

**2019 DRAFTING REQUEST****Senate Amendment (SA-SB139)**For: **André Jacque (608) 266-3512**Drafter: **ewheeler**By: **Evan**Secondary Drafters: **mjohns**Date: **9/20/2019**May Contact: **Amber - Leg. Council**

Same as LRB:

Submit via email: **YES**Requester's email: **Sen.Jacque@legis.wisconsin.gov**Carbon copy (CC) to: **Elizabeth.Wheeler@legis.wisconsin.gov****Melinda.Johns@legis.wisconsin.gov****Amber.otis@legis.wisconsin.gov**

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Sexual contact with an animal

---

**Instructions:**

See attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	ewheeler 9/20/2019	kfollett 9/20/2019			
/1			jmurphy 9/20/2019	jmurphy 9/20/2019	

FE Sent For:

&lt;END&gt;

## Wheeler, Elizabeth

---

**From:** Cathlene Hanaman <cathleneh@gmail.com>  
**Sent:** Friday, September 20, 2019 8:13 AM  
**To:** Wheeler, Elizabeth  
**Subject:** Fwd: SB 139

Do you have time to do this?

Sent from my iPhone

Begin forwarded message:

Cathlene,

- ✓ Thanks again for helping me out on this. Below are some issues we're currently discussing on SB 139.
- ✓ In speaking with the stakeholders, we decided to entirely scrap the forfeitures section. That is page seven, lines one through four.
- ✓ Regarding the forfeiture of an animal involved in a crime, can we include a reference to 944.18 in every relevant section of 173 that references 951? This was out intent originally.
- ✓ Lastly, there is a minor technical correction, page four, line seven changing 944.18 (3) (b) 1 to 944.18 (3) (c) 1

Thanks,

***Evan Hafenbreadl***

Communications Director  
Office of Senator André Jacque  
1<sup>st</sup> Senate District  
608-266-3512

---

**From:** Otis, Amber <[Amber.Otis@legis.wisconsin.gov](mailto:Amber.Otis@legis.wisconsin.gov)>  
**Sent:** Thursday, September 19, 2019 12:19 PM  
**To:** Hafenbreadl, Evan <[Evan.Hafenbreadl@legis.wisconsin.gov](mailto:Evan.Hafenbreadl@legis.wisconsin.gov)>  
**Subject:** RE: SB 139

Evan,

I have only spoken with Melinda, so I would defer to Cathlene's suggestion.



**Amber Otis**  
Staff Attorney, Wisconsin Legislative Council  
608.504.5723 | [amber.otis@legis.wisconsin.gov](mailto:amber.otis@legis.wisconsin.gov)  
One East Main Street, Suite 401, Madison, WI 53703

**From:** Hafenbreadl, Evan <[Evan.Hafenbreadl@legis.wisconsin.gov](mailto:Evan.Hafenbreadl@legis.wisconsin.gov)>  
**Sent:** Thursday, September 19, 2019 12:17 PM  
**To:** Otis, Amber <[Amber.Otis@legis.wisconsin.gov](mailto:Amber.Otis@legis.wisconsin.gov)>  
**Subject:** RE: SB 139

Amber,

I noticed that Melinda is out of the office until next week. Was there someone else at LRB you have spoken with about this that I can reach out to? Otherwise, I'm just planning on seeing who Cathlene Hanaman suggests.

Thanks,

***Evan Hafenbreadl***  
Communications Director  
Office of Senator André Jacqué  
1<sup>st</sup> Senate District  
608-266-3512

---

**From:** Otis, Amber <[Amber.Otis@legis.wisconsin.gov](mailto:Amber.Otis@legis.wisconsin.gov)>  
**Sent:** Tuesday, September 17, 2019 4:53 PM  
**To:** Hafenbreadl, Evan <[Evan.Hafenbreadl@legis.wisconsin.gov](mailto:Evan.Hafenbreadl@legis.wisconsin.gov)>  
**Subject:** SB 139

Evan,

This e-mail summarizes, at your request, our discussion after today's hearing on Senate Bill 139, relating to sexual contact with an animal.

### Penalties

The bill creates a new crime of bestiality, which prohibits various acts relating to sexual contact with an animal. Under the bill, the penalty for this new crime varies from a Class H felony (punishable by a fine up to \$10,000 or imprisonment up to 6 years, or both) to Class D felony (punishable by a fine up to \$100,000, or imprisonment up to 25 years, or both), depending on the type of violation that occurs. [See page 6, lines 18-24 of SB 139.] However, the bill also provides that a person who violates the new crime is subject to a Class C forfeiture, which is a civil offense subject to a forfeiture not to exceed \$500. [See page 7, lines 1-4 of SB 139.] In other words, under the bill, a person could arguably be subject to both or either of these penalties – a felony or a civil forfeiture. You and I discussed that this may not be consistent with your boss's intent.

You mentioned that perhaps the concept of "forfeiture" was intended to address forfeiture of the animal, rather than the monetary penalty of a civil forfeiture. Note that, under current law, there are procedures in place for taking custody of an animal, withholding an animal from its owner, and requesting return of an animal by an owner (though there are limits on such return if the owner is convicted of certain crimes against animals.) [ss. [173.13](#), [173.21](#), and [173.22](#), Stats.] Sections 3 and 4 of the bill would allow a humane officer to take custody of or withhold an animal if reasonable grounds exist that the animal was used in any crime, or is evidence of any crime, under s. 944.18 (the new crime created by the bill) or ch. 951, the chapter generally governing crimes against animals. In addition, Section 7 provides that if an owner is convicted of the new crime of bestiality, the animal must be treated as unclaimed. It may be worth discussing

with your boss and the various stakeholders if there is a goal in mind related to forfeiture that is not covered by these provisions. Please let me know if I can assist with any drafting instructions.

### References to the New Crime of Bestiality in Chapter 173, Relating to Humane Officers

We also discussed the fact that Sections 1 through 8 of the bill amend provisions in chapter 173, Stats., by inserting a reference to the new crime of bestiality wherever certain statutes under current law reference ch. 951, governing crimes against animals. However, the bill does not insert references to the new crime in every statutory provision that already, under current law, references ch. 951. Specifically, the following provisions in ch. 173, Stats., reference ch. 951, but are unaffected by the bill:

- Section 173.22 (4) (b), which requires the court, if a hearing is held on an owner's application for return of an animal, to order an animal be retained in custody if the court determines that the animal is needed as evidence or that there is reasonable to believe the animal was involved in any crime under ch. 951.
- Section 173.24 (1) and (3), which require a court to assess certain expenses in case in which an animal has been seized because it is alleged that the animal has been used in or constitutes evidence of any crime under ch. 951, or if a person is found guilty of a violation of ch. 951.
- Section 173.41 (5) (a), which allows DATCP to suspend certain animal-related licenses in certain circumstances, including if there is evidence that an act of animal cruelty in violation of ch. 951 has been committed by the licensee or has occurred on the licensed premises.
- Section 173.41 (13), which requires DATCP to report information to law enforcement or a humane officer if it has reasonable grounds to believe that a dog is in the possession of a person required to be licensed and is being mistreated in violation of ch. 951.

It may or may not have been intentional for the bill not to add a cross-reference to the new crime of bestiality in these statutes; per your request, I'm summarizing this issue for your review.

### Technical Correction

On page 4, line 7, the reference to "s. 944.18 (3) (b) 1." should be corrected to "s. 944.18 (3) (c) 1." I have made the drafter aware of this, and she will issue a corrected copy of the bill if you do not pursue any amendments.

I hope this helps supplement the notes you took during our discussion. If you have any questions, please feel free to give me a call.

Thanks!



**Amber Otis**  
Staff Attorney, Wisconsin Legislative Council  
608.504.5723 | [amber.otis@legis.wisconsin.gov](mailto:amber.otis@legis.wisconsin.gov)  
One East Main Street, Suite 401, Madison, WI 53703



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRBa0536(?)  
EAW&MLJ.. *RJ*

*in 9/20  
due: today*

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
SENATE AMENDMENT,  
TO SENATE BILL 139**

1 At the locations indicated, amend the bill as follows:

2 *move* **1.** Page 4, line 7: delete “(b)” and substitute “(c)”. *p. 2*

3 **2.** Page 7, line 1: delete lines 1 to 4.

4 **3.** Page 3, line 9: after that line insert:

5 “SECTION 4m. 173.22 (4) (b) of the statutes is amended to read:

6 173.22 (4) (b) In the hearing under par. (a), the court shall determine if the

7 animal is needed as evidence or if there is reason to believe that the animal was

8 involved in any crime under s. 944.18 or ch. 951. If the court determines that the

9 animal is needed as evidence or that there is reason to believe that the animal was

10 involved in any crime under s. 944.18 or ch. 951, the court shall order the animal to

11 be retained in custody. If the court determines that the animal is not needed as

12 evidence and that there is not reason to believe that the animal was involved in a

*move  
to  
p.  
35*

1 crime under s. 944.18 or ch. 951, the court shall order the animal returned to the  
2 owner.”.

History: 1997 a. 192; 2015 a. 233.

3 **4.** Page 4, line 9: after that line insert:

4 “**SECTION 8c.** 173.24 (1) of the statutes is amended to read:

5 173.24 (1) A court shall assess the expenses under this section, minus any  
6 amounts paid under s. 173.22 (4) (f), in any case in which there has been a search  
7 authorized under s. 173.10 or in which an animal has been seized because it is alleged  
8 that the animal has been used in or constitutes evidence of any crime under s. 944.18  
9 or ch. 951.

History: 1973 c. 314; 1983 a. 95; 1987 a. 332 ss. 54, 64; Stats. 1987 s. 951.17; 1997 a. 192 s. 30; Stats. 1997 s. 173.24; 2015 a. 233.

10 **SECTION 8f.** 173.24 (3) of the statutes is amended to read:

11 173.24 (3) If the person alleged to have violated s. 944.18 or ch. 951 is found  
12 guilty of the violation, the person shall be assessed the expenses under subs. (1) and  
13 (2). If the person is not found guilty, the county treasurer shall pay the expenses from  
14 the general fund of the county.

History: 1973 c. 314; 1983 a. 95; 1987 a. 332 ss. 54, 64; Stats. 1987 s. 951.17; 1997 a. 192 s. 30; Stats. 1997 s. 173.24; 2015 a. 233.

15 **SECTION 8m.** 173.41 (5) (a) of the statutes is amended to read:

16 173.41 (5) (a) The department may, by written notice, without prior notice or  
17 hearing, suspend a license issued under sub. (2) if, upon inspection of the licensed  
18 premises, the department finds any condition that imminently threatens the health,  
19 safety, or welfare of any animal on the licensed premises or there is evidence that an  
20 act of animal cruelty in violation of ch. 951 or bestiality in violation of s. 944.18 has  
21 been committed by the licensee or has occurred on the licensed premises.

History: 2009 a. 90; 2015 a. 55.

Cross-reference: See also ch. ATCP 16, Wis. adm. code.

22 **SECTION 8p.** 173.41 (13) of the statutes is amended to read:

1           173.41 (13) REPORTING MISTREATMENT OF DOGS. If the department has  
2 reasonable grounds to believe that a dog in the possession of a person required to be  
3 licensed under sub. (2) is being mistreated in violation of 944.18 or ch. 951, the  
4 department shall report the information that supports its belief to a humane officer  
5 or law enforcement agency with jurisdiction over the area in which the dog is  
6 located.”

*Insert*  
History: 2009 a. 90; 2015 a. 55.

Cross-reference: See also ch. ATCP 16, Wis. adm. code.

(END)