

CHAPTER 951**CRIMES AGAINST ANIMALS**

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NOTE: Chapter 951 is shown as renumbered from chapter 948 by 1987 Wis. Act 332, eff. 7-1-89. It was also amended by s. 64 of Act 332 and by s. 256 of Act 403. For ch. 948 prior to 7-1-89, see small print following ch. 948.

951.01 Definitions. In this chapter:

(1) "Animal" includes every living:

- (a) Warm-blooded creature, except a human being;
- (b) Reptile; or
- (c) Amphibian.

(2) "Cruel" means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.

(3) "Farm animal" means any warmblooded animal normally raised on farms in the United States and used or intended for use as food or fiber.

(4) "Law enforcement officer" has the meaning assigned under s. 967.02 (5) and includes a humane officer under s. 58.07 but does not include a conservation warden appointed under s. 23.10.

History: 1973 c. 314; 1983 a. 189; 1987 a. 248; 1987 a. 332 s. 54; Stats. 1987 s. 951.01.

Legislative Council Note, 1973: The definition of "animal" is based on s. 346 20, Minn. Stats. Anno. (1971). The term includes not only animals strictly so-called but birds and other living warmblooded creatures except people. [Bill 16-S]

951.015 Construction and application. This chapter shall not be interpreted as controverting any law regulating the taking of game as defined in s. 29.01 (4) to (7) and (10), the trapping of animals, the use of live animals in dog trials or in the training of hunting dogs or the slaughter of animals by persons acting under state or federal law.

History: 1973 c. 314; 1983 a. 27 s. 2202 (38); 1987 a. 332 s. 54; Stats. 1987 s. 951.015.

951.02 Mistreating animals. No person may treat any animal, whether belonging to himself or another, in a cruel manner. This section does not prohibit bona fide experiments carried on for scientific research or normal and accepted veterinary practices.

History: 1973 c. 314; 1987 a. 332 s. 54; Stats. 1987 s. 951.02.

Legislative Council Note, 1973: This general anticyrulence statute is a restatement of present s. 947.10 (1) (a); however, the intent of the wrongdoer is no longer a controlling factor. Specific exception is provided for bona fide experiments and accepted veterinary practices. [Bill 16-S]

Conviction under this section does not require proof of intent or negligence. State v. Stanfield, 105 W (2d) 553, 314 NW (2d) 339 (1982).

951.025 Decompression prohibited. No person may kill an animal by means of decompression.

History: 1985 a. 48; 1987 a. 332 s. 54; Stats. 1987 s. 951.025.

951.03 Dognapping and catnapping. No person may take the dog or cat of another from one place to another without the owner's consent or cause such a dog or cat to be confined or carried out of this state or held for any purpose without the owner's consent. This section does not apply to law enforce-

ment officers or humane society agents engaged in the exercise of their official duties.

History: 1973 c. 314 s. 4; Stats. 1973 s. 948.03; 1987 a. 332 s. 54; Stats. 1987 s. 951.03.

951.04 Leading animal from motor vehicle. No person shall lead any animal upon a highway from a motor vehicle or from a trailer or semitrailer drawn by a motor vehicle.

History: 1973 c. 314; 1987 a. 332 s. 54; Stats. 1987 s. 951.04.

951.05 Transportation of animals. No person may transport any animal in or upon any vehicle in a cruel manner.

History: 1973 c. 314; 1987 a. 332 s. 54; Stats. 1987 s. 951.05.

951.06 Use of poisonous and controlled substances. No person may expose any domestic animal owned by another to any known poisonous substance or controlled substance listed in s. 161.14, whether mixed with meat or other food or not, so that the substance is liable to be eaten by the animal and for the purpose of harming the animal. This section shall not apply to poison used on one's own premises and designed for the purpose of rodent or pest extermination nor to the use of a controlled substance in bona fide experiments carried on for scientific research or in accepted veterinary practices.

History: 1973 c. 314; 1987 a. 332 s. 54; Stats. 1987 s. 951.06.

951.07 Use of certain devices prohibited. No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof, either put, place, fasten, use or fix upon or to any animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance, any of the following devices: a bristle bur, tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points.

History: 1973 c. 314; 1987 a. 332 s. 54; Stats. 1987 s. 951.07.

951.08 Instigating fights between animals. (1) No person may intentionally instigate, promote, aid or abet as a principal, agent or employe, or participate in the earnings from, or intentionally maintain or allow any place to be used for a cockfight, dog fight, bullfight or other fight between the same or different kinds of animals or between an animal and a person. This section does not prohibit events or exhibitions commonly featured at rodeos or bloodless bullfights.

(2) No person may own, possess, keep or train any animal with the intent that the animal be engaged in an exhibition of fighting.

(2m) If a person has been convicted under sub. (1) or (2), the person may not own, possess, keep or train any animal for a period of 5 years after the conviction. In computing the 5-year period, time which the person spent in actual confine-

ment serving a criminal sentence shall be excluded. The person may move the sentencing court to have this requirement waived. The court may waive the requirement except that the waiver may not authorize the person to own, possess, keep or train animals of the species involved in the offense under sub. (1) or (2).

(3) No person may intentionally be a spectator at a cockfight, dog fight, bullfight or other fight between the same or different kinds of animals or between an animal and a person.

History: 1973 c. 314; 1981 c. 160; 1983 a. 95; 1987 a. 332 s. 54; Stats. 1987 s. 951.08.

951.09 Shooting at caged or staked animals. No person may instigate, promote, aid or abet as a principal, agent, employee, participant or spectator, or participate in the earnings from, or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon, any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size. Nothing in this section prohibits the shooting of any wild game in its wild state or the shooting of game birds and waterfowl at licensed game farms or licensed shooting preserves.

History: 1973 c. 314; 1987 a. 332 s. 54; Stats. 1987 s. 951.09.

951.10 Sale of baby rabbits, chicks and other fowl. (1) No person may sell, offer for sale, barter or give away living chicks, ducklings or other fowl unless he provides proper brooder facilities for the care of such chicks, ducklings or other fowl during the time they are in his possession.

(2) No retailer, as defined in s. 100.30 (2) (e), may sell, offer for sale, barter or give away living baby rabbits, baby chicks, ducklings or other fowl under 2 months of age in any quantity less than 6 unless in the business of selling these animals for agricultural, wildlife or scientific purposes.

History: 1973 c. 314; 1979 c. 34 s. 2102 (3) (a); 1979 c. 176; 1983 a. 189 s. 329 (20); 1987 a. 332 s. 54; Stats. 1987 s. 951.10.

951.11 Artificially colored animals; sale. No person may sell, offer for sale, raffle, give as a prize or premium, use as an advertising device or display living chicks, ducklings, other fowl or rabbits that have been dyed or otherwise colored artificially.

History: 1973 c. 314; 1987 a. 332 s. 54; Stats. 1987 s. 951.11.

951.13 Providing proper food and drink to confined animals. No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

(1) **FOOD.** The food shall be sufficient to maintain all animals in good health.

(2) **WATER.** If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

History: 1973 c. 314; 1983 a. 95; 1987 a. 332 s. 54; Stats. 1987 s. 951.13.

951.14 Providing proper shelter. No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this section. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.

(1) **INDOOR STANDARDS.** Minimum indoor standards of shelter shall include:

(a) *Ambient temperatures.* The ambient temperature shall be compatible with the health of the animal.

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(b) *Ventilation.* Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(2) **OUTDOOR STANDARDS.** Minimum outdoor standards of shelter shall include:

(a) *Shelter from sunlight.* When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.

(b) *Shelter from inclement weather.* 1. Animals generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

2. Dogs. If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.

(3) **SPACE STANDARDS.** Minimum space requirements for both indoor and outdoor enclosures shall include:

(a) *Structural strength.* The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.

(b) *Space requirements.* Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

(4) **SANITATION STANDARDS.** Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

History: 1973 c. 314; 1987 a. 332 s. 54; Stats. 1987 s. 951.14.

951.15 Animals; neglected or abandoned; police powers.

(1) No person may abandon any animal.

(2) Any law enforcement officer may remove, shelter and care for any animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases the owner, if known, shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.

(3) If the owner or custodian is unknown and cannot with reasonable effort be ascertained, or does not within 5 days after notice redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.

(4) Whenever in the opinion of any such officer an animal is hopelessly injured or diseased so as to be beyond the probability of recovery it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was unwarranted.

History: 1973 c. 314 ss. 1, 6; 1977 c. 173; 1987 a. 332 s. 54; Stats. 1987 s. 951.15.

951.16 Investigation of cruelty complaints. Any person who has reason to believe that a violation of this chapter has taken place or is taking place may apply to any circuit court for a search warrant. The court shall examine under oath the person so applying and any witnesses the person may produce and shall take the person's sworn affidavit in writing. The affidavit shall set forth the facts tending to establish probable cause to believe that a violation of this chapter has

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occurred or is occurring. If the court is satisfied that probable cause exists, it shall issue a search warrant directing a law enforcement officer in the county to proceed immediately to the location of the alleged violation with a doctor of veterinary medicine, if the court determines that a veterinarian is necessary for purposes of the search, and directing the law enforcement officer to search the place designated in the warrant, retaining in his or her custody subject to the order of the court such property or things as are specified in the warrant, including any animal. The warrant shall be executed and returned to the court which issued the warrant in accordance with ss. 968.15 and 968.17. The warrant issued under this section shall have the same force and effect as a warrant issued under s. 968.12. This section shall not affect other powers and duties of law enforcement officers.

History: 1973 c. 314; 1977 c. 449; 1987 a. 332 s. 54; Stats. 1987 s. 951.16.

951.162 Reports of animal fighting. Any veterinarian who has reason to believe that an animal has been in a fight in violation of s. 951.08 shall report the matter to the local humane officer or society or county or municipal pound or to a local law enforcement agency. The report shall be in writing and shall include a description and the location of the animal, any injuries suffered by the animal and the name and address of the owner or person in charge of the animal, if known. The general penalty provisions under s. 939.61 do not apply to this section.

History: 1981 c. 160; 1987 a. 248; 1987 a. 332 ss. 54, 64; Stats. 1987 s. 951.162.

NOTE: This section is shown as amended by 1987 Wis. Act 332, s. 64, eff. 7-1-89. Act 332 replaced "948.08" with "951.08".

951.165 Animal fighting; seizure. (1) If an animal has been seized because it is alleged that the animal has been used in or constitutes evidence of any crime specified in s. 951.08, the animal shall not be returned to the owner by an officer under s. 968.20 (2). In any hearing under s. 968.20 (1), the court shall determine if the animal is needed as evidence or there is reason to believe that the animal has participated or been trained for fighting. If the court makes such a finding, the animal shall be retained in custody under s. 951.16.

(2) If the charges under s. 951.08 are dismissed or if the owner is found not guilty of a crime specified in s. 951.08, the animal shall be returned to the owner unless he or she is subject to the restrictions under s. 951.08 (2m).

(3) (a) If the owner is convicted under s. 951.08 or is subject to the restrictions under s. 951.08 (2m), the animal shall be delivered to the local humane society or county or municipal pound. If the animal is one year old or older or shows indication of having participated in fighting, the animal shall be disposed of in a proper and humane manner.

(b) If the animal is less than one year old and shows no indication of having participated in fighting, the animal shall be released to a person other than the owner or disposed of in a proper and humane manner. If the animal is a dog, the release or disposal shall be in accordance with s. 174.046 (8) or (9), except s. 174.046 (8) (a) does not apply and the fees under s. 174.046 (8) (d) are covered under s. 951.17.

History: 1981 c. 160; 1983 a. 95; 1987 a. 248; 1987 a. 332 ss. 54, 64; Stats. 1987 s. 951.165.

NOTE: Subs. (1), (2) and (3) are shown as amended by 1987 Wis. Act 332, s. 64, eff. 7-1-89. Act 332 replaced "948.08" with "951.08"; "948.16" with "951.16"; "948.08 (2m)" with "951.08 (2m)" and "948.17" with "951.17".

951.17 Reimbursement for expenses. (1) A court shall assess the expenses under this section in any case in which there has been a search authorized under s. 951.16 or 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 this chapter.

(2) Expenses covered under this section include:

(a) Investigative expenses of any search under s. 951.16 or any seizure under this chapter.

(b) Any fees of a doctor of veterinary medicine.

(c) Expenses of taking any animal into custody under this chapter, including expenses reasonably incident to taking the animal into custody.

(d) Expenses of keeping or disposing of any animal taken into custody.

(3) If the person alleged to have violated this chapter is found guilty of the violation, the person shall be assessed the expenses under subs. (1) and (2). If the person is not found guilty, the county treasurer shall pay the expenses from the general fund of the county.

History: 1973 c. 314; 1983 a. 95; 1987 a. 332 ss. 54, 64; Stats. 1987 s. 951.17.

NOTE: Subs. (1) and (2) (a) are shown as amended by 1987 Wis. Act 332, s. 64, eff. 7-1-89. Act 332 replaced "948.16" with "951.16".

951.18 Penalties. (1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05, 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 (1) is subject to a Class C forfeiture. Any person who intentionally or negligently violates any of those sections is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.02, resulting in the mutilation, disfigurement or death of an animal, is guilty of a Class E felony.

(2) Any person who violates s. 951.08 (2m) or (3) is guilty of a Class A misdemeanor. Any person who violates s. 951.08 (1) or (2) is guilty of a Class E felony for the first violation and is guilty of a Class D felony for the 2nd or subsequent violation.

(3) In addition to penalties applicable to this chapter under this section, a district attorney may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.

(4) In addition to penalties applicable to this chapter under this section:

(a) 1. In this paragraph, "pecuniary loss" has the meaning described in s. 973.09 (8) [943.245 (1)].

2. A sentencing court shall require a criminal violator to pay restitution to a person, including any local humane society or county or municipal pound or a law enforcement officer, for any pecuniary loss suffered by the person as a result of the crime, including expenses in keeping any animal that is involved in the crime. This requirement applies regardless of whether the criminal violator is placed on probation under s. 973.09. If restitution is ordered, the court shall consider the financial resources and future ability of the criminal violator to pay and shall determine the method of payment. Upon the application of any interested party, the court shall schedule and hold an evidentiary hearing to determine the value of any pecuniary loss under this paragraph.

(b) 1. A sentencing court may order that an animal be delivered to the local humane society or the county or municipal pound or to a law enforcement officer if a person commits a crime under this chapter, the person is the owner of the animal that is involved in the crime and the court considers the order to be reasonable and appropriate. The society, pound or officer shall release the animal to a person other than the owner or dispose of the animal in a proper and humane manner. If the animal is a dog, the release or disposal shall be in accordance with s. 174.046 (8) or (9), except s. 174.046 (8) (a) does not apply and the fees under s. 174.046 (8) (d) do not apply if the expenses are covered under s. 948.17 [951.17]. If the animal is not a dog, the society,

pound or officer may charge a fee for the release of the animal.

2. If the court is sentencing a person covered under s. 948.165 (3) (a) [951.165 (3) (a)] and an animal has been seized under s. 948.165 [951.165], the court shall act in accordance with s. 948.165 (3) [951.165 (3)].

(c) Except as provided in s. 948.08 (2m) [951.08 (2m)], a sentencing court may order that the criminal violator may not

own, possess or train any animal or type or species of animal for a period specified by the court, but not to exceed 5 years. In computing the time period, time which the person spent in actual confinement serving a sentence shall be excluded.

History: 1973 c. 314; 1977 c. 173; 1981 c. 160; 1983 a. 95; 1985 a. 48 s. 2; 1985 a. 263; 1987 a. 248; 1987 a. 332 ss. 54, 64; Stats 1987 s. 951.18; 1987 a. 403 s. 256.