

## 2009 DRAFTING REQUEST

### Bill

Received: 10/12/2009

Received By: phurley

Wanted: As time permits

Identical to LRB:

For: Nick Milroy (608) 266-0640

By/Representing:

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Criminal Law - miscellaneous  
Courts - miscellaneous  
Courts - torts

Extra Copies:

Submit via email: YES

Requester's email: Rep.Milroy@legis.wisconsin.gov

Carbon copy (CC:) to:

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### Pre Topic:

No specific pre topic given

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### Topic:

Animal cruelty

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### Instructions:

See attached

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### 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	phurley 11/06/2009	kfollett 11/19/2009	jfrantze 11/19/2009	_____	mbarman 11/19/2009		Crime
/1	phurley 01/14/2010	kfollett 01/20/2010	mduchek 01/21/2010	_____	mbarman 01/21/2010	cduerst 02/05/2010	

FE Sent For: NONE

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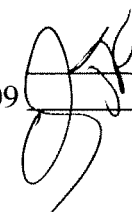
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/? /P1	phurley 11/06/2009	kfollett 11/19/2009	jfrantze 11/19/2009		mbarman 11/19/2009		

FE Sent For:

1/15f  
1/20

<END>

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1?	phurley	1/11/09 P/gf	11/19 J	11/19 AD			
FE Sent For:				<END> 11/19			



218-393-0220

**Nick Milroy**

STATE REPRESENTATIVE  
73rd ASSEMBLY DISTRICT

State Capitol: P.O. Box 8953, Madison, WI 53708  
608-266-0640 • Fax: 608-282-3673  
Toll-Free: 888-534-0073  
E-Mail: [Rep.Milroy@legis.wi.gov](mailto:Rep.Milroy@legis.wi.gov)



- medical care?

10-13-09  
mtg

- abuse/neglect penalties not strict enough

Rep  
Milroy's goals:

- minimize fiscal note, so do a surcharge & put \$ towards \_\_\_\_\_

- strengthen penalties but not to exceed penalties for abusing people

- staircasing based on harm suffered

- care

- requires <sup>medical</sup> CMC

- dies or recommends euthanasia

bodily harm  
great bodily  
death

- draft up minors, 3rd party, etc =  
↑ penalties
- change 951.13 to say food and  
water. Does not ~~not~~ snow or ice
- change def of cruelty to include  
"or fails to act to prevent"
- abandonment - plain  
social harm  
g. b. h.  
death

**Tradewell, Becky**

---

**From:** Keleher, Marylou  
**Sent:** Monday, October 12, 2009 10:27 AM  
**To:** Tradewell, Becky  
**Subject:** Animal Abuse legislation

Hi Becky,

Rep. Milroy would like to introduce legislation related to animal abuse and neglect. I'm not sure that you are the right drafting attorney, but noticed you are responsible for "dogs." There have been two separate occasions in Douglas County regarding animal abuse, one related to a horse and another related to a dog. Under current statutes, the DA was unable to prosecute in either case. A group of people got together and came up with the attached language.

Thank you!

Mary Lou Keleher  
Aide to Rep. Nick Milroy  
6-0640

*t/c to MaryLou*

- focus on neglect cases primarily ch. 173*
- require medical care*
- mtg set up tomorrow 10-13 1:30*



t/c to Rep Mahoy  
match the penalties  
for abuse/neglect/  
abandoning a  
child

**948.03 Physical abuse of a child.**

(1) **Definitions.** In this section, "recklessly" means conduct which creates a situation of unreasonable risk of harm to and demonstrates a conscious disregard for the safety of the child.

**(2) Intentional causation of bodily harm.**

(a) Whoever intentionally causes great bodily harm to a child is guilty of a Class C felony.

100,000  
40 yrs

(b) Whoever intentionally causes bodily harm to a child is guilty of a Class H felony.

19,000  
6 yrs

(c) Whoever intentionally causes bodily harm to a child by conduct which creates a high probability of great bodily harm is guilty of a Class F felony.

25,000  
12 yrs, 6 mo

**(3) Reckless causation of bodily harm.**

(a) Whoever recklessly causes great bodily harm to a child is guilty of a Class G felony.

25,000  
10 yrs

(b) Whoever recklessly causes bodily harm to a child is guilty of a Class I felony.

10,000  
3 yrs, 6 mo

(c) Whoever recklessly causes bodily harm to a child by conduct which creates a high probability of great bodily harm is guilty of a Class H felony.

19,000  
6 yrs

**(4) Failing to act to prevent bodily harm.**

(a) A person responsible for the child's welfare is guilty of a Class F felony if that person has knowledge that another person intends to cause, is causing or has intentionally or recklessly caused great bodily harm to the child and is physically and emotionally capable of taking action which will prevent the bodily harm from occurring or being repeated, fails to take that action and the failure to act exposes the child to an unreasonable risk of great bodily harm by the other person or facilitates the great bodily harm to the child that is caused by the other person.

(b) A person responsible for the child's welfare is guilty of a Class H felony if that person has knowledge that another person intends to cause, is causing or has intentionally or recklessly caused bodily harm to the child and is physically and emotionally capable of taking action which

will prevent the bodily harm from occurring or being repeated, fails to take that action and the failure to act exposes the child to an unreasonable risk of bodily harm by the other person or facilitates the bodily harm to the child that is caused by the other person.

**(6) Treatment through prayer.** A person is not guilty of an offense under this section solely because he or she provides a child with treatment by spiritual means through prayer alone for healing in accordance with the religious method of healing permitted under s. 48.981 (3) (c) 4. or 448.03 (6) in lieu of medical or surgical treatment.

**History:** 1987 a. 332; 2001 a. 109; 2007 a. 80.

*To obtain a conviction for aiding and abetting a violation of sub. (2) or (3), the state must prove conduct that as a matter of objective fact aids another in executing the crime. State v. Rundle, 176 Wis. 2d 985, 500 N.W.2d 916 (Ct. App. 1993).*

*A live-in boyfriend can be a person responsible for the welfare of a child under sub. (5) if he was used by the child's legal guardian as a caretaker for the child. State v. Sostre, 198 Wis. 2d 409, 542 N.W.2d 774 (1996).*

*To overcome the privilege of parental discipline in s. 939.45 (5), the state must prove beyond a reasonable doubt that only one of the following is not met: 1) the use of force must be reasonably necessary; 2) the amount and nature of the force used must be reasonable; and 3) the force used must not be known to cause, or create a substantial risk of, great bodily harm or death. Whether a reasonable person would have believed the amount of force used was necessary and not excessive must be determined from the standpoint of the defendant at the time of the defendant's acts. The standard is what a person of ordinary intelligence and prudence would have believed in the defendant's position under the circumstances that existed at the time of the alleged offense. State v. Kimberly B. 2005 WI App 115, 283 Wis. 2d 731, 699 N.W.2d 641, 04-1424.*

*The definition of reckless in this section is distinct from the general definition found in s. 939.24 and does not contain a state of mind element. Because the defense of mistake defense applies only to criminal charges with a state of mind element the trial court properly exercised its discretion in refusing to give an instruction on the mistake defense. State v. Hemphill, 2006 WI App 185, 296 Wis. 2d 198, 722 N.W. 2d 393, 05-1350.*

*Reckless child abuse requires the defendant's actions demonstrate a conscious disregard for the safety of a child, not that the defendant was subjectively aware of that risk. In contrast, criminal recklessness under s. 939.24 (1) is defined as when the actor creates an unreasonable and substantial risk of death or great bodily harm to another human being and the actor is aware of that risk. Thus, recklessly causing harm to a child is distinguished from criminal recklessness, because only the latter includes a subjective component. State v. Williams, 2006 WI App 212, 296 Wis. 2d 834, 723 N.W. 2d 719, 05-2282.*

*Testimony supporting the defendant father's assertion that he was beaten with a belt as a child was not relevant to whether the amount of force he used in spanking his daughter was objectively reasonable. A parent may not abuse his or her child and claim that conduct is reasonable based on his or her history of being similarly abused. State v. Williams, 2006 WI App 212, 296 Wis. 2d 834, 723 N.W. 2d 719, 05-2282.*

**948.20 Abandonment of a child.** Whoever, with intent to abandon the child, leaves any child in a place where the child may suffer because of neglect is guilty of a Class G felony. *25,000  
6 10 yrs*

**History:** 1977 c. 173; 1987 a. 332 s. 35; Stats. 1987 s. 948.20; 2001 a. 109.

**948.21 Neglecting a child.**

(1) Any person who is responsible for a child's welfare who, through his or her actions or failure to take action, intentionally contributes to the neglect of the child is guilty of one of the following:

- (a) A Class A misdemeanor. *10,000 fine  
9 mos*
- (b) A Class H felony if bodily harm is a consequence. *10,000  
6 years*
- (c) A Class F felony if great bodily harm is a consequence. *25,000 fine  
12 yrs, 6 mo*
- (d) A Class D felony if death is a consequence. *100,000  
25 years*

(2) Under sub. (1), a person responsible for the child's welfare contributes to the neglect of the child although the child does not actually become neglected if the natural and probable consequences of the person's actions or failure to take action would be to cause the child to become neglected.

**History:** 1987 a. 332; 2001 a. 109; 2007 a. 80.

**940.19 Battery; substantial battery; aggravated battery.**

(1) Whoever causes bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed is guilty of a Class A misdemeanor.

(2) Whoever causes substantial bodily harm to another by an act done with intent to cause bodily harm to that person or another is guilty of a Class I felony.

(4) Whoever causes great bodily harm to another by an act done with intent to cause bodily harm to that person or another is guilty of a Class H felony.

(5) Whoever causes great bodily harm to another by an act done with intent to cause great bodily harm to that person or another is guilty of a Class E felony.

(6) Whoever intentionally causes bodily harm to another by conduct that creates a substantial risk of great bodily harm is guilty of a Class H felony. A rebuttable presumption of conduct creating a substantial risk of great bodily harm arises:

(a) If the person harmed is 62 years of age or older; or

(b) If the person harmed has a physical disability, whether congenital or acquired by accident, injury or disease, that is discernible by an ordinary person viewing the physically disabled person, or that is actually known by the actor.

**History:** 1977 c. 173; 1979 c. 111, 113; 1987 a. 399; 1993 a. 441, 483; 2001 a. 109.

*Under the "elements only" test, offenses under subsections that require proof of nonconsent are not lesser included offenses of offenses under subsections for which proof of nonconsent is not required. State v. Richards, 123 Wis. 2d 1, 365 N.W.2d 7 (1985).*

*"Physical disability" is discussed. State v. Crowley, 143 Wis. 2d 324, 422 N.W.2d 847 (1988).*

*First-degree reckless injury, s. 940.23 (1), is not a lesser included offense of aggravated battery. State v. Eastman, 185 Wis. 2d 405, 518 N.W.2d 257 (Ct. App. 1994).*

*The act of throwing urine that strikes another and causes pain constitutes a battery. State v. Higgs, 230 Wis. 2d 1, 601 N.W.2d 653 (Ct. App. 1999), 98-1811.*

*Section 941.20 (1), 1st-degree recklessly endangering safety, is not a lesser included offense of sub. (5), aggravated battery. State v. Dibble, 2002 WI App 219, 257 Wis. 2d 274, 650 N.W.2d 908, 02-0538.*

## **Changes in the current WI Statutes as requested by The WindChill's Law Task Force**

All changes are written in bold italics, and any regularly printed sections are what is currently part of the WI Statutes. Any statutes not mentioned do not have any change requests at this time. There are also new sections and items added from research on other states' statutes. The numbers at the end of paragraphs refer to the endnote list for reference to the statutes from other states that served as models for these requested changes.

## **CHAPTER 951 CRIMES AGAINST ANIMALS**

Updated 07-08 Wis. Stats. Database

951.01 Definitions.

951.02 Mistreating animals.

951.13 Providing proper food and drink to confined animals.

951.14 Providing proper shelter.

951.15 Abandoning animals.

951.18 Penalties.

### ***New Section (Preamble):***

- (1) Acts of animal cruelty cannot be tolerated in a civilized society;***
- (2) Cruelty to animals, in some instances, may escalate into violent offenses against people;***
- (3) The present law concerning cruelty to animals is not sufficient to prohibit or punish the most extreme acts of animal cruelty and animal fighting;***
- (4) Adequate investigative, enforcement, and intervention resources will not be available for the identification of serious offenders and appropriate rehabilitative efforts unless extreme cruelty to animals and animal fighting is upgraded to the status of a felony. (1 AR)***

### **951.01 Definitions (changes and additions):**

- (1) "Abandon" means to completely forsake and desert an animal previously under the care or possession of a person without making reasonable arrangements for its proper care, sustenance and shelter. (5 ID)***
- (2) "Animal" includes every warm-blooded living creature, alive or dead, other than a human being. (6 IL)***
- (3) "Cruelty, Torment, and Torture" means every act, omission, or neglect, whether by the owner or any other person, where unjustifiable physical pain, suffering or death is caused or permitted by mutilating, maiming, burning, poisoning, drowning, or starving an animal; or a person knowingly inflicts, subjects to or prolongs exposure to unnecessary, extreme, unjustifiable pain or suffering, starves, mutilates, maims, burns, poisons, or maliciously kills or disfigures any animal. (10 NJ) (1 AR)***
- (4) "Minimum care" means care sufficient to preserve the health and well-being of an animal and includes, but is not limited to, the following requirements:***
  - (a) food of sufficient quantity and quality to allow for normal growth or maintenance of body weight to keep in good health all animals in possession and/or care; (11 OR)***
  - (b) unimpeded access to drinkable water of an appropriate temperature in sufficient quantity to satisfy the needs of all animals in possession and/or care. Access to snow or ice is not considered access to potable water. (11 OR)***
  - (c) adequate protection from weather conditions that may adversely affect the health or safety of the animal in light of the species, breed, and physical condition of the animal, such protection to include a non-hazardous structure sufficient to protect the animal from rain, sleet, ice, snow, wind, extreme heat or cold, extreme or excessive sunlight and overexposure to the sun, and adequate bedding to protect against cold and dampness; access to a clean and adequate exercise area (8 ME)***

- (d) *veterinary care deemed necessary by a reasonable person to relieve distress, neglect or disease; no person owning or responsible for confining or impounding any animal may fail to supply the animal with necessary medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof.* (8 ME)
- (e) *the animal has not been nor is being abandoned, overworked, or subjected to any sort of abuse including, but not limited to, cruelty, torment or torture.* (8 ME)
- (5) *"Physical injury" means physical pain, including but not limited to physical trauma, illness or any impairment of physical condition.* (10 NJ)
- (6) *"Physical trauma" means a fracture, cut, burn, puncture, bruise or other wound or illness produced by violence or by a biological, chemical, nuclear or thermal agent.* (10 NJ)
- (7) *"Possession" means to have physical custody or charge of, or control over, an animal.* (10 NJ)
- (8) *"Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or loss or impairment of the function of any bodily member or organ.* (13 WA)
- (9) *"Stable" means any building, structure, pasture, or other enclosure where equines are maintained for boarding, holding, training, breeding, riding, pulling vehicles, or other similar purposes and a fee is charged for maintaining such equines or for the use of them.* (4 GA)
- (10) *"Tethering" means the securing of an animal to an anchor point with a restraint in order to confine the animal to a desired area.* (6 IL)

951.02 *Mistreating animals.* No person may treat an animal whether belonging to the person or another, in a cruel manner or may torture an animal.

**Cruelty to Animals.** [see s. 951.01 Definitions (2 - 4), (6 - 9)] **Cruelty to Animals, first offense, is a Class (?) misdemeanor.**

- (1) *A person, including an owner or the owner's agent, is guilty of cruelty to animals if that person:*
  - (a) *deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or reasonably clean conditions;*
  - (b) *confines or tethers an animal in a building, outdoor enclosure, car, boat, vehicle or vessel of any kind when extreme heat or cold will be harmful to its health.*(8 ME)

**Aggravated Cruelty to Animals** [see s. 951.01 Definitions (2 - 4), (6 - 11)] is a Class (?) felony.

- (1) *A person is guilty of aggravated animal cruelty when he or she:*
  - (a) *commits cruelty to animals with prior cruelty to animals convictions or convictions on a separate prior occasion or occasions of any offense that has as an element the use, attempted use, or threatened use of violence toward or cruel mistreatment, cruel neglect, abandonment, or unauthorized killing of an animal*
  - (b) *forces a minor or other person to inflict unnecessary pain or injury on an animal* (1 AR)
  - (c) *kills or tortures an animal to frighten or intimidate another person.* (8 ME)
- (2) *A person is guilty of aggravated cruelty to animals when he or she, intentionally or with criminal negligence starves, dehydrates, or suffocates an animal and as a result causes:*
  - (a) *substantial and unjustifiable physical pain or injury that extends for a period sufficient to*

cause considerable suffering or serious physical injury; or  
(b) death.

(3) A person is guilty of the crime of aggravated cruelty to animals if the person knowingly commits animal abuse in the presence of a child under 18 years of age. It shall not be a defense that the person did not know that the child was present or that the person reasonably believed that the child was 18 years of age or older. (11 NJ)

Extreme Cruelty to Animals [see s. 951.01 Definition (2 – 4), 6 – 10]] is a Class (?) felony (more severe than aggravated cruelty to animals).

- (1) The person forces a minor to commit aggravated cruelty to animals (subsection 2 or 3).
- (2) The person commits the crime of aggravated cruelty to animals and the person has previously been convicted of one or more of the following offenses:
  - (a) Any offense under any equivalent laws of another jurisdiction, if the offense involved domestic violence as defined or the offense was committed against a minor child;
  - (b) Any offense under this section or the equivalent laws of another jurisdiction;
- (3) The person knowingly commits aggravated animal abuse in the immediate presence of a minor child. For purposes of this paragraph, a minor child is in the immediate presence of animal abuse if the abuse is seen or directly perceived in any other manner by the minor child. It shall not be a defense that the person did not know that the child was present or that the person reasonably believed that the child was 18 years of age or older.

951.13 Providing proper food and drink to confined animals. No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food or and water as prescribed in this section [see s. 951.01 Definition of "Minimum Care" (4a & b)].

keep in this change

951.14 Providing proper shelter. No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this section. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located. **Shelter includes adequate protection from weather conditions that may adversely affect the health or safety of the animal in light of the species, breed, and physical condition of the animal, such protection to include a non-hazardous structure sufficient to protect the animal from rain, sleet, ice, snow, wind, extreme heat or cold, extreme or excessive sunlight and overexposure to the sun, and adequate bedding to protect against cold and dampness, and access to a clean and adequate exercise area.** (8 ME)

keep in this change

(1) INDOOR STANDARDS: Minimum indoor standards for indoor shelter shall include:

(a) Shelter from sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or caged or otherwise restricted in their movement or ability to seek shelter outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.

(b) Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(2) OUTDOOR STANDARDS. Minimum outdoor standards of shelter shall include:

(a) Shelter from sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or caged or otherwise restricted in their movement or ability to seek shelter outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.

(b) Shelter from inclement weather. 1. "Animals generally." Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

[see s. 951.01 Definition of "Minimum Care" (4c) and "Stable" (12)].

**Designated agents are authorized to enter any public or private property for the purpose of inspecting the premises of any pet dealer, animal shelter, kennel, or stable and examine the dogs,**



cats, equines, or other animals housed at such facility to determine that the facility is properly maintained and the animals are healthy and kept in accordance with these statutes (951.13 & 951.14). (4 GA)

951.15 Abandoning animals. No person may abandon any animal. [see 951.01 Definition of "Abandon" (1), "Minimum Care (4), and "Stable" (12)].

An owner, possessor, or person having the charge or custody of an animal shall not abandon an animal or cause an animal to be abandoned, in any place, without making provisions for the animal's minimum care, unless premises are temporarily vacated for the protection of human life during a disaster. An animal that is lost by an owner or custodian while traveling, walking, hiking, or hunting shall not be regarded as abandoned when the owner or custodian has made a reasonable effort to locate the animal. (9 MI)

define  
abandon

For the purposes of this section, leaving an animal at an animal pound, stable or shelter without ensuring that the animal is left with a person authorized by the animal pound, stable or shelter to accept possession of the animal shall constitute relinquishing possession of an animal without making reasonable provisions for the minimum care of the animal. Leaving an animal at a boarding facility beyond the agreed upon term and/or withholding payment as per contract, except in cases of emergencies, also constitutes abandonment. (10 NJ)  
[Cross-reference s. 779.43 (13) and 779.48 (2).]

**(1) Abandonment, first offense: Cruelty to Animals**

A person is guilty of cruelty to animals if, with the purpose of relinquishing possession of an animal and without making reasonable provisions for the minimum care of the animal, the person knowingly leaves the animal or causes the animal to be left at a location where the animal is beyond the custody or possession of the person leaving the animal or the custody or possession of the animal's owner. (10 NJ)

See s. 951.18 Penalties, Cruelty to Animals.

**(2) Abandonment: Aggravated Cruelty to Animals**

(a) A person is guilty of aggravated cruelty to animals if, with the purpose of relinquishing possession of an animal and without making reasonable provisions for the minimum care of the animal, the person knowingly leaves the animal or causes the animal to be left at a location where the animal is beyond the custody or possession of the person leaving the animal or the custody or possession of the animal's owner, and, the failure to provide for the minimum care of the animal results in serious physical injury to the animal. (10 NJ).

see  
stair  
casing

(b) A minor is present or involved with the abandonment.

(c) The animal was already injured when abandoned.

(d) The person has any prior convictions involving animal abuse.

(e) See s. 951.18 Penalties, Aggravated Cruelty to Animals.

**(3) Abandonment: Extreme Cruelty to Animals**

(a) A person is guilty of extreme cruelty to animals if, with the purpose of relinquishing possession of an animal and without making reasonable provisions for the minimum care of the animal, the person knowingly leaves the animal or causes the animal to be left at a location where the animal is beyond the custody or possession of the person leaving the animal or the custody or possession of the animal's owner, and, the failure to provide for the minimum care of the animal results in the death of the animal. (10 NJ)

(b) The animal has been subjected to cruelty, torment, or torture prior to abandonment.

(c) See s. 951.18 Penalties, Extreme Cruelty to Animals.

**951.18 Penalties.**

Any person who intentionally, negligently, or under circumstances manifesting extreme indifference to the value of life violates any of those sections is guilty of a Class A misdemeanor. Any person who

intentionally, negligently, or under circumstances manifesting extreme indifference to the value of life violates s. 951.02, resulting in the mutilation, disfigurement, torture or death of an animal, is guilty of a Class I felony. Any person who intentionally violates s. 951.02 or 951.06 (use of poisonous and controlled substances), 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 I felony.

(a) If such offense is committed by a corporation, such corporation shall be punished by a fine not to exceed \$1,000.00 for each such violation, community service of not less than 200 hours nor more than 500 hours, or both.

(b) Each violation of this article shall constitute a separate offense. (4 GA)

Civil actions: any person who has a right of ownership in an animal that is subjected to an act of aggravated cruelty or torture in violation of this Statute or in an animal that is injured or killed as a result of actions taken by a person who acts in bad faith may bring a civil action to recover the damages sustained by that owner. Damages may include, but are not limited to, the monetary value of the animal, veterinary expenses incurred on behalf of the animal, any other expenses incurred by the owner in rectifying the effects of the cruelty, pain, and suffering of the animal, and emotional distress suffered by the owner. In addition to damages that may be proven, the owner is also entitled to punitive or exemplary damages of not less than \$500 but not more than \$25,000 for each act of abuse or neglect to which the animal was subjected. The court must also award reasonable attorney's fees and costs incurred by the owner in the prosecution of any action under this Section in addition to any other remedies allowed by law. In an action under this section, the court may enter any injunctive orders reasonably necessary to protect animals from any further acts of abuse, neglect, or harassment by a defendant. (6 IL)

Cruelty to animals is a Class (?) misdemeanor. A person is guilty of cruelty to animals when he or she has committed acts of cruelty to animals for the first time [see s.951.01 Definition of "Cruelty" (3)].

(1) (a) If the person pleads guilty or nolo contendere to or is found guilty of cruelty to animals, the court will assign custody of the abused animal or animals to a properly designated care facility. (1 AR)

(b) In addition to any other penalty imposed by law, a person convicted of violating this section for the first time may possess a domestic animal ~~only with supervision and inspections for~~ a period of five years following entry of the conviction. (11 OR) (2 CO)

Aggravated cruelty to animals is a Class (?) felony. A person is guilty of aggravated animal cruelty when he or she (a) commits cruelty to animals [see s. 951.01 Definition of "Cruelty to Animals" (3)] and (b) [see s.951.02 Description of Aggravated Cruelty to Animals].

(1) In addition to all other penalties prescribed by law, a person violating this subsection shall also be liable for a fine of \$5,000 for each offense. (10 NJ)

(2) In addition to other penalties imposed, the court will order that the convicted person do the following:

(a) Not harbor or own animals or reside in any household where animals are present for a minimum of 15 years;

(b) Participate in appropriate counseling at the defendant's expense;

(c) Reimburse the animal shelter, humane society, or other care facility for any reasonable costs incurred for the care and maintenance of any animals taken to the facility as a result of conduct proscribed in subsections 1-4 of this section. ~~This shall be paid through the Animal Abuse fund.~~

(3) If the court has reasonable grounds to believe that a violation of this section has occurred, the court will order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation. (1 AR)

Maybe keep in  
does affect this

match this language

ch 595

keep in

keep in

Extreme cruelty to animals is a Class (?) felony (more severe than aggravated cruelty to animals). A person is guilty of extreme cruelty to animals when he or she (a) commits cruelty to animals [see s. 951.01 Definition of "cruelty to Animals" (3)] and (b) [see s. 951.02 Description of Extreme Cruelty to Animals].

(1) Any person convicted of a felony violation of cruelty to animals (Aggravated or Extreme) shall be prohibited from owning or possessing any animal for 15 years after said conviction. Any person convicted of a second or subsequent felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after each conviction without exception. (3 DE)

(2) In addition to any other penalty imposed by law, a person who violates this section commits a misdemeanor punishable by a fine not exceeding \$5,000 and forfeiture of the animal. (11 OR)

(3) If the court has reasonable grounds to believe that a violation of this section has occurred, the court will order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation. (1 AR)

#### Mental health evaluation and counseling.

(1)(a) In addition to all other penalties provided by law, the court may order any person found guilty of cruelty to animals to receive a psychiatric or psychological evaluation, and if determined appropriate, anger management, psychiatric and/or psychological counseling or treatment. (1 AR) (10 NJ)

(b) In addition to all other penalties provided by law, upon acceptance of a plea of guilty or nolo contendere of cruelty to animals, the court may order the defendant to undergo anger management, psychiatric or psychological evaluation and psychiatric or psychological counseling or treatment. (1 AR) (10 NJ)

(2) For all persons found guilty of aggravated cruelty to animals or extreme cruelty to animals, the court shall order an evaluation to be conducted prior to sentencing to assist the court in determining an appropriate sentence. Appropriate treatment, including psychological counseling, psychiatric treatment, and/or anger management will be part of the sentencing process in addition to all other penalties provided by law. (1 AR) (10 NJ)

(3) The cost of evaluation, counseling or treatment ordered will be paid by the defendant up to the jurisdictional limit of the court. (1 AR) (10 NJ)  
Social Services will arrange for evaluation and treatment of indigent offenders.

(4) If a juvenile is found to have engaged in cruelty to animals, the juvenile court shall order the child to participate in anger management, psychological counseling, and/or psychiatric treatment as for a period to be determined by the court after professional evaluation. (12 TX)  
The juvenile's legal guardian will be ordered to pay for evaluation and treatment. If indigent, Social Services will arrange for evaluation and treatment.

(5) Nothing in this paragraph shall preclude the court from ordering treatment in any appropriate case. (11 OR)

#### Penalties for Animal Abuse.

(One state's penalties):

Standard penalty for animal abuse: maximum of five years' imprisonment, \$125,000 fine, or both.

*For all felony crimes*

*class A misdemeanor + 10K*

**Enhanced penalty: maximum of 10 years' imprisonment, \$250,000 fine, or both.**

**Penalty for aggravated animal abuse: maximum of 10 years' imprisonment, \$250,000 fine, or both.**

**Standard penalty for animal neglect in second degree: maximum of one year's imprisonment, \$6,250 fine, or both. Enhanced penalty of maximum of five years' imprisonment: \$125,000 fine, or both.**

**Standard penalty for animal neglect in first degree: five years' imprisonment, \$125,000 fine, or both. Enhanced penalty: maximum of 10 years' imprisonment, \$250,000 fine, or both. (11 OR)**

#### **Animal Abuse Fund**

**The Animal Abuse Fund is created as a special fund in the State treasury. Monies in the fund will be used to investigate animal neglect and abuse, cover immediate costs of care, veterinary services, and transportation for seized animals, and supervision and inspection of properties and any other animals not seized on violators' properties, and other animal crime-related expenses. All fines collected for animal crimes and court-ordered reimbursement for care of seized animals already covered by monies from this fund will be put into this fund. (6 IL)**

2  
1

#### **Protective Orders**

**No person named in the order may remove a pet, assistance animal, or other animal from the possession of another involved party. (12 TX)**

**In a protective order, the court may prohibit the person found to have committed family violence from harming, threatening, or interfering with the care, custody, or control of a pet, assistance animal, or other animal as defined by that is possessed by a person protected by an order or by a member of the family or household of a person protected by an order. (12 TX)**

~~add~~  
813  
add to  
813

#### **Pattern of abuse or neglect**

**A person is guilty of a pattern of abuse or neglect if a person is convicted of any violation of animal and/or human abuse statutes and the person has previously been convicted of violating one or more of those sections of law, or one or more of the following:**

- (1) any statute of the United States or any other state similar to any provision of any WI abuse statute, establishing any offense that is substantially equivalent to the offenses established under those sections of law; (10 NJ)**
- (2) any other animal protection statute of this State, the United States, or any other state, or any other provision of WI Statutes establishing an offense that is substantially equivalent to the offense established in any of these animal protection statutes; or (10 NJ)**
- (3) any crime inflicted upon a person protected under the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.) or any act of domestic violence under the equivalent law of another jurisdiction. (10 NJ)**

**All persons guilty of a pattern of abuse or neglect will be ordered to undergo psychiatric, psychological, and/or anger management evaluations to assist the court in determining an appropriate sentence. Appropriate treatment, including psychological counseling, psychiatric treatment, and/or anger management will be part of the sentencing in addition to all other penalties provided by law.**

surcharge, perhaps? \$100 retained by counties add to 514,76

WCLTF WI statute change request endnotes

- (1) Arkansas Annotated Title 5, Subtitle 6, Chapter 62, Subchapter 1, sections 5-62-101, 15-62-102, 5-62-103.
- (2) Colorado 18-9-202 (II)
- (3) Delaware Chapter 5 1325
- (4) Georgia 4-11-3 to 4-11-9, 4-11-16
- (5) Idaho 25-3502
- (6) Illinois: Sec. 2.12. Tethering (510 ILCS, 70/2.12 new)  
Illinois 510 ILCS 70/16.3 & 16.4
- (7) Louisiana R.S. 14:102.2
- (8) Maine Title 7, Part 9, Chapter 739, subsections 4011 & 4014
- (9) Michigan Chapter 750, Michigan Penal Code Chapter IX, animals 750.50 (2)(e)
- (10) New Jersey Statutes, Title 4 of the Revised Statutes and P.L. c., (C)  
New Jersey Legislation: page 2 lines 13 – 42
- (11) Oregon Law SECTION ORS 167.310  
Oregon Legislation
- (12) Texas SECTION 1. Sections .85.021, 85.022(b) Family Code, Section 121.002,  
Human Resources Code  
Texas: Acts 2001, 77th Leg., ch. 450, Sec. 2, amended by Acts 2007, 80th Leg.,  
R.S., Ch. 886, Sec. 3
- (13) Washington RCW 16.52.205

**951.18 Penalties.**

(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 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 I 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 I felony.

(2) Any person who violates s. 951.08 (2m) or (3) is guilty of a Class A misdemeanor. Any person who violates s. 951.08 (1) or (2) is guilty of a Class I felony for the first violation and is guilty of a Class H felony for the 2nd or subsequent violation.

(2m) Any person who violates s. 951.095 is subject to a Class B forfeiture. Any person who intentionally or negligently violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties, is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing injury to the animal, is guilty of a Class I felony. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing death to the animal, is guilty of a Class H felony.

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

(3) In addition to penalties applicable to this chapter under this section, a district attorney may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.

*select business checks*  
*eyed animals*  
*food/water to confined/impaired animals*  
*shelter*  
*mistreating animals*  
*decompression*  
*abandonment*  
*petting*  
*leading animal from motor vehicle*  
*transporting in a caged animal*  
*poisons*  
*rodeo stick*  
*shooting caged or stray animal*  
*mistreatment*  
*poisons*  
*animal fights*  
*harassing police or fire animal*  
*harassing service dogs*

(4) In addition to penalties applicable to this chapter under this section:

(a)

1. In this paragraph, "pecuniary loss" means any of the following:

a. All special damages, but not general damages, including the money equivalent of loss resulting from property taken, destroyed, broken, or otherwise harmed and out-of-pocket losses, such as medical expenses.

b. Reasonable out-of-pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and prosecution of an offense under this chapter.

c. Expenses in keeping any animal that is involved in the crime.

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

e. In a case under s. 951.095 or 951.097, all related veterinary and care expenses.

f. In a case under s. 951.095 or 951.097, 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.

2. A sentencing court shall require a criminal violator to pay restitution to a person, including any local humane officer or society or county or municipal pound or a law enforcement officer or conservation warden, for any pecuniary loss suffered by the person as a result of 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.

(b)

1. A sentencing court may order that an animal be delivered to the local humane officer or society or the county or municipal pound or to a law enforcement officer if a person commits a crime under this chapter, the person is the owner of the animal that is involved in the crime and the court considers the order to be reasonable and appropriate. A sentencing court may order that an animal be delivered to the department of natural resources, if the animal is a wild animal that is subject to regulation under ch. 169 and the court considers the order to be reasonable and appropriate. The society, pound, officer or department of natural resources shall release the animal to a person other than the owner or dispose of the animal in a proper and humane manner. If the animal is a dog, the release or disposal shall be in accordance with s. 173.23 (1m), except that the fees under s. 173.23 (1m) (a) 4. do not apply if the expenses are covered under s. 173.24. If the animal is not a dog, the society, pound or officer may charge a fee for the release of the animal.

2. If the court is sentencing a person covered under s. 173.12 (3) (a) and an animal has been seized under s. 173.12, the court shall act in accordance with s. 173.12 (3).

(c) Except as provided in s. 951.08 (2m), a sentencing court may order that the criminal violator may not own, possess or train any animal or type or species of animal for a period specified by the court, but not to exceed 5 years. In computing the time period, time which the person spent in actual confinement serving a sentence shall be excluded.

**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; 2001 a. 56, 109; 2005 a. 353.





**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1

**AN ACT ...; relating to: crimes against animals,** and providing a penalty.

---

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version.

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

2           **SECTION 1.** 813.12 (3) (a) (intro.) of the statutes is amended to read:  
3           813.12 (3) (a) (intro.) A judge or circuit court commissioner shall issue a  
4 temporary restraining order ordering the respondent to refrain from committing acts  
5 of domestic abuse against the petitioner, to avoid the petitioner's residence, except  
6 as provided in par. (am), or any other location temporarily occupied by the petitioner  
7 or both, or to avoid contacting or causing any person other than a party's attorney  
8 or a law enforcement officer to contact the petitioner unless the petitioner consents  
9 in writing, to refrain from engaging in or threatening to engage in the mistreatment

1 of an animal owned or cared for by the petitioner, or any combination of these  
2 remedies requested in the petition, or any other appropriate remedy not inconsistent  
3 with the remedies requested in the petition, if all of the following occur:

History: 1983 a. 204, 540; 1985 a. 29, 135; 1989 a. 193; 1993 a. 319; 1995 a. 71, 306; 1999 a. 162; 2001 a. 61, 109; 2003 a. 321; 2005 a. 387; 2005 a. 443 s. 265; 2007 a. 20, 124.

4 **SECTION 2.** 813.12 (4) (a) (intro.) of the statutes is amended to read:

5 813.12 (4) (a) (intro.) A judge or circuit court commissioner may grant an  
6 injunction ordering the respondent to refrain from committing acts of domestic abuse  
7 against the petitioner, to avoid the petitioner's residence, except as provided in par.  
8 (am), or any other location temporarily occupied by the petitioner or both, or to avoid  
9 contacting or causing any person other than a party's attorney or a law enforcement  
10 officer to contact the petitioner unless the petitioner consents to that contact in  
11 writing, to refrain from engaging in or threatening to engage in the mistreatment of  
12 an animal owned or cared for by the petitioner, or any combination of these remedies  
13 requested in the petition, or any other appropriate remedy not inconsistent with the  
14 remedies requested in the petition, if all of the following occur:

History: 1983 a. 204, 540; 1985 a. 29, 135; 1989 a. 193; 1993 a. 319; 1995 a. 71, 306; 1999 a. 162; 2001 a. 61, 109; 2003 a. 321; 2005 a. 387; 2005 a. 443 s. 265; 2007 a. 20, 124.

15 **SECTION 3.** 813.122 (4) (a) (intro.) of the statutes is amended to read:

16 813.122 (4) (a) (intro.) A judge or circuit court commissioner shall issue a  
17 temporary restraining order ordering the respondent to avoid the child victim's  
18 residence or any premises temporarily occupied by the child victim or both, to refrain  
19 from engaging in or threatening to engage in the mistreatment of an animal owned  
20 or cared for by the child victim, and to avoid contacting or causing any person other  
21 than a party's attorney to contact the child victim unless the petitioner consents in

1 writing and the judge or circuit court commissioner agrees that the contact is in the  
2 best interests of the child victim, if all of the following occur:

**History:** 1985 a. 234; 1987 a. 332 s. 64; Sup. Ct. Order, 151 Wis. 2d xxv (1989); 1991 a. 276; 1993 a. 227, 318; 1995 a. 71, 275, 306, 456; 1997 a. 292; 2001 a. 61; 2005 a. 155, 272; 2005 a. 443 s. 265; 2007 a. 20, 124.

3 **SECTION 4.** 813.122 (5) (a) (intro.) of the statutes is amended to read:

4 813.122 (5) (a) (intro.) A judge may grant an injunction ordering the  
5 respondent to avoid the child victim's residence or any premises temporarily  
6 occupied by the child victim or both, to refrain from engaging in or threatening to  
7 engage in the mistreatment of an animal owned or cared for by the child victim, and  
8 to avoid contacting or causing any person other than a party's attorney to contact the  
9 child victim unless the petitioner consents to that contact in writing and the judge  
10 agrees that the contact is in the best interests of the child victim, if all of the following  
11 occur:

**History:** 1985 a. 234; 1987 a. 332 s. 64; Sup. Ct. Order, 151 Wis. 2d xxv (1989); 1991 a. 276; 1993 a. 227, 318; 1995 a. 71, 275, 306, 456; 1997 a. 292; 2001 a. 61; 2005 a. 155, 272; 2005 a. 443 s. 265; 2007 a. 20, 124.

12 **SECTION 5.** 813.125 (3) (a) (intro.) of the statutes is amended to read:

13 813.125 (3) (a) (intro.) A judge or circuit court commissioner may issue a  
14 temporary restraining order ordering the respondent to cease or avoid the  
15 harassment of another person, to avoid the petitioner's residence, except as provided  
16 in par. (am), or any premises temporarily occupied by the petitioner or both, to refrain  
17 from engaging in or threatening to engage in the mistreatment of an animal owned  
18 or cared for by the petitioner, or any combination of these remedies requested in the  
19 petition, if all of the following occur:

**History:** 1983 a. 336; 1991 a. 39, 194; 1995 a. 71, 306; 2001 a. 16, 61, 105; 2003 a. 321; 2005 a. 272; 2007 a. 124.

20 **SECTION 6.** 813.125 (4) (a) (intro.) of the statutes is amended to read:

21 813.125 (4) (a) (intro.) A judge or circuit court commissioner may grant an  
22 injunction ordering the respondent to cease or avoid the harassment of another  
23 person, to avoid the petitioner's residence, except as provided in par. (am), or any

1 premises temporarily occupied by the petitioner or both, to refrain from engaging in  
 2 or threatening to engage in the mistreatment of an animal owned or cared for by the  
 3 petitioner, or any combination of these remedies requested in the petition, if all of the  
 4 following occur:

5 History: 1983 a. 336; 1991 a. 39, 194; 1995 a. 71, 306; 2001 a. 16, 61, 105; 2003 a. 321; 2005 a. 272; 2007 a. 124.

5 **SECTION 7. 948.057** of the statutes is created to read:

6 **948.057 Causing a child to commit a crime against an animal. (1)**

7 Whoever intentionally causes a child who has not attained 18 years of age to violate  
 8 s. 951.02 may be penalized as provided in sub. (2).

9 **(2)** Whoever violates sub. (1) is guilty of:

10 (a) A Class F felony if the child has not attained the age of 13 years.

11 (b) A Class H felony if the child has attained the age of 13 years but has not  
 12 attained the age of 18 years.

13 History: 1987 a. 334; 1989 a. 359; 1993 a. 218 ss. 6, 7; Stats. 1993 s. 948.055; 1995 a. 67; 2001 a. 109.

13 **SECTION 8. 951.01 (2)** of the statutes is amended to read:

14 951.01 **(2)** “Cruel” means causing or failing to prevent unnecessary and  
 15 excessive pain or suffering or unjustifiable injury or death.

16 History: 1973 c. 314; 1983 a. 189; 1987 a. 248; 1987 a. 332 s. 54; Stats. 1987 s. 951.01; 1989 a. 223; 1997 a. 27, 192; 1999 a. 83; 2001 a. 56; 2005 a. 353.

16 **SECTION 9. 951.13 (2)** of the statutes is amended to read:

17 951.13 **(2) WATER.** If potable water is not accessible to the animals at all times,  
 18 it shall be provided daily and in sufficient quantity for the health of the animal. For  
 19 the purposes of this section, snow or ice is not potable water.

20 History: 1973 c. 314; 1983 a. 95; 1987 a. 332 s. 54; Stats. 1987 s. 951.13.

20 **SECTION 10. 951.15** of the statutes is amended to read:

21 **951.15 Abandoning animals.** No person may abandon any animal. In this  
 22 section, “abandon” means to leave an animal previously under the care or possession

1 of the person without making reasonable arrangements for the animal's proper care,  
2 sustenance, and shelter. (1)

History: 1973 c. 314 ss. 1, 6; 1977 c. 173; 1987 a. 332 s. 5; Stats. 1987 s. 951.15; 1993 a. 486; 1997 a. 192.

3 SECTION 11. 951.18 of the statutes is amended to read:

no (B)

4 ~~951.18 Penalties~~ (1) Any person violating s. 951.02, 951.025, 951.03, 951.04,  
5 951.05, 951.06, 951.07, 951.09, 951.10, or 951.11, 951.13, 951.14 or 951.15 is subject  
6 to a Class C forfeiture. Any person who violates any of these provisions within 3  
7 years after a humane officer issues an abatement order under s. 173.11 prohibiting  
8 the violation of that provision is subject to a Class A forfeiture. Any person who  
9 intentionally or negligently violates any of those sections is guilty of a Class A  
10 misdemeanor. ~~Any person who intentionally violates s. 951.02, resulting in the~~  
11 ~~mutilation, disfigurement or death of an animal, is guilty of a Class I felony.~~ Any  
12 person who intentionally violates s. 951.02 or 951.06, knowing that the animal that  
13 is the victim is used by a law enforcement agency to perform agency functions or  
14 duties and causing injury to the animal, is guilty of a Class I felony.

15 SECTION 12. 951.18 (1m) of the statutes is created to read:

16 951.18 (1m) Any person who violates s. 951.02, 951.13, 951.14, or 951.15 and  
17 intentionally causes harm to an animal is guilty of one of the following:

- 18 (a) A class H felony if bodily harm to the animal is a consequence.
- 19 (b) A class C felony if great bodily harm to the animal is a consequence.
- 20 (c) A class D felony if death to the animal is a consequence.

21 SECTION 13. 951.18 (1r) of the statutes is created to read:

22 951.18 (1r) Any person who violates s. 951.02, 951.13, 951.14, or 951.15 and  
23 recklessly causes harm to an animal is guilty of one of the following:

- 24 (a) A class I felony if bodily harm to the animal is a consequence.

1

(b) A class G felony if great bodily harm to the animal is a consequence.

2

(c) A class E felony if death to the animal is a consequence.

3

**SECTION 14.** 951.18 (4) (c) of the statutes is amended to read:

4

951.18 (4) (c) Except as provided in s. 951.08 (2m), a sentencing court may order

5

that the criminal violator may not own, possess or train any animal or type or species

6

of animal for a period specified by the court, but not to exceed 5 15 years. In

7

computing the time period, time which the person spent in actual confinement

8

-serving a sentence shall be excluded.

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; 2001 a. 56, 109; 2005 a. 353.

9

**SECTION 15.** 951.18 (4) (d) of the statutes is created to read:

10

951.18 (4) (d) A sentencing court may order a person convicted of a felony under

11

this chapter to undergo a psychological assessment and to participate in anger

12

management counseling or treatment or psychological counseling or treatment.

13

(END)

D-Note

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

p1  
LRB-3662/?dn  
PJH: kjf

Date

Representative Milroy:

Please review this preliminary draft to ensure that it is consistent with your intent. In many instances, I made my best guess as to which of the proffered statutory sections seemed to reflect your intent, and I combined some of the language to conform to our current statutes and our drafting rules. Current law regarding proper shelter seemed, in my opinion, to cover many of the concerns raised by your constituents, although its language does not mirror statutes found in other states. Section 951.14 does require adequate indoor and outdoor shelter, protection from sunlight, protection from inclement weather, and contains standards for cleanliness and size. Similarly, the current definition of "cruel" treatment seems broad enough to incorporate the concerns raised by your constituents, although I did amend that definition to include a person who "fails to prevent" cruel treatment.

X Please review the penalties in this draft for violations of ss. 951.02, 951.13, 951.14, and 951.15. I separated these sections from the general penalty provisions in s. 951.18 because these seemed to be the focus of your constituents' concerns. If you would like a different approach, please let me know. Please compare the penalties in this draft with those found in s. 948.21, neglecting a child, and s. 948.03, physical abuse of a child. Let me know if you would like any changes. (1)

X Please review the created s. 948.057, Causing a child to commit a crime against an animal. This section is modeled on s. 948.055, Causing a child to view or listen to sexual activity. Please let me know if you want any changes.

I did not include the provisions regarding a civil action in this draft because, after our conversation, they seemed to be outside the scope of this draft. Please let me know if you want me to include them in this draft or if you would like a separate draft for a civil action against a person who abuses or neglects an animal.

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If you have any other questions or concerns, please let me know.

Peggy Hurley  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: [peggy.hurley@legis.wisconsin.gov](mailto:peggy.hurley@legis.wisconsin.gov)



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

LRB-3662/P1dn  
PJH:kjf:jf

November 19, 2009

Representative Milroy:

Please review this preliminary draft to ensure that it is consistent with your intent. In many instances, I made my best guess as to which of the proffered statutory sections seemed to reflect your intent, and I combined some of the language to conform to our current statutes and our drafting rules. Current law regarding proper shelter seemed, in my opinion, to cover many of the concerns raised by your constituents, although its language does not mirror statutes found in other states. Section 951.14 does require adequate indoor and outdoor shelter, protection from sunlight, protection from inclement weather, and contains standards for cleanliness and size. Similarly, the current definition of "cruel" treatment seems broad enough to incorporate the concerns raised by your constituents, although I did amend that definition to include a person who "fails to prevent" cruel treatment.

Please review the penalties in this draft for violations of ss. 951.02, 951.13, 951.14, and 951.15. I separated these sections from the general penalty provisions in s. 951.18 (1) because these seemed to be the focus of your constituents' concerns. If you would like a different approach, please let me know. Please compare the penalties in this draft with those found in s. 948.21, neglecting a child, and s. 948.03, physical abuse of a child. Let me know if you would like any changes.

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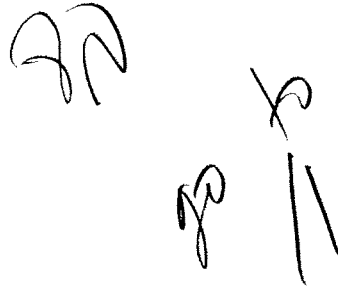
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**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1     **AN ACT** *to amend* 813.12 (3) (a) (intro.), 813.12 (4) (a) (intro.), 813.122 (4) (a)  
2           (intro.), 813.122 (5) (a) (intro.), 813.125 (3) (a) (intro.), 813.125 (4) (a) (intro.),  
3           951.01 (2), 951.13 (2), 951.15, 951.18 (1) and 951.18 (4) (c); and *to create*  
4           948.057, 951.18 (1m), 951.18 (1r) and 951.18 (4) (d) of the statutes; **relating to:**  
5           crimes against animals and providing a penalty.

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

This is a preliminary draft. An analysis will be provided in a later version.

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

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9           of domestic abuse against the petitioner, to avoid the petitioner's residence, except  
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5 Whoever intentionally causes a child who has not attained 18 years of age to violate  
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7 (2) Whoever violates sub. (1) is guilty of:

8 (a) A Class F felony if the child has not attained the age of 13 years.

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10 attained the age of 18 years.

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12 951.01 (2) "Cruel" means causing or failing to prevent unnecessary and  
13 excessive pain or suffering or unjustifiable injury or death.

14 SECTION 9. 951.13 (2) of the statutes is amended to read:

15 951.13 (2) WATER. If potable water is not accessible to the animals at all times,  
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*redo 951.13 say skill person (intro) to food & water. Any person who fails to provide food or water violates*

*All penalty stats - see note for presence? child doesn't want a lot of felonies*



1 Class C forfeiture. Any person who violates any of these provisions within 3 years  
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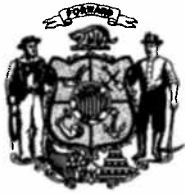
*Lump everything up  
 if possible  
 present in if class  
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 13  
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7 (END)



other

lrm

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

1-14-10

insert analysis  
Regen

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14 (b) A Class ~~C~~ <sup>E</sup> felony if great bodily harm to the animal is a consequence <sup>insert C</sup>

15 (c) A Class ~~D~~ <sup>D</sup> felony if death to the animal is a consequence <sup>insert D</sup>

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7 (END)



**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3662/P1ins  
PJH:kjf:jf

**INSERT ANALYSIS:**

Under current law, no person may mistreat an animal, fail to provide an animal for which they are responsible with proper food, water, or shelter, or abandon an animal. Under most circumstances, a person who does any of these things is guilty of a Class A misdemeanor.

Under this bill, a person who intentionally mistreats an animal, fails to provide an animal for which they are responsible with proper food, water, or shelter, or abandons an animal is guilty of a Class A misdemeanor if the animal suffers bodily harm, except that if the person commits the violation in the presence of a child under the age of 18, the person is guilty of a Class I felony. If the animal suffers great bodily harm, the person is guilty of a Class E felony, except that if the person commits the violation in the presence of a child under the age of 18, the person is guilty of a Class D felony. If the animal dies as a result of the person's actions, the person is guilty of a Class D felony, except that if the person commits the violation in the presence of a child under the age of 18, the person is guilty of a Class C felony.

Under the bill, a person who recklessly mistreats an animal, fails to provide an animal for which they are responsible with proper food, water, or shelter, or abandons an animal is guilty of a Class B misdemeanor if the animal suffers bodily harm, except that if the person commits the violation in the presence of a child under the age of 18, the person is guilty of a Class A misdemeanor. If the animal suffers great bodily harm, the person is guilty of a Class H felony, except that if the person commits the violation in the presence of a child under the age of 18, the person is guilty of a Class G felony. If the animal dies as a result of the person's actions, the person is guilty of a Class F felony, except that if the person commits the violation in the presence of a child under the age of 18, the person is guilty of a Class E felony.

The bill makes it illegal for a person to cause a child under the age of 18 to mistreat an animal. A person who does so is guilty of a Class F felony if the child is under the age of 13 and ~~is~~ is guilty of a Class H felony if the child has attained the age of 13 but is under the age of 18.

Under the bill, a sentencing court may order a person who is guilty of felony animal mistreatment, failure to provide proper food, water, or shelter, or abandonment to undergo a psychological assessment and to participate in anger management or psychological counseling or treatment.

Under current law, a judge or circuit court commissioner may issue a temporary restraining order or grant an injunction that bars a person who has committed certain violations from contacting or approaching the victim of his or her actions.

Under the bill, a judge or circuit court commissioner may include in the restraining order or injunction an order for the person to refrain from mistreating or threatening to mistreat an animal that the victim owns or cares for.

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.

INSERT A:

SECTION 1. 951.13 (intro.) of the statutes is amended to read:

**951.13 Providing proper food and drink to confined animals.** (intro.)

~~No person owning or~~ A person who owns or who is responsible for confining or impounding any animal ~~may fail to~~ shall supply the animal with a sufficient supply of food and water as prescribed in this section. A person who fails to supply the animal with a sufficient supply of food or of water violates this section.

History: 1973 c. 314; 1983 a. 95; 1987 a. 332 s. 54; Stats. 1987 s. 951.13.

INSERT B:

, except that if the violation occurred while the person was in the presence of a child who is 18 years of age or younger, the person is guilty of a Class I felony.

INSERT C:

, except that if the violation occurred while the person was in the presence of a child who is 18 years of age or younger, the person is guilty of a Class D felony.

INSERT D:

, except that if the violation occurred while the person was in the presence of a child who is 18 years of age or younger, the person is guilty of a Class C felony.

INSERT E:

, except that if the violation occurred while the person was in the presence of a child who is 18 years of age or younger, the person is guilty of a Class A misdemeanor.

INSERT F:

, except that if the violation occurred while the person was in the presence of a child who is 18 years of age or younger, the person is guilty of a Class G felony.

INSERT G:

, except that if the violation occurred while the person was in the presence of  
a child who is 18 years of age or younger, the person is guilty of a Class E felony.

**Duerst, Christina**

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**From:** Keleher, Marylou  
**Sent:** Friday, February 05, 2010 12:52 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-3662/1 Topic: Animal cruelty

Please Jacket LRB 09-3662/1 for the ASSEMBLY.