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# Wisconsin Legislative Council

## AMENDMENT MEMO

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**2021 Senate Bill 366**

**Senate  
Substitute Amendment 1**

### CURRENT LAW

Under current law, a person is guilty of mistreating an animal if the person treats “any animal, whether belonging to the person or another, in a cruel manner.” For this purpose, “cruel” is defined to mean “causing unnecessary and excessive pain or suffering or unjustifiable injury or death.”

Current law provides a variety of penalties, both civil and criminal, for committing animal mistreatment, and the severity of the penalties depends on a variety of factors, including whether a specific mental element was present and whether certain harms occurred as a result of the mistreatment. In addition to these penalties, a person who is convicted of a criminal violation of the animal mistreatment prohibition may also be subject to additional consequences. As relevant here, one consequence of being convicted of any violation of ch. 951, Stats. (Crimes Against Animals), is that a person may be prohibited, by court order, from owning, possessing, or training any animal or type or species of animal for a period specified by the court, but not to exceed five years.

### 2021 SENATE BILL 366

2021 Senate Bill 366 makes a number of changes relevant to the offense of mistreating animals. Specifically, the bill:

- Creates a definition for “grievous bodily harm”<sup>1</sup> that applies to crimes against animals.
- Specifies that any person who intentionally mistreats an animal is guilty of a Class I felony if the person knows or should know that his or her actions may result in grievous bodily harm or the death of an animal, regardless of whether grievous bodily harm or death occurs.
- Provides that a person who intentionally mistreats an animal is guilty of a Class H felony if the mistreatment results in grievous bodily harm to or the death of an animal.
- Clarifies that the crime of animal mistreatment does not prohibit training or hunting with dogs in the manner authorized under ch. 29.
- Modifies current law related to orders prohibiting a person convicted of a violation of ch. 951, Stats., from owning, possessing, or training an animal as follows:
  - Provides that a person subject to such an order may not reside with an animal.

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<sup>1</sup> The bill defines “grievous bodily harm” as “serious bodily injury, including fractured or dislocated bones, deep cuts, burns, torn members of the body, tissue damage as a result of exposure to cold temperatures, serious damage to internal organs, starvation, or other severe bodily injuries.” The bill specifies that, “[i]n the case of farm animals, grievous bodily harm does not include normally acceptable husbandry practices.”

- Retains a court's discretion to issue an order with respect to misdemeanor convictions, but requires a court to issue an order for felony convictions.
- Extends the maximum amount of time a person may be subject to an order for a felony conviction to 15 years.

## **SENATE SUBSTITUTE AMENDMENT 1**

Senate Substitute Amendment 1 makes the same changes to current law as Senate Bill 366, with the following differences:

- The substitute amendment modifies the definition of “cruel,” for the purposes of crimes against animals, to also include “engaging in actions that are likely to cause unnecessary and excessive pain or suffering or unjustifiable injury or death.”
- The substitute amendment provides that the crime of animal mistreatment “does not apply to an injury or the care and treatment of that injury, sustained by a dog while training or hunting with dogs in the manner authorized under chapter 29 if the injury is cared for and treated as soon as is practicable under the circumstances.”
- The substitute amendment raises the penalty for intentionally mistreating an animal that the person knows is used by a law enforcement agency to perform agency functions or duties if the mistreatment results in injury to the animal from a Class I to a Class H penalty.
- The substitute amendment requires a court to order that a person convicted of either a misdemeanor or felony violation of ch. 951, Stats., be prohibited from owning, possessing, residing with, or training any animal or type or species of animal for a period specified by the court. The duration of the order shall not exceed five years for a misdemeanor conviction or 15 years for a felony conviction. In computing the time period, time which the person spent in actual confinement serving a sentence shall be excluded.

## **BILL HISTORY**

Senator Wanggaard offered Senate Substitute Amendment 1 to Senate Bill 366 on September 14, 2021. On September 16, 2021, the Senate Committee on Judiciary and Public Safety voted to recommend adoption of the substitute amendment and passage of the bill, as amended, both on votes of Ayes, 4; Noes, 2.

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