

**2009 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB747)**

Received: **03/09/2010**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Nick Milroy (608) 266-0640**

By/Representing: **Mary Lou**

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

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies: **Melissa Schmidt**

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:**

Abuse of an animal

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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>
/?	phurley 03/09/2010	kfollett 03/10/2010		_____			
/1			jfrantze 03/11/2010	_____	mbarman 03/11/2010	mbarman 03/11/2010	

FE Sent For:

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/?	phurley	11/gf 3/10					

FE Sent For:

<END>

Melissa

Notes for revisions to 2009 AB 747  
Requested by Rep. Nick Milroy  
3/5/10

1. In Section 8 of the bill, delete the entire amendment to s. 951.02 (2), Stats., removing the phrase "or failing to prevent."

2. Add a definition for the phrase, "in the presence of a child," as used in the penalties provided in s. 951.18. Some examples of possible language from other states are attached. The definition would preferably include some amount of knowledge or awareness by the child.

- include some awareness day with this

3. In Section 9 of the bill, for s. 951.13, add the sentence regarding bona fide experiments that is given in s. 951.02.

4. In Section 11 of the bill, for s. 951.15, delete the word "reasonable."

5. In Sections 13 and 14 of the bill, remove the specified felonies for violations in the presence of a child, and replace with a penalty enhancement that permits an increased term of imprisonment by not more than 2 years, for any violation occurring in the presence of a child.

may ↑ up to 2 yrs

6. In Section 13 of the bill, decrease the penalty in s. 951.18 (1m)(b), for intentionally causing great bodily harm, to a class H felony (from E).

7. In Section 13 of the bill, decrease the penalty in s. 951.18 (1m)(c), for intentionally causing death, to a class G felony (from D).

8. In Section 14 of the bill, for s. 951.18 (1r)(a), delete the word "felony" after "misdemeanor."

9. In Section 14 of the bill, decrease the penalty in s. 951.18 (1r)(b), for recklessly causing great bodily harm, to a class I felony (from H).

10. In Section 14 of the bill, decrease the penalty in s. 951.18 (1r)(c), for recklessly causing death, to a class H felony (from F).

5/2

11. Allow class C and A forfeiture penalties for any violation of ss. 951.02, 951.13, 951.14, or 951.15 (without requiring intent, negligence, or reckless action), similar to the first and second sentences of current s. 951.18 (1).

12. Allow a penalty for negligent violations of ss. 951.02, 951.13, 951.14, or 951.15, as a class B misdemeanor. Include the 2-year penalty enhancement for violations in the presence of a child.

regardless of consequence

13. In Section 16 of the bill, for s. 951.18 (4)(d), add "or misdemeanor" after "felony."



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rnr

## 2009 ASSEMBLY BILL 747

by 3-11

February 12, 2010 - Introduced by Representatives MILROY, TURNER, ZERNICK, A. WILLIAMS, BERCEAU, SINICKI, PASCH, BENEDICT and SMITH, cosponsored by Senators JAUCH, CARPENTER and RISSER. Referred to Committee on Criminal Justice.

regen

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

### *Analysis by the Legislative Reference Bureau*

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

**ASSEMBLY BILL 747**

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 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.

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

✓

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

**ASSEMBLY BILL 747**

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:

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:

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

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



**ASSEMBLY BILL 747**

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

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

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

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

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

8           **SECTION 8.** 951.01 (2) of the statutes is amended to read:  
9           951.01 (2) "Cruel" means causing ~~or failing to prevent~~ unnecessary and  
10          excessive pain or suffering or unjustifiable injury or death.

11          **SECTION 9.** 951.13 (intro.) of the statutes is amended to read: *Except as*  
12          **951.13 Providing proper food and drink to confined animals.** (intro.) *provided in sub. (3), c*

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

17          **SECTION 10.** 951.13 (2) of the statutes is amended to read:

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

21          **SECTION 11.** 951.15 of the statutes is amended to read:

22          **951.15 Abandoning animals.** No person may abandon any animal. In this  
23          section, "abandon" means to leave an animal previously under the care or possession  
24          of the person without making reasonable arrangements for the animal's proper care,  
25          sustenance, and shelter.

24

Insert 5.20



ASSEMBLY BILL 747

✓

1 SECTION 12. 951.18 (1) of the statutes is amended to read:

2 951.18 (1) Any person violating s. ~~951.02, 951.025, 951.03, 951.04, 951.05,~~  
3 ~~951.06, 951.07, 951.09, 951.10, or 951.11, 951.13, 951.14 or 951.15~~ is subject to a  
4 Class C forfeiture. Any person who violates any of these provisions within 3 years  
5 after a humane officer issues an abatement order under s. 173.11 prohibiting the  
6 violation of that provision is subject to a Class A forfeiture. Any person who  
7 intentionally or negligently violates any of those sections is guilty of a Class A  
8 misdemeanor. ~~Any person who intentionally violates s. 951.02, resulting in the~~  
9 ~~mutilation, disfigurement or death of an animal, is guilty of a Class I felony.~~ Any  
10 person who intentionally violates s. ~~951.02 or 951.06~~, knowing that the animal that  
11 is the victim is used by a law enforcement agency to perform agency functions or  
12 duties and causing injury to the animal, is guilty of a Class I felony.

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

Insert 6.12

14 951.18 (1m) Any person who violates s. 951.02, 951.13, 951.14, or 951.15 and  
15 intentionally causes harm to an animal is guilty of one of the following:

16 (a) A Class A misdemeanor if bodily harm to the animal is a consequence,  
17 except that if the violation occurred while the person was in the presence of a child  
18 who is 18 years of age or younger, the person is guilty of a Class I felony.

19 (b) A Class ~~E~~ <sup>EH</sup> felony if great bodily harm to the animal is a consequence, except  
20 that if the violation occurred while the person was in the presence of a child who is  
21 18 years of age or younger, the person is guilty of a Class D felony.

22 (c) A Class ~~D~~ <sup>EG</sup> felony if death to the animal is a consequence, except that if the  
23 violation occurred while the person was in the presence of a child who is 18 years of  
24 age or younger, the person is guilty of a Class C felony.

25 SECTION 14. 951.18 (1r) of the statutes is created to read:



2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBs0326/?ins

.....

CS  
Exceptions.

INSERT 5.20

SECTION 1. 951.13 (3) of the statutes is created to read:

951.13 (3) This section does not prohibit bona fide experiments carried on for scientific research or normal and accepted veterinary practices.

INSERT 6.12:

SECTION 2. 951.18 (1g) of the statutes is created to read:

951.18 (1g) Except as provided in sub. (1m), (1r), or (1x), any person who violates s. 951.02, 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.

INSERT 7.11:

SECTION 3. 951.18 (1x) of the statutes is created to read:

951.18 (1x) Any person who violates s. 951.02, 951.13, 951.14, or 951.15 and negligently causes harm to an animal is guilty of a Class B misdemeanor.

INSERT 7.21:

SECTION 4. 951.19 of the statutes is created to read:

**951.19 Increased penalty for certain offenses committed in the presence of a child.** (1) In this section, "in the presence of a child" means in the physical presence of a child, in or on the premises of the child's home, or under circumstances in which a reasonable person would know that the act may be seen or heard by the child.

✓   ✓   ✓   ✓

(2) If a person violates s. 951.02, 951.13, 951.14, or 951.15 in the presence of a child, and the violation constitutes a crime, the maximum term of imprisonment for that crime may be increased by not more than 2 years.