



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2009 Assembly Bill 747

**Assembly Substitute
Amendment 1 and Assembly
Amendment 1 to Assembly
Substitute Amendment 1**

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Assembly Substitute Amendment 1

Assembly Substitute Amendment 1 (ASA1) makes various changes to *2009 Assembly Bill 747* (the bill), including the following:

1. Deletes changes to the definition of “cruel” in s. 951.13, Stats. The bill adds the phrase “failing to prevent” to the definition. ASA1 leaves the definition of “cruel” unchanged from current law.
2. Creates an exception for violations of s. 951.13, Stats. (providing proper food and drink to confined animals) for: (1) bona fide experiments carried on for scientific research; or (2) normal and accepted veterinary practices. The bill does not create this exception.
3. Redefines what constitutes abandoning an animal under s. 951.15, Stats. Under ASA1, abandoning an animal means “to leave an animal previously under the care or possession of the person *without making arrangements* for the animal’s proper care, sustenance, and shelter.” The bill uses the phrase, “*without making reasonable arrangements.*”
4. Includes the ability for a person to receive a Class C forfeiture penalty for a violation of ss. 951.02, 952.13, 951.14, or 951.15, Stats., without requiring an additional element of intent, recklessness, or negligence. This penalty is allowed under current law, and is eliminated under the bill. ASA1 also allows a Class A forfeiture penalty for violating one of these four provisions within three years after a humane officer issues an abatement order, which is also allowed under current law, but eliminated under the bill.
5. Makes negligent violations of ss. 951.02, 951.13, 951.14, or 951.15, Stats., a Class B misdemeanor. Under current law, negligently violating one of these provisions is a Class A

misdemeanor. The bill eliminates the ability to charge a person with a negligent violation of one of these provisions.

6. Amends how certain violations of ss. 951.02, 951.13, 951.14, or 951.15, Stats., are penalized if committed while ***“in the presence of a child.”*** ASA1 ***creates a penalty enhancer*** for circumstances where, “in the presence of a child,” a person either negligently violates these provisions, or violates one of these provisions and intentionally or recklessly causes harm. Under the penalty enhancer, the maximum term of imprisonment ***may be increased by not more than two years.***

The bill does not use a penalty enhancer to increase the penalty for certain violation of one of the four provisions. Instead, under the bill, violating one of these four provisions with intent to cause harm while in the presence of a child was either a Class I, D, or C felony. Violating one of these four provisions and recklessly causing harm while in the presence of a child was either a Class A misdemeanor, or a Class G or F felony.

7. Defines “in the presence of a child” to mean ***“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.”*** The bill does not define this phrase.
8. Decreases some of the penalties created by the bill for a violation of ss. 951.02, 951.13, 951.14, or 951.15, Stats., where the person either intentionally causes harm or recklessly causes harm. Under ASA1, the penalties are decreased as follows:
 - a. For a violation of ss. 951.02, 951.13, 951.14, or 951.15, Stats., where the person ***intentionally causes harm*** to an animal:
 - i. If ***bodily harm*** is the consequence, under the ASA1 the penalty is a ***Class A misdemeanor***. This is the same as the bill.
 - ii. If ***great bodily harm*** is the consequence, under the ASA1 the penalty is a ***Class H felony***; under the bill, the penalty is a Class E felony.
 - iii. If ***death*** is the consequence, under the ASA1 the penalty is a ***Class G felony***; under the bill, the penalty is a Class D felony.
 - b. For a violation of ss. 951.02, 951.13, 951.14, or 951.15, Stats., where the person ***recklessly causes harm*** to an animal:
 - i. If ***bodily harm*** is the consequence, under the substitute amendment the penalty is a ***Class B misdemeanor***. This is the same as the bill.
 - ii. If ***great bodily harm*** is the consequence, under the substitute amendment the penalty is a ***Class I felony***; under the bill, the penalty is a Class H felony.
 - iii. If ***death*** is the consequence, under the substitute amendment, the penalty is a ***Class H felony***; under the bill, the penalty is a Class F felony.
9. Allows a sentencing court to order a person to undergo a psychological assessment and to participate in anger management counseling treatment or psychological counseling or

treatment if the person was convicted of either a *felony or misdemeanor* under ch. 951. The bill allows the court to make such an order only for a *felony* conviction.

Assembly Amendment 1 to Assembly Substitute Amendment 1

Assembly Amendment 1 (AA1) to ASA1 deletes the provision stating that “snow or ice is not potable water.” Under current law, if potable water is not accessible to an animal at all times, it shall be provided daily and a sufficient quantity for the health of the animal. Both the bill and ASA1 included the provision that “snow and ice is not potable water.”

Legislative History

On March 26, 2010, Representative Milroy introduced ASA1 to the bill. On April 6, 2010, the Assembly Committee on Criminal Justice voted to recommend adoption of ASA1 by a vote of Ayes, 10; Noes, 0; and Absent, 1. The committee then voted to recommend passage of the bill, as amended, by a vote of Ayes, 5; Noes, 5; and Absent, 1. Pursuant to Assembly Rule 19, on April 6th, the bill reported out of committee without recommendation.

On April 13, 2010, Representative Milroy introduced AA1. On April 15, 2010, the Assembly adopted AA1 to ASA1 by a voice vote. The Assembly also adopted ASA1, as amended, by a voice vote. The Assembly then passed the bill, as amended, by a vote of Ayes, 50; Noes, 47.

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