

2001 DRAFTING REQUEST

Bill

Received: 08/23/2001

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Steve Kestell (608) 266-8530

By/Representing: himself

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Criminal Law - miscellaneous  
Agriculture - miscellaneous

Extra Copies: MGD

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Penalty for unlawful destruction of research crops; racketeering activity

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>
/?	rryan 08/31/2001	jdyer 10/05/2001					S&L
/1			jfrantze 10/05/2001		lrb_docadmin 10/05/2001	lrb_docadmin 10/17/2001	

FE Sent For:

AT Intro.

<END>

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1?	rryan	1 10/5 jld	10/6	10/6			

FE Sent For:

<END>

8/23/01

Rep. Kestell

redraft AB 899 (99)

include unlawful release of  
animals under RICO

create a new crime for  
destroying research crops

-for ex. at UW facilities

Also include this offense  
under RICO

Penalty for the new offense  
should be the same as  
penalty for unlawful release  
of animals

3659/1  
LRB-1628/1  
RLR  
jld

In 8/31/01

1999 ASSEMBLY BILL 899

Due 10-7

D-Note

OLD DRAFT

March 20, 2000 - Introduced by Representatives KESTELL, SUDER, OTT, LEIBHAM, MUSSER, PORTER, ALBERS, URBAN, STONE, GOETSCH, VRAKAS, HAHN, SYKORA and JOHNSRUD, cosponsored by Senators BAUMGART, ROESSLER, HUELSMAN, SCHULTZ and A. LASEE. Referred to Committee on Criminal Justice.

Regen expanding definition of racketeering activity to include certain violations of prohibition against unauthorized release of animals, and providing a penalty

- 1 AN ACT to amend 946.82 (4) of the statutes; relating to: unauthorized release
- 2 of animals, racketeering activity and providing a penalty ~~of~~ keep period

Insert A →

Analysis by the Legislative Reference Bureau

Current law prohibits the unauthorized release of animals. A person engages in the unauthorized release of animals if, without the consent of the owner or custodian of the animal, he or she intentionally releases an animal that is lawfully confined for scientific, farming, recreation, restocking, research, exhibition, commercial, educational, companionship or protection purposes. A person who violates the prohibition against the unauthorized release of animals is generally guilty of a misdemeanor and may be fined or imprisoned in a county jail or both. However, a person who commits a third or subsequent violation of the prohibition is guilty of a felony and may be fined or imprisoned in a state prison or both.

In addition, Wisconsin currently has an organized crime control law, which provides criminal and civil penalties for engaging in racketeering activity and continuing criminal enterprises. Specifically, this law prohibits a person who is employed by or associated with an enterprise from conducting or participating in the enterprise through a pattern of racketeering activity. The enterprises covered by the law may be illicit or licit and include sole proprietorships, partnerships, corporations and associations or groups of individuals associated in fact although not a legal entity. Current law defines "pattern of racketeering activity" to mean engaging in at least three incidents of racketeering activity within a seven-year period that have the same or similar intents, results, accomplices, victims or methods of commission or otherwise are interrelated. "Racketeering activity" is an attempt or conspiracy to

**ASSEMBLY BILL 899**

commit, or the actual commission of, certain specified felonies, including felonies relating to homicide, battery, theft, burglary and robbery.

This bill expands the list of felonies considered to be "racketeering activity" to include felony violations of the current prohibition against the unauthorized release of animals.

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

SECTION 1. 946.82 (4) of the statutes, as affected by <sup>2001</sup> ~~1999~~ Wisconsin Act <sup>16</sup> ~~9~~, is amended to read:

946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961

(1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1),

180.0129, 181.0129, 185.825, ~~200.09~~ <sup>201.09 ← plain</sup> (2), 215.12, 221.0625, 221.0636, 221.0637,

221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01,

940.19 (3) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.305, 940.31, 941.20

(2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 943.01 (2) <sup>(2d) ← plain</sup> or (2g), 943.011,

943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) <sup>(c) and ← plain</sup> (d),

943.201, 943.23 (1g), (1m), (1r), (2) and (3), 943.24 (2), 943.25, 943.27, 943.28, 943.30,

943.32, 943.34 (1) ~~(c)~~ <sup>(2m) 943.76</sup> (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4)

~~(b) and (c)~~ (c), 943.60, 943.70, 943.75, 944.205, 944.21 (5) (c) and (e), 944.32, 944.33 (2),

944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10, 946.11, 946.12, 946.13,

946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76, 947.015,

948.05, 948.08, 948.12 <sup>plain</sup> and 948.30.

SECTION 2. Initial applicability.

PW/F

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2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3659/lins  
RLR:.....

INSERT A

Current law classifies the commission, attempt, or conspiracy to commit a variety of ~~felonies~~ offenses punishable by confinement in prison as "racketeering activity." Homicide, certain forms of battery, theft, burglary, and robbery are some of the felony offenses classified as racketeering activity. A "pattern of racketeering activity" is defined as engaging in at least three incidents of racketeering activity that have the same or similar intent, results, accomplices, victims, or methods of commission, or that are otherwise interrelated, over a seven-year period. Current law prohibits a person from acquiring rights to any real property, acquiring rights in the establishment or operation of any enterprise, or participating in an enterprise through a pattern of racketeering activity. A person who engages in a pattern of racketeering activity in violation of these prohibitions is guilty of a Class C felony, punishable by a term of confinement in prison followed by a term of extended supervision that together may not exceed 15 years, a fine not to exceed the greater of \$10,000 or twice the amount of pecuniary gain or loss resulting from the pattern of racketeering activity, or both imprisonment and a fine. The maximum penalty is greater if a person engages in a "continuing criminal enterprise," which is defined as engaging in a prohibited pattern of racketeering activity in concert with five or more other persons, if the offender obtains from the activity gross income or resources in excess of \$25,000.

This bill adds the Class C felony prohibition against unauthorized release of animals to the group of felonies that are classified as racketeering activity. The Class C felony ~~unauthorized~~ release of animals prohibits a person from intentionally releasing an animal that is lawfully confined for scientific, farming, restocking, research, or commercial purposes, without the consent of the owner of the animal.

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

(end ins A)



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

LRB-3659/1dn

RLR:.....

↑  
jld

Representative Kestell:

Elements of your request have already been addressed by the 2001-03 ~~Budget Act~~. The budget act adds a specific prohibition against damaging research plants to the crime "damage to property," and imposes a Class E felony for criminal damage to research plants, regardless of whether the plants are owned by a public or private entity. A Class E felony is punishable by a term of confinement in prison followed by a term of extended supervision that together may not exceed five years, a fine not to exceed \$10,000, or both. You had requested that I assign the same penalty for damage to research crops as is provided for unlawful release of animals. The penalty for intentionally releasing an animal that is lawfully confined for scientific, farming, restocking, research, or commercial purposes is a Class C felony, which is punishable by a term of confinement in prison followed by a term of extended supervision that together may not exceed 15 years, a fine not to exceed \$10,000, or both. Would you like this bill to amend the budget provision regarding damage to research plants to increase the penalty from a Class E felony to a Class C felony?

The ~~Budget Act~~ also includes damage to research plants in the definition of "racketeering activity" under the racketeering activity and continuing criminal enterprise provisions of the statutes. This bill, like 1999 Assembly Bill 899, adds unlawful release of animals to the definition of "racketeering activity."

Robin Ryan  
Legislative Attorney  
Phone: (608) 261-6927  
E-mail: robin.ryan@legis.state.wi.us

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

LRB-3659/1dn  
RLR:jld:jf

October 5, 2001

Representative Kestell:

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# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
5TH FLOOR  
MADISON, WI 53701-2037

STEPHEN R. MILLER  
CHIEF

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

October 5, 2001

### MEMORANDUM

To: Representative Kestell

From: Robin L. Ryan, Legislative Attorney

Re: LRB-3659/1 Penalty for unlawful destruction of research crops; racketeering activity

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY  JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 261-6927 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.