



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-5393/3
MCP&CMH:kjf

2017 SENATE BILL 860

March 7, 2018 - Introduced by Senators ERPENBACH and CARPENTER. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT** *to repeal* 951.08 (2m); *to amend* 173.22 (4) (d) 1., 173.22 (4) (e), 951.18
2 (2), 951.18 (4) (a) 1. c., 951.18 (4) (a) 2., 951.18 (4) (b) 1. and 951.18 (4) (c); and
3 **to create** 173.43 and 944.17 (2m) of the statutes; **relating to:** prohibiting the
4 conveyance of an animal to a person convicted of a crime against an animal, and
5 imposing certain sentencing requirements for a person convicted of a crime
6 against an animal.

Analysis by the Legislative Reference Bureau

This bill prohibits a person from conveying an animal to another person unless the person conveying the animal requests a background check from the Department of Justice, at the expense of the person obtaining the animal, and the background check shows that the person obtaining the animal has not been convicted of a crime against an animal. A person who conveys an animal in violation of this requirement is subject to existing penalties under current law, which provide for a forfeiture of not more than \$1,000 for the first offense and not less than \$200 nor more than \$2,000 for the second or any subsequent offense within five years.

Current law allows the sentencing court to order persons who are convicted of certain crimes against an animal not to own, possess, or train any animal or type or species of an animal for a maximum of five years. This bill allows the sentencing court to order a person who was convicted of such a crime not to own, possess, reside with, or train any animal for any period, including for his or her lifetime. In addition,

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this bill adds the current law crime of sexual gratification involving an animal to the list of crimes to which the prohibition may be imposed.

Under current law, a sentencing court must order persons who are convicted of certain crimes against an animal to pay restitution for any pecuniary loss suffered by another person as a result of the crime. This bill adds sexual gratification involving an animal to this list of crimes requiring such restitution and adds to the definition of pecuniary loss any expenses in seizing and caring for an animal involved in the crime.

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

1 **SECTION 1.** 173.22 (4) (d) 1. of the statutes is amended to read:

2 173.22 (4) (d) 1. If all of the charges are dismissed or the owner is found not
3 guilty of all charges, the political subdivision or person contracting under s. 173.15
4 (1) with custody of the animal shall return the animal to the owner unless the owner
5 is subject to the restrictions under s. ~~951.08 (2m)~~ 951.18 (4) (c) or the animal has been
6 treated as unclaimed or is otherwise subject to a disposition under s. 173.23.

7 **SECTION 2.** 173.22 (4) (e) of the statutes is amended to read:

8 173.22 (4) (e) If an animal that was taken into custody under s. 173.13 (1) (a)
9 8. or is withheld under s. 173.21 (1) (a) is in custody and the district attorney or the
10 department of justice notifies the political subdivision or person contracting under
11 s. 173.15 (1) with custody of the animal that the animal's owner will not be charged
12 with a crime under ch. 951, the political subdivision or person contracting under s.
13 173.15 (1) with custody of the animal shall return the animal to its owner unless the
14 owner is subject to the restrictions under s. ~~951.08 (2m)~~ 951.18 (4) (c) or the animal
15 has been treated as unclaimed or is otherwise subject to a disposition under s. 173.23.

16 **SECTION 3.** 173.43 of the statutes is created to read:

17 **173.43 Conveying an animal to a person convicted of a crime against**
18 **an animal.** No person may convey an animal to another person unless the person

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1 conveying the animal obtains a criminal history search of the person obtaining the
2 animal, at the expense of the person obtaining the animal, from the records
3 maintained by the department of justice and the search does not indicate that the
4 person obtaining the animal has been convicted of a violation of ch. 951 or of s. 944.17
5 (2) (c) or (d).

6 **SECTION 4.** 944.17 (2m) of the statutes is created to read:

7 944.17 (2m) In addition to the penalties applicable under this section, any
8 person who violates sub. (2) (c) or (d) is subject to the penalties under s. 951.18 (4).

9 **SECTION 5.** 951.08 (2m) of the statutes is repealed.

10 **SECTION 6.** 951.18 (2) of the statutes is amended to read:

11 951.18 (2) Any person who violates s. 951.08 (2m) or (3) is guilty of a Class A
12 misdemeanor. Any person who violates s. 951.08 (1) or (2) is guilty of a Class I felony
13 for the first violation and is guilty of a Class H felony for the 2nd or subsequent
14 violation.

15 **SECTION 7.** 951.18 (4) (a) 1. c. of the statutes is amended to read:

16 951.18 (4) (a) 1. c. Expenses in seizing, keeping, and caring for any animal that
17 is involved in the crime.

18 **SECTION 8.** 951.18 (4) (a) 2. of the statutes is amended to read:

19 951.18 (4) (a) 2. A sentencing court shall require a ~~criminal violator~~ person who
20 has been convicted of a crime under this chapter or of a violation under s. 944.17 (2)
21 (c) or (d) to pay restitution to -a- another person, including any local humane officer
22 or society or county or municipal pound or -a-, law enforcement officer or conservation
23 warden, or law enforcement agency, for any pecuniary loss suffered by the person as
24 a result of the crime. This requirement applies regardless of whether the eriminal
25 violator convicted person is placed on probation under s. 973.09. If restitution is

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1 ordered, the court shall consider the financial resources and future ability of the
2 ~~criminal violator~~ convicted person to pay and shall determine the method of
3 payment. Upon the application of any interested party, the court shall schedule and
4 hold an evidentiary hearing to determine the value of any pecuniary loss under this
5 paragraph.

6 **SECTION 9.** 951.18 (4) (b) 1. of the statutes is amended to read:

7 951.18 (4) (b) 1. A sentencing court may order that an animal be delivered to
8 the local humane officer or society or the county or municipal pound or to a law
9 enforcement officer if a person commits a crime under this chapter or under s. 944.17
10 (2) (c) or (d), the person is the owner of the animal that is involved in the crime and
11 the court considers the order to be reasonable and appropriate. A sentencing court
12 may order that an animal be delivered to the department of natural resources, if the
13 animal is a wild animal that is subject to regulation under ch. 169 and the court
14 considers the order to be reasonable and appropriate. The society, pound, officer or
15 department of natural resources shall release the animal to a person other than the
16 owner or dispose of the animal in a proper and humane manner. If the animal is a
17 dog, the release or disposal shall be in accordance with s. 173.23 (1m), except that
18 the fees under s. 173.23 (1m) (a) 4. do not apply if the expenses are covered under s.
19 173.24. If the animal is not a dog, the society, pound or officer may charge a fee for
20 the release of the animal.

21 **SECTION 10.** 951.18 (4) (c) of the statutes is amended to read:

22 951.18 (4) (c) ~~Except as provided in s. 951.08 (2m), a~~ A sentencing court may
23 order ~~that the criminal violator may~~ a person who has been convicted of a crime
24 under this chapter or of a violation under s. 944.17 (2) (c) or (d) not to own, possess,
25 reside with, or train any animal or type or species of animal for a period specified by

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1 the court, but not to exceed 5 years. In computing the time period, time which the
2 person spent in actual confinement serving a sentence shall be excluded including
3 for the person's lifetime.

4 **SECTION 11. Initial applicability.**

5 (1) The treatment of section 173.43 of the statutes first applies to conveyances
6 that occur on the effective date of this subsection.

7 (END)