ch. 951 because the cross-reference to the definition in ch. 29 does not really work. "Wild animal" in ch. 29 includes any creature, not just the animals listed in the definition of "animal" under s. 951.01 (1). Note I created this definition by cross-reference for ch. 173 also.

3. The apparent intent of this draft is to give conservation wardens enforcement authority only for s. 951.09 and not all of ch. 951. I therefore limited the definition of "law enforcement officer" in ss. 173.01 (2) and 951.01 (4) to enforcement only of s. 951.09.

4. Do you want to add conservation enforcement of the trespass laws to s. 26.97 (1) and (2) for consistency purposes? I think the changes in s. 29.921 are not limited to fish and game laws, but please review to make sure you agree with me.

5. After speaking with Jefren Olsen on our staff, I changed the language in s. 29.921 (5) to use the term "crime" instead of "felony" since the apparent intent of the draft is to limit this expansion of power to include only misdemeanor warrants. If you want to include warrants for other purposes, such as failures to honor citations, then the entire phrase "concerning the commission of a felony" should be stricken as you have done. However, the notes in the draft and the relating clause will then need to be changed to conform with the statutory change.

6. Jefren also deleted the phrase "are not the primary enforcer of s. 943.13" from s. 29.921 (1m). We both feel that the language is unnecessary given the rest of the sentence and that it creates the inference that conservation wardens are the primary



enforcers of all the other statutes listed in s. 29.921 (1) that are not subject to s. 29.921 (1m). If you have any questions or concerns regarding this change, you should speak directly with Jefren.

7. I made no changes in your notes except changing "draft" to "bill", changing a phrase in the note following s. 29.921 (2) and conforming language in the last sentence of the prefatory note to the text of the bill.

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3061/P3dn  
MGG:wlj:km

August 31, 1999

1. 1997 Wisconsin Act 192, which goes into effect this coming December 1, made numerous changes to ch. 951. Under the law as it stands today, "law enforcement officer" is used in the following provisions: ss. 951.15 (2), 951.16 and 951.18 (4) (a) 2. and (b) 1. On December 1, 1999, s. 951.15 (2) is repealed, and s. 951.16 is renumbered to s. 173.10. Section 951.18 (4) (a) 2. and (b) 1. are not changed substantively. Since ch. 173 now covers the substantive provisions found in ss. 951.15 (2) and 951.16, the question arises whether a conservation warden is included in the definition of "law enforcement officer" under ch. 173. See s. 173.01 (2). These two definitions do not mesh well. Since I assume the intent is to allow conservation wardens to have the powers granted to other law enforcement officers when it comes to enforcing s. 951.09 when wild animals are involved, this draft contains the same language regarding conservation wardens in the two definitions.

2. I created a definition for wild animal for ch. 951 because the cross-reference to the definition in ch. 29 does not really work. "Wild animal" in ch. 29 includes any creature, not just the animals listed in the definition of "animal" under s. 951.01 (1). Note I created this definition by cross-reference for ch. 173 also.

3. The apparent intent of this draft is to give conservation wardens enforcement authority only for s. 951.09 and not all of ch. 951. I therefore limited the definition of "law enforcement officer" in ss. 173.01 (2) and 951.01 (4) to enforcement only of s. 951.09.

4. Do you want to add conservation enforcement of the trespass laws to s. 26.97 (1) and (2) for consistency purposes? I think the changes in s. 29.921 are not limited to fish and game laws, but please review to make sure you agree with me.

5. After speaking with Jefren Olsen on our staff, I changed the language in s. 29.921 (5) to use the term "crime" instead of "felony" since the apparent intent of the draft is to limit this expansion of power to include only misdemeanor warrants. If you want to include warrants for other purposes, such as failures to honor citations, then the entire phrase "concerning the commission of a felony" should be stricken as you have done. However, the notes in the draft and the relating clause will then need to be changed to conform with the statutory change.

6. Jefren also deleted the phrase "are not the primary enforcer of s. 943.13" from s. 29.921 (1m). We both feel that the language is unnecessary given the rest of the sentence and that it creates the inference that conservation wardens are the primary

enforcers of all the other statutes listed in s. 29.921 (1) that are not subject to s. 29.921 (1m). If you have any questions or concerns regarding this change, you should speak directly with Jefren.

7. I made no changes in your notes except changing "draft" to "bill", changing a phrase in the note following s. 29.921 (2) and conforming language in the last sentence of the prefatory note to the text of the bill.

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3061/P3dn  
MGG:wlj:km

August 31, 1999

OK  
1. 1997 Wisconsin Act 192, which goes into effect this coming December 1, made numerous changes to ch. 951. Under the law as it stands today, "law enforcement officer" is used in the following provisions: ss. 951.15 (2), 951.16 and 951.18 (4) (a) 2. and (b) 1. On December 1, 1999, s. 951.15 (2) is repealed, and s. 951.16 is renumbered to s. 173.10. Section 951.18 (4) (a) 2. and (b) 1. are not changed substantively. Since ch. 173 now covers the substantive provisions found in ss. 951.15 (2) and 951.16, the question arises whether a conservation warden is included in the definition of "law enforcement officer" under ch. 173. See s. 173.01 (2). These two definitions do not mesh well. Since I assume the intent is to allow conservation wardens to have the powers granted to other law enforcement officers when it comes to enforcing s. 951.09 when wild animals are involved, this draft contains the same language regarding conservation wardens in the two definitions.

OK  
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3. The apparent intent of this draft is to give conservation wardens enforcement authority only for s. 951.09 and not all of ch. 951. I therefore limited the definition of "law enforcement officer" in ss. 173.01 (2) and 951.01 (4) to enforcement only of s. 951.09.

NO  
4. Do you want to add conservation enforcement of the trespass laws to s. 26.97 (1) and (2) for consistency purposes? I think the changes in s. 29.921 are not limited to fish and game laws, but please review to make sure you agree with me.

OK  
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enforcers of all the other statutes listed in s. 29.921 (1) that are not subject to s. 29.921 (1m). If you have any questions or concerns regarding this change, you should speak directly with Jefren.

7. I made no changes in your notes except changing "draft" to "bill", changing a phrase in the note following s. 29.921 (2) and conforming language in the last sentence of the prefatory note to the text of the bill.

OK

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

RHR  
1

~~Mont~~ Fuji

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

D-N

Regen

1 AN ACT *to amend* 23.50 (1), 29.921 (1), 29.921 (5), 29.931 (2) (a), 173.01 (2), 951.01  
 2 (4), 951.015 and 951.18 (1); *to repeal and recreate* 951.01 (4); and *to create*  
 3 29.921 (1m), 173.01 (4) and 951.01 (5) of the statutes; **relating to:** authorizing  
 4 conservation wardens to enforce <sup>the</sup> trespass laws and prohibitions on shooting at  
 5 caged or staked wild animals and to make arrests under misdemeanor  
 6 warrants *issued for felonies or misdemeanors*

***Analysis by the Legislative Reference Bureau***

This bill is explained in the NOTES provided by the joint legislative council in the bill.

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:***

PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on conservation laws enforcement. It expands the authority of conservation wardens in three areas: enforcement of trespass law, prohibitions on shooting caged or staked wild animals and arrests under misdemeanor warrants.

1. *Trespass.* Currently, conservation wardens are not authorized to enforce violations of s. 943.13, stats., the trespass law. This bill authorizes wardens to do so

subject to the limitation that they may do so only if the warden determines, while carrying out his or her statutory duties, that a violation has been committed. The authority to issue processes and to arrest for violations is discretionary. The primary duty to respond to trespass complaints remains with sheriff and police departments.

2. *Shooting at caged or staked wild animals.* Currently, s. 951.09, stats., provides:

“No person may instigate, promote, aid or abet as a principal, agent, employe, participant or spectator, or participate in the earnings from, or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon, any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size. Nothing in this section prohibits the shooting of any wild game in its wild state or the shooting of game birds and waterfowl at licensed game farms or licensed shooting preserves”.

This law does not apply to the shooting of wild game in its wild state or the shooting of game birds or waterfowl at licensed game farms or licensed shooting preserves. However, shooting any other animal that is staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size, is illegal. This is penalized as a Class C forfeiture. However, any person who intentionally or negligently violates any of this law, is guilty of a Class A misdemeanor. A Class C forfeiture is penalized by a forfeiture not to exceed \$500. A Class A misdemeanor is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both.

any animal  
see 1.

This bill allows a conservation warden to enforce s. 951.09, stats., when the animal involved is ~~not a wild animal as defined in s. 29.001 (90) stats. Any mammal, bird, fish or other creature~~ of a wild nature endowed with sensation and the power of voluntary motion”. The effect of the change will be to permit conservation wardens to issue citations for shooting at caged or staked wild animals where the operation is not pursuant to a game farm or shooting preserve license issued by the department of natural resources (DNR) or the shooting is not of the wild game in its wild state.

3. *Misdemeanor warrants.* Currently, a conservation warden who has completed an approved law enforcement training program, been certified as qualified to be a law enforcement officer and complied with applicable requirements is authorized to arrest a person pursuant to an arrest warrant for a felony or arrest a person who has committed a crime in the presence of a warden. However, the conservation warden may not arrest a person who is the subject of an arrest warrant for a misdemeanor. ~~This bill removes this restriction, thus permitting the warden to make an arrest for any crime.~~

see 2.

- 1           **SECTION 1.** 23.50 (1) of the statutes is amended to read:
- 2           23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit
- 3           court to recover forfeitures, penalty assessments, jail assessments, applicable
- 4           weapons assessments, applicable environmental assessments, applicable wild
- 5           animal protection assessments, applicable natural resources assessments,
- 6           applicable fishing shelter removal assessments, applicable snowmobile registration
- 7           restitution payments and applicable natural resources restitution payments for
- 8           violations of ss. 77.09, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5), 283.33, 285.57
- 9           (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81 and 299.64 (2) and of s. 951.09



Fri  
1/27/00

D-N

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

and making arrests

prohibiting

1 **AN ACT to amend** 23.50 (1), 29.921 (1), 29.921 (5), 29.931 (2) (a), 173.01 (2), 951.01  
 2 (4), 951.015 and 951.18 (1); **to repeal and recreate** 951.01 (4); and **to create**  
 3 29.921 (1m), 173.01 (4) and 951.01 (5) of the statutes; **relating to:** authorizing  
 4 conservation wardens to enforce trespass law and prohibitions on shooting at  
 5 caged or staked wild animals and to make arrests under misdemeanor  
 6 ~~warrants~~ <sup>warrants</sup> for any crimes issued for misdemeanors or felones

**Analysis by the Legislative Reference Bureau**

This bill is explained in the NOTES provided by the joint legislative council in the bill.

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:**

PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on conservation laws enforcement. It expands the authority of conservation wardens in three areas: enforcement of trespass law, prohibitions on shooting caged or staked wild animals and arrests under misdemeanor warrants.

1. *Trespass.* Currently, conservation wardens are not authorized to enforce violations of s. 943.13, stats., the trespass law. This bill authorizes wardens to do so



1 when a wild animal as defined in s. 29.001 (90) is involved, subch. VI of ch. 77, this  
 2 chapter and chs. 26 to 31 and of ch. 350, and any administrative rules promulgated  
 3 thereunder, violations of rules of the Kickapoo reserve management board under s.  
 4 41.41 (7) (k) or violations of local ordinances enacted by any local authority in  
 5 accordance with s. 23.33 (11) (am) or 30.77.

NOTE: This provision authorizes the DNR to utilize its citation procedures specified  
 in ss. 23.50 to 23.85 for enforcement by conservation wardens of prohibitions on shooting  
 caged or staked animals if a wild animal is involved.

6 **SECTION 2.** 29.921 (1) of the statutes is amended to read:

7 29.921 (1) **GENERALLY.** The department and its wardens may execute and serve  
 8 warrants and processes issued under any law enumerated in ss. 23.50 (1), 167.31,  
 9 346.19, 940.24, 941.20, 948.60, 948.605 and 948.61 and, subject to sub. (1m), s.  
 10 943.13 in the same manner as any constable may serve and execute the process; and  
 11 may arrest, with or without a warrant, any person detected in the actual violation,  
 12 or whom the officer has probable cause to believe is guilty of a violation of any of the  
 13 laws cited in this subsection, whether the violation is punishable by criminal  
 14 penalties or by forfeiture, and may take the person before any court in the county  
 15 where the offense was committed and make a proper complaint. For the purpose of  
 16 enforcing any of the laws cited in this subsection, any officer may stop and board any  
 17 boat and stop any vehicle, if the officer reasonably suspects there is a violation of  
 18 those sections.

NOTE: This provision gives the DNR and its conservation wardens the authority  
 to enforce trespass laws, subject to limitations created by s. 29.921 (1m), as created by this  
 draft. *the*

19 **SECTION 3.** 29.921 (1m) of the statutes is created to read:

20 29.921 (1m) **TRESPASS.** The department and its wardens may act as provided  
 21 in sub. (1) with respect to violations of s. 943.13 only if in the course of the warden's

1 duties under s. 23.50 (1) and this section a person is determined to have committed  
2 a violation.

↓ INSERT B

~~NOTE: This provision provides that other law enforcement agencies will remain the primary enforcers of the trespass law, but conservation wardens, during the course of their duties and in the exercise of their discretion, as their workload permits, may enforce the trespass law.~~

~~See 3~~

3 SECTION 4. 29.921 (5) of the statutes is amended to read:

4 29.921 (5) ADDITIONAL ARREST POWERS. In addition to the arrest powers under  
5 sub. (1), a warden who has completed a program of law enforcement training  
6 approved by the law enforcement standards board, has been certified as qualified to  
7 be a law enforcement officer under s. 165.85 (4) (b) 1. and has complied with any  
8 applicable requirements under s. 165.85 (4) (bn) 1. while on duty and in uniform or  
9 on duty and upon display of proper credentials may assist another law enforcement  
10 agency as defined under s. 165.83 (1) (b) including making an arrest at the request  
11 of the agency, may arrest a person pursuant to an <sup>in</sup>arrest warrant concerning the  
12 commission of a felony crime <sup>as defined under s. 939.12,</sup> or may arrest a person who has committed a crime in  
13 the presence of the warden. If the warden makes an arrest without the presence of  
14 another law enforcement agency, the warden shall cause the person arrested to be  
15 delivered to the chief of police or sheriff in the jurisdiction where the arrest is made,  
16 along with the documents and reports pertaining to the arrest. The warden shall be  
17 available as a witness for the state. A warden may not conduct investigations for  
18 violations of state law except as authorized in ss. 23.11 (4), 29.924 (1) and 41.41 (12).  
19 A warden acting under the authority of this subsection is considered an employe of  
20 the department and is subject to its direction, benefits and legal protection. The  
21 authority granted in this section does not apply to county conservation wardens or  
22 special conservation wardens.

~~See 5~~

NOTE: This provision authorizes a conservation warden who has completed a training program approved by the law enforcement standards board to arrest a person pursuant to an arrest warrant for a misdemeanor, as well as for a felony

INSERT C ✓

1 SECTION 5. 29.931 (2) (a) of the statutes is amended to read:

2 29.931 (2) (a) The department and its wardens shall seize and hold, subject to  
3 the order of the court for the county in which the alleged offense was committed, any  
4 vehicle, boat or object declared by this chapter to be a public nuisance, or which they  
5 have probable cause to believe is being used in violation of this chapter or s. 167.31,  
6 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61, or is being used in a violation of  
7 s. 951.09 involving a wild animal or is being used in the commission of a crime  
8 relating to a submerged cultural resource in violation of s. 44.47. If it is proven that  
9 the vehicle, boat or object is a public nuisance or that within 6 months previous to  
10 the seizure the vehicle, boat or object was used in violation of this chapter or s. 167.31,  
11 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61, or was used in a violation of s.  
12 951.09 involving a wild animal or was used in the commission of a crime relating to  
13 a submerged cultural resource in violation of s. 44.47, it shall be confiscated if the  
14 court directs in its order for judgment.

INSERT D ✓

See 6 →

15 SECTION 6. 173.01 (2) of the statutes, as created by 1997 Wisconsin Act 192, is  
16 amended to read:

17 173.01 (2) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c)  
18 but does not include a conservation warden appointed under s. 23.10 except for  
19 purposes of enforcing s. 951.09 when a wild animal is involved.

← INSERT E ✓

See 7 →

20 SECTION 7. 173.01 (4) of the statutes is created to read:

21 173.01 (4) "Wild animal" has the meaning given in s. 951.01 (5).

See 8 →

22 SECTION 8. 951.01 (4) of the statutes is amended to read:

← INSERT F ✓

1           951.01 (4) "Law enforcement officer" has the meaning assigned under given in  
 2 s. 967.02 (5) and includes a humane officer under s. 58.07 but does not include a  
 3 conservation warden appointed under s. 23.10 except when, for purposes of enforcing  
 4 s. 951.09, a wild animal is involved.

NOTE: This provision gives a conservation warden the powers of other law enforcement officers under ch. 951, relating to crimes against animals but only when a wild animal is involved.

5           **SECTION 9.** 951.01 (4) of the statutes, as affected by 1997 Wisconsin Act 192 and  
 6 1999 Wisconsin Act .... (this act), is repealed and recreated to read:

7           951.01 (4) "Law enforcement officer" has the meaning given in s. 967.02 (5) but  
 8 does not include a conservation warden appointed under s. 23.10 except when, for  
 9 purposes of enforcing s. 951.09, a wild animal is involved. ← INSERT G ✓

See 9 →

10          **SECTION 10.** 951.01 (5) of the statutes is created to read:

11          951.01 (5) "Wild animal" means an animal of a wild nature endowed with  
 12 sensation and the power of voluntary motion. ← INSERT H ✓

See 10 →

13          **SECTION 11.** 951.015 of the statutes is amended to read:

14          **951.015 Construction and application.** This chapter may not be  
 15 interpreted as controverting any law regulating the taking of a wild animal as  
 16 defined in s. 29.001 (90), the trapping of animals, the use of live animals in dog trials  
 17 or in the training of hunting dogs or the slaughter of animals by persons acting under  
 18 state or federal law. ← INSERT I ✓

See 11 →

19          **SECTION 12.** 951.18 (1) of the statutes, as affected by 1997 Wisconsin Act 192,  
 20 is amended to read:

21          951.18 (1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05,  
 22 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 is subject to a  
 23 Class C forfeiture. Any person who violates any of these provisions within 3 years

1 after a humane officer or law enforcement officer issues an abatement order under  
 2 s. 173.11 prohibiting the violation of that provision is subject to a Class A forfeiture.  
 3 Any person who intentionally or negligently violates any of those sections is guilty  
 4 of a Class A misdemeanor. Any person who intentionally violates s. 951.02, resulting  
 5 in the mutilation, disfigurement or death of an animal, is guilty of a Class E felony.  
 6 Any person who intentionally violates s. 951.02 or 951.06, knowing that the animal  
 7 that is the victim is used by a law enforcement agency to perform agency functions  
 8 or duties and causing injury to the animal, is guilty of a Class E felony. INSERT J

See 12

9 **SECTION 13. Effective dates.** This bill takes effect on the day after  
 10 publication, except as follows:

11 (1) The treatment of sections 173.01 (2) and (4) of the statutes and the repeal  
 12 and recreation of section 951.01 (4) of the statutes take effect on December 1, 1999,  
 13 or on the day after publication, whichever is later.

See 13

(END)

← INSERT K

D-N

Gordon:

# After discussing the relating clause with you  
~~introduce~~ I feel it needs to be kept in the plural  
 when referring to the warrants. Please review and  
 if you want changes, call me Monday morning to  
 discuss them.

MGG

~~9. On page 6, line 9, a note should be inserted following SECTION 9:~~

(CS)

Note: This provision is necessary since 1997 Wisconsin Act 192 repeals and recreates s. 951.01 (4), stats., effective December 1, 1999.

INSERT G ✓

~~10. On page 6, line 12, a note should be inserted following SECTION 10:~~

(CS)

Note: This provision creates a definition of "wild animal" for purposes of allowing conservation wardens to enforce s. 951.09, stats., when a wild animal is involved.

INSERT H ✓

~~11. On page 6, line 18, a note should be inserted following SECTION 11:~~

(CS)

Note: Current s. 951.09, stats., provides that ch. 951 of the statutes does not affect any law regulating the taking of wild animals. The provision refers to the definition of "wild animal" in s. 29.001 (90), stats. That reference is deleted since "wild animal" is defined by s. 951.01 (5), as created by SECTION 10.

INSERT I ✓

~~12. On page 7, line 8, a note should be inserted following SECTION 12:~~

(CS)

Note: This provision amends s. 951.18 (1), stats., relating to penalties for violations of ch. 951, stats. It adds the term "law enforcement officer" to recognize that a law enforcement officer as defined under s. 951.01 (4), stats., can issue an abatement order under s. 173.11, stats., to prohibit violations of laws against causing injury to animals.

INSERT J ✓

~~13. On page 7, line 13, a note following SECTION 13 should be inserted:~~

(CS)

Note: This bill will take effect on the day after publication except that SECTIONS 6, 7 and 9 take effect on December 1, 1999, or on the day after publication, whichever is later, to recognize the effective date of 1997 Wisconsin Act 192.

INSERT K ✓

14. In drafter's note No. 4, you suggest adding trespass laws to the lists in s. 26.91 (1) and (2), stats. This should not be done since these provisions are not limited to conservation wardens, they include state forest rangers, town chairpersons and other "duly appointed" deputies.

Prepared by:

Gordon A. Anderson, Senior Staff Attorney  
Wisconsin Legislative Council Staff  
September 8, 1999  
GAA:tlu:kms;rv

Additions and Changes to LRB-3061/P3

The following additions and changes need to be made to LRB-3061/P3.

✓ 1. On page 2, in the third paragraph under point 2 in the Prefatory Note, "as defined in s. 29.001 (90), stats.: any mammal, bird, fish or other creature" should be replaced by "any animal".

2. On page 2, under point 3 in the Prefatory Note, the last sentence should be changed to read "This bill authorizes a conservation warden to arrest a person who is the subject of an arrest warrant for any crime (any misdemeanor or felony) as defined in s. 939.12, stats."

~~3. On page 4, the "note" following line 2, should be replaced by "This provision provides that conservation wardens, during the course of their duties and in the exercise of their discretion, as their work load permits, may enforce the trespass law. Other law enforcement agencies will remain the primary enforcers of the trespass law."~~ INS ✓  
B

✓ 4. On page 4, line 12, following "crime" "as defined under s. 939.12" should be inserted.

5. On page 5, in the note preceding line 1, the period following "felony" should be deleted and the following should be inserted ", by allowing arrests under any arrest warrant concerning the commission of a "crime" as defined by s. 939.12, stats.": "A crime is conduct which is prohibited by state law and punishable by a fine or imprisonment, or both. Conduct punishable only by a forfeiture is not a crime"  
KEEP PERIOD

~~6. On page 5, line 14, a "note" should be inserted following SECTION 5:~~

CS Note: This provision permits the department of natural resources and its wardens to seize and hold, subject to a circuit court order, any vehicle, boat or object that is being used in a violation of s. 951.09, stats., that involves a wild animal. If it is proven that the vehicle, boat or object was used in a violation of s. 951.09, stats., involving a wild animal, it shall be confiscated if so ordered by the court.

INSERT ✓  
D

~~7. On page 5, line 19, a note should be inserted following SECTION 6:~~

CS Note: This provision provides that the term "law enforcement officer" does not include a conservation warden, except for purposes of enforcing s. 951.09, stats., when a wild animal is involved. This provision will grant conservation wardens authority given to other law enforcement officers under ch. 173 of the statutes relating to treatment of animals with respect to wild animals.

INSERT E ✓

~~8. On page 5, line 21, a note should be inserted following SECTION 7:~~

CS Note: This provision cross-references the definition of "wild animal" created by SECTION 10 of the bill.

INSERT ✓  
F

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3061/1dn  
MGG:wlj:km

September 10, 1999

Gordon:

After discussing the relating clause with you I feel it needs to be kept in the plural when referring to the warrants. Please review and if you want changes, call me Monday morning to discuss them.

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215



**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

**Date:** 09/10/1999

**To:** Legislative Council - JLC

**Relating to LRB drafting number:** LRB-3061

**Topic**

Law enforcement authority for wardens

**Subject(s)**

Nat. Res. - fish and game

1. **JACKET** the draft for introduction \_\_\_\_\_



in the **Senate** \_\_\_\_ or the **Assembly**  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Mary Gibson-Glass, Senior Legislative Attorney  
Telephone: (608) 267-3215