

# State of Wisconsin



1997 Assembly Bill 585

Date of enactment: April 27, 1998

Date of publication\*: May 11, 1998

## 1997 WISCONSIN ACT 192

AN ACT *to repeal* 58.07, 174.046, 951.15 (2) to (4) and 951.162 (title); *to renumber* 173.01 to 173.07 and 951.15 (1); *to renumber and amend* 951.16, 951.162, 951.165 (title), (1), (2) and (3) and 951.17; *to amend* 20.115 (2) (j), 60.24 (3) (xm), 93.07 (11), chapter 172 (title), 174.01 (2), 174.13 (3), 895.57 (1) (a), 943.75 (1) (a), 951.01 (4), 951.03, 951.18 (1) and (4) (a) 2. and (b) and 968.20 (1) (intro.) and (2); *to repeal and recreate* chapter 173 (title) and 951.15 (title); and *to create* 95.21 (1) (a), 170.065, subchapter I (title) of chapter 172 [precedes 172.01], 172.012, subchapter II (title) of chapter 172 [precedes 172.51], 173.01 to 173.27, 757.69 (1) (n) and 951.01 (3e) of the statutes; **relating to:** humane officers, the custody and disposition of animals, granting rule-making authority, making an appropriation and providing a penalty.

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

**SECTION 1.** 20.115 (2) (j) of the statutes is amended to read:

20.115 (2) (j) *Dog licenses, rabies control and related services.* The amounts in the schedule to provide dog license tags and forms under s. 174.07 (2), to perform other program responsibilities under ch. 174, to administer the rabies control program under s. 95.21, to help administer the rabies control media campaign and to carry out the humane activities under s. 93.07 (11) and ch. 173. All moneys received by the state treasurer under s. ss. 173.27 and 174.09 (1) shall be credited to this appropriation.

**SECTION 2.** 58.07 of the statutes is repealed.

**SECTION 3.** 60.24 (3) (xm) of the statutes is amended to read:

60.24 (3) (xm) Perform the town chairperson's duties related to animals that have caused damage in the town under ch. ~~173~~ 172.

**SECTION 4.** 93.07 (11) of the statutes is amended to read:

93.07 (11) **HUMANE ACTIVITIES.** To cooperate with humane societies and assist duly appointed humane officers in the enforcement of the laws relating to humane education and the prevention of cruelty to animals ~~and for this purpose the department and its authorized agents when engaged in this work shall have the powers of police officers and constables.~~

**SECTION 5.** 95.21 (1) (a) of the statutes is created to read:

95.21 (1) (a) "Humane officer" means an officer appointed under s. 173.03.

**SECTION 6.** 170.065 of the statutes is created to read:  
**170.065 Exemption.** Sections 170.01 to 170.06 do not apply to a humane officer appointed under ch. 173 or a law enforcement officer who takes custody of an animal under ch. 173 or other applicable law.

**SECTION 7.** Chapter 172 (title) of the statutes is amended to read:

\* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

**CHAPTER 172  
ANIMALS DISTRAINED  
OR DOING DAMAGE**

**SECTION 8.** Subchapter I (title) of chapter 172 [precedes 172.01] of the statutes is created to read:

**CHAPTER 172  
SUBCHAPTER I  
ANIMALS DISTRAINED**

**SECTION 9.** 172.012 of the statutes is created to read:

**172.012 Exemption.** This chapter does not apply to a humane officer appointed under ch. 173 or a law enforcement officer who takes custody of an animal under ch. 173 or other applicable law.

**SECTION 10.** Subchapter II (title) of chapter 172 [precedes 172.51] of the statutes is created to read:

**CHAPTER 172  
SUBCHAPTER II  
ANIMALS DOING DAMAGE**

**SECTION 11.** Chapter 173 (title) of the statutes is repealed and recreated to read:

**CHAPTER 173  
ANIMALS; HUMANE OFFICERS**

**SECTION 12.** 173.01 to 173.07 of the statutes are renumbered 172.51 to 172.57.

**SECTION 13.** 173.01 to 173.27 of the statutes are created to read:

**173.01 Definitions.** In this chapter:

(1) "Department" means the department of agriculture, trade and consumer protection.

(2) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

(3) "Political subdivision" means a city, village, town or county.

**173.03 Appointment of humane officer.** (1) APPOINTMENT. The governing body of any political subdivision may appoint one or more humane officers. The governing body of a political subdivision shall report all appointments and terminations of appointments of humane officers to the department.

(2) ORDINANCE. Before, or at the time of, appointing a humane officer under sub. (1), the governing body making the appointment shall enact an ordinance that designates one or more officials of the political subdivision who may modify or withdraw abatement orders issued under s. 173.11 by humane officers appointed by the political subdivision.

(3) JURISDICTION. A humane officer appointed by a city, village or town shall carry out his or her duties within the boundaries of the city, village or town. A humane officer appointed by a county shall carry out his or her duties throughout the county, other than within the boundaries of a city or village whose governing body adopts a resolution withdrawing from county enforcement of humane laws and transmits a copy of the resolution to the county.

**173.05 Certification required.** (1) (a) Any person appointed as a humane officer under s. 173.03 on or after the effective date of this paragraph .... [revisor inserts date], shall, before appointment or by the applicable deadline established under s. 173.27 (1) (b), complete a course of training approved by the department, except as provided in par. (b) or (c), and receive certification under s. 173.27 (3).

(b) A person to whom par. (a) applies who is a veterinarian licensed under ch. 453 is not required to complete a course of training approved by the department if he or she takes an examination given by the department and passes the examination on the first attempt.

(c) A person to whom par. (a) applies who is certified or otherwise approved as a humane officer by another state is not required to complete a course of training approved by the department if he or she takes an examination given by the department and passes the examination on the first attempt.

(2) (a) A person appointed as a humane officer before the effective date of this paragraph .... [revisor inserts date], shall complete a course of training approved by the department, except as provided in par. (b), and shall receive certification under s. 173.27 (3) by the applicable deadline established under s. 173.27 (1) (b).

(b) A person to whom par. (a) applies is not required to complete a course of training approved by the department if he or she takes an examination given by the department and passes the examination on the first attempt.

(3) The governing body of a political subdivision that appoints a humane officer who fails to obtain certification within the required time shall terminate the appointment.

**173.07 Powers and duties of humane officers.** (1) ENFORCEMENT. A humane officer shall enforce s. 95.21, this chapter, chs. 174 and 951 and ordinances relating to animals enacted by political subdivisions in which the humane officer has jurisdiction under s. 173.03 (3).

(2) INVESTIGATION. A humane officer shall investigate alleged violations of statutes and ordinances relating to animals and, in the course of the investigations, may execute inspection warrants under s. 66.122.

(3) SEEK SUBPOENAS. A humane officer may request the district attorney for the county to obtain subpoenas to compel testimony and obtain documents in aid of investigations.

(4) ISSUE CITATIONS. If authorized by the appointing political subdivision, a humane officer shall issue citations under s. 66.119 for violations of ordinances relating to animals.

(4m) REQUEST PROSECUTIONS. A humane officer may request law enforcement officers and district attorneys to enforce and prosecute violations of state law and may cooperate in those prosecutions.

(5) PROHIBITED ACTIONS. Unless also a law enforcement officer, a humane officer may not in the course of his or her duties do any of the following:

- (a) Execute a search warrant.
- (b) Carry firearms.
- (c) Stop or arrest persons.
- (d) Stop, search or detain vehicles, except under an inspection warrant under s. 66.122.

(e) Enter any place or vehicle by force or without the consent of the owner, except in an emergency occasioned by fire or other circumstance in which that entry is reasonable and is necessary to save an animal from imminent death or a person from imminent death or injury.

(f) Remove any animal from the custody of another person by force.

(6) CONFLICT OF INTEREST PROHIBITED. No humane officer may sell or otherwise dispose of any animal that came into the humane officer's custody in the course of his or her duties.

**173.09 Investigations.** In the course of investigation of suspected violations of statutes or ordinances, a humane officer may enter any building, vehicle or place where animals may be present for the purpose of inspection, examination of animals or the gathering of evidence. If the building, vehicle or place to be entered is not public, and consent of the owner or person in charge is not obtained, entry shall be under authority of a special inspection warrant issued under s. 66.122 or a search warrant.

**173.11 Abatement of violations. (1) ISSUANCE OF ORDER.** If a humane officer or law enforcement officer after investigation has reasonable grounds to believe that a violation of a statute or ordinance is occurring and the violation is causing or has the potential to cause injury to an animal, the humane officer or law enforcement officer may issue and serve an order of abatement directed to named persons. An official designated in an ordinance under s. 173.03 (2) may not participate in the decision to issue the order or in any activity leading to that decision.

**(1m) CONTENT OF ORDER.** An abatement order issued under sub. (1) shall contain all of the following:

- (a) The name and address of the person to whom directed.
- (b) The statute or ordinance alleged to be violated.
- (c) A prohibition on further violations.
- (d) A description of measures necessary to correct the alleged violation.
- (e) A description of the hearing and appeal provisions under subs. (2) and (4).

**(2) HEARING.** Any person named in an abatement order issued under sub. (1) may, within the 10-day period following service of the order, request a hearing before an official designated in an ordinance under s. 173.03 (2). The hearing shall be held within 10 days after the request is made, unless the requester agrees to a later date. The hearing shall be informal in nature.

**(3) DECISION.** Within 10 days after a hearing under sub. (2), the official who conducts the hearing shall affirm the order, modify and affirm the order or withdraw the order.

**(4) APPEAL.** Any person adversely affected by a decision under sub. (3) may seek judicial review by commencing an action in circuit court within 30 days after the day that the decision is issued.

**173.13 Taking custody of animals. (1) INTAKE. (a)** A humane officer, on behalf of a political subdivision in which the humane officer has jurisdiction under s. 173.01 (3), or a law enforcement officer, on behalf of a political subdivision, may take custody of an animal if the humane officer or law enforcement officer has reasonable grounds to believe that the animal is one of the following:

- 1. An abandoned or stray animal.
- 2. An unwanted animal delivered to the humane officer or law enforcement officer.
- 3. A dog not tagged as required by ch. 174.
- 4. An animal not licensed in compliance with any ordinance.
- 5. An animal not confined as required by a quarantine order under any statute, rule or ordinance relating to the control of any animal disease.
- 6. An animal that has caused damage to persons or property.
- 7. A participant in an animal fight intentionally instigated by any person.
- 8. An animal mistreated in violation of ch. 951.
- 9. An animal delivered by a veterinarian under sub. (2).

(b) A humane officer shall accept into custody any animal delivered by a law enforcement officer or delivered under a court order.

(c) A person other than a humane officer or a law enforcement officer may not take an animal into custody on behalf of a political subdivision unless the animal is an abandoned or stray animal. If a person other than a humane officer or a law enforcement officer takes custody of an abandoned or stray animal on behalf of a political subdivision, he or she shall deliver the animal to a person contracting under s. 173.15 (1), to a humane officer or law enforcement officer for disposition under s. 173.23 or to a pound.

**(2) DELIVERY OF ANIMAL BY VETERINARIAN. (a)** A humane officer or law enforcement officer or a person contracting under s. 173.15 (1) may accept an animal delivered by a veterinarian, or his or her employe, if the animal has not been picked up by its owner and all of the following apply:

- 1. The veterinarian notified the owner of the animal by certified mail, return receipt requested, that the animal was ready to be picked up and that the animal would be delivered to a humane officer if not picked up within 7 days.

2. The veterinarian retained the animal for 7 days after the day on which the return receipt was signed or until the letter was returned to the veterinarian as undeliverable.

3. The veterinarian certifies in writing to the humane officer or law enforcement officer that subds. 1. and 2 apply.

(b) If an animal is accepted under par. (a), the veterinarian shall provide the person accepting the animal with any requested records concerning the animal's ownership, health or licensure.

(3) NOTIFICATION OF OWNER. (a) If a humane officer or law enforcement officer takes custody of an animal with the knowledge of the owner, the humane officer or law enforcement officer shall explain the procedure by which the owner can recover the animal, including the procedure under s. 173.22, and the procedure to be followed if the animal is not returned to the owner.

(b) If a humane officer or law enforcement officer takes custody of an animal without the knowledge of the owner, the humane officer or law enforcement officer shall promptly notify the owner in writing if he or she can be identified and located with reasonable effort. The notice shall explain the procedure by which the owner can recover the animal, including the procedure under s. 173.22, and the procedure to be followed if the animal is not returned to the owner. The notice shall also inform the owner that the owner must notify any person with a lien on the animal that the animal has been taken into custody.

(c) If the owner informs the humane officer or law enforcement officer in writing that he or she will not claim the animal, it may be treated as an unclaimed animal under s. 173.23 (1m).

**173.15 Provision of care, treatment or disposal services.** (1) PROVIDING SERVICES. A political subdivision may provide for the care, treatment or disposal of animals taken into custody by a humane officer or law enforcement officer. A political subdivision may provide these services directly or by contracting with any other person. A political subdivision may establish standard fees for the care, custody and treatment of animals in its custody. The political subdivision may establish different fees for animals released to their owners and animals released to persons other than their owners. If the political subdivision does not establish standard fees, it may charge no more than the actual costs of care, custody or treatment to any person required to pay for the care, custody or treatment of an animal.

(2) CONTRACT FOR SERVICES. Every person entering into a contract with a political subdivision under sub. (1) shall agree to do all of the following:

(a) Provide adequate care and treatment of all animals delivered under the contract.

(b) Maintain adequate records consistent with s. 173.17.

(c) Release or dispose of animals under s. 173.23 or as provided in a court order.

**173.17 Records.** A humane officer or law enforcement officer taking custody of an animal on behalf of a political subdivision shall maintain, or require any person to whom the animal is delivered under a contract under s. 173.15 (1) to maintain, as appropriate, records for each animal containing the following information:

(1) A physical description of the animal.

(2) The date that custody was taken of the animal, the date that the animal was delivered into the possession of another person and the identity of the person to whom delivered.

(3) The reason for taking custody of the animal.

(4) The ultimate disposition of the animal, including the name and address of any person into whose custody the animal was ultimately released.

**173.19 Animals considered unclaimed.** A political subdivision or person contracting under s. 173.15 (1) may treat any animal taken into custody under s. 173.13 (1) (a) 1., 3., 4. or 9. as an unclaimed animal subject to s. 173.23 (1m) if, within 7 days after custody is taken of the animal, it is not claimed by and returned to its owner under s. 173.23 (1), except that an animal taken into custody under s. 173.13 (1) (a) 3. or 4. may not be treated as unclaimed if its owner files a petition under s. 173.22 (1) within 7 days after custody is taken.

**173.21 Holding animals for cause.** (1) GROUNDS. A political subdivision may withhold, or direct a person contracting under s. 173.15 (1) to withhold, an animal in custody from an owner who makes an otherwise adequate claim for the animal under s. 173.23 (1) on any of the following grounds:

(a) There are reasonable grounds to believe that the owner has mistreated the animal in violation of ch. 951.

(b) There are reasonable grounds to believe that the animal poses a significant threat to public health, safety or welfare.

(c) The animal may be used as evidence in a pending prosecution.

(d) A court has ordered the animal withheld for any reason.

(2) EXAMINATION PERMITTED. If an animal is withheld under sub. (1), upon request by the owner, a veterinarian retained by the owner may examine the animal.

(3) COSTS. The owner of an animal withheld under sub. (1) is not liable for any costs of custody, care or treatment except as provided by court order.

(4) RETURN. A political subdivision or person contracting under s. 173.15 (1) having custody of an animal withheld under sub. (1) shall release the animal to the owner at the direction of the humane officer or law enforcement officer that took custody of the animal if the requirements of s. 173.23 (1) (a) to (c) are satisfied.

**173.22 Review of seizure or withholding.** (1) PETITION. A person claiming that an animal that he or she

owns was improperly taken into custody under s. 173.13 (1) (a) 3., 4., 5., 6. or 8. or is wrongfully withheld under s. 173.21 (1) may seek return of the animal by petitioning for an order from the circuit court for the county in which the animal was taken into custody or in which it is held.

(2) NOTICE AND HEARING. The court shall provide notice of a petition under sub. (1) to the humane officer or law enforcement officer who took the animal into custody or to the political subdivision that withheld the animal and shall hold a hearing on the issue of whether the animal was improperly taken into custody or is wrongfully withheld.

(3) ORDER. (a) If the animal was taken into custody under s. 173.13 (1) (a) 8. or is withheld under s. 173.21 (1), the court shall order the animal returned to the owner unless it determines that one of the following conditions is satisfied:

1. There are reasonable grounds to believe that the owner has mistreated the animal in violation of ch. 951.
2. There are reasonable grounds to believe that the animal poses a significant threat to public health, safety or welfare.
3. The animal may be used as evidence in a pending prosecution.
4. A court has ordered the animal withheld for any reason.

(b) If the animal was taken into custody under s. 173.13 (1) (a) 3., the court shall order the animal returned to its owner if the court determines that the animal was tagged or was not required to be tagged under ch. 174.

(c) If the animal was taken into custody under s. 173.13 (1) (a) 4., the court shall order the animal returned to its owner if the court determines that the animal was licensed or was not required to be licensed.

(d) If the animal was taken into custody under s. 173.13 (1) (a) 5., the court shall order the animal returned to its owner if the court determines that the animal was not subject to a quarantine order or was confined as required by a quarantine order.

(e) If the animal was taken into custody under s. 173.13 (1) (a) 6., the court shall order the animal returned to its owner if the court determines that the animal did not cause damage to persons or property.

**173.23 Disposition of animals.** (1) CLAIM AND RETURN. Except as provided in sub. (4) or s. 173.21 (1), a political subdivision or person contracting under s. 173.15 (1) shall return an animal described in s. 173.13 (1) (a) 1., 3., 4., 6., 8. or 9. to its owner upon the happening of all of the following:

- (a) The owner claims the animal and provides reasonable evidence of ownership.
- (b) If licensure is required by statute or ordinance, the animal is licensed or assurance of licensure by prepayment is given.

(c) If vaccination is required by statute or ordinance, the animal is vaccinated or assurance of vaccination by prepayment is given.

(d) All charges for custody, care, vaccination and treatment are paid.

(1m) UNCLAIMED ANIMALS. A political subdivision or a person contracting under s. 173.15 (1) that has custody of an animal considered unclaimed under sub. (5) (c) or (6) or s. 173.13 (3) (c) or 173.19 or an unwanted animal may do any of the following:

- (a) Release the animal to any person other than the owner if all of the following apply:
  1. The person provides his or her name and address.
  2. If licensure is required by statute or ordinance, the animal is licensed or assurance of licensure is given by evidence of prepayment.
  3. If vaccination is required by statute or ordinance, the animal is vaccinated or assurance of vaccination is given by evidence of prepayment.
  4. Any charges imposed by the political subdivision or person contracting under s. 173.15 (1) for custody, care, vaccination and treatment are paid or waived.

(b) If the animal is not a dog or cat, sell the animal at public auction, including sale at a licensed livestock market.

(c) Euthanize the animal.

(d) If the animal is a stray or abandoned dog, release the dog under s. 174.13.

(1s) PROCEEDS OF SALE. If the owner of an animal sold under sub. (1m) (b) files a claim and provides proof of ownership within 30 days after the sale, the sale proceeds, less the cost of custody, care, treatment and sale, shall be returned to the owner.

(2) ANIMALS NOT RETURNED TO OWNER. If an animal in the custody of a political subdivision, other than an animal to which sub. (1m) applies, is not returned to the owner under sub. (1) or (5) (b) or s. 173.12 (2), 173.21 (4) or 173.22 or disposed of under sub. (4) or (5) (a) or s. 173.12 (3), it shall be disposed of under a court order under sub. (3) or s. 951.18 (4).

(3) COURT ORDER. (a) A political subdivision may petition the circuit court for an order doing any of the following with respect to an animal taken into custody by a law enforcement officer or a humane officer or withheld under s. 173.21 (1):

1. Providing for payment for the custody, care or treatment of the animal.
2. Requiring the owner of the animal to post bond for the costs of custody, care or treatment of the animal pending the outcome of any other proceeding.
3. Authorizing the sale, destruction or other disposal of the animal.

(b) The petition shall set forth the basis for the petitioned-for relief.

(c) The political subdivision shall serve a copy of the petition, in the manner provided in s. 801.11, upon the owner of the animal, if known.

(d) The court shall conduct a hearing on the petition. The petitioner and any person upon whom a copy of the petition was served may appear as a party.

(e) The court shall issue its order after hearing and may grant, modify and grant or deny the petitioned-for relief, after considering the interests of the animal, the owner of the animal, the political subdivision and the public.

**(4) INJURED OR DANGEROUS ANIMALS.** A political subdivision or person contracting under s. 173.15 (1) who has custody of an animal may have the animal euthanized if there are reasonable grounds to believe that any of the following apply:

(a) The animal is hopelessly injured beyond any reasonable chance of recovery.

(b) The animal poses an imminent threat to public health or safety.

(c) The animal poses an imminent threat to the health or safety of itself or its custodian.

**(5) ANIMAL NOT CONFINED AS REQUIRED BY QUARANTINE ORDER.** (a) A political subdivision or person contracting under s. 173.15 (1) that has custody of an animal that was not confined as required by a quarantine order issued under any statute, rule or ordinance relating to the control of any animal disease shall confine the animal for the duration of the quarantine or shall euthanize the animal with the written permission of the owner or, if the animal is determined to be diseased, at the direction of the person issuing the quarantine order.

(b) Unless the person issuing the quarantine order directs that the animal be euthanized because it is diseased, at the end of the quarantine period the political subdivision or person contracting under s. 173.15 (1) shall return the animal to its owner if the owner complies with sub. (1) (a) to (d) no later than the 7th day after the day on which the political subdivision or person contracting under s. 173.15 (1) demands that the owner claim the animal and pay for its custody, care and treatment.

(c) If an owner does not comply with sub. (1) (a) to (d) within the time provided in par. (b), the animal is considered an unclaimed animal under sub. (1m).

(d) Before euthanizing an animal that is in custody because it was not confined as required by a quarantine order, the person with custody of the animal shall notify the person who issued the order. If the person who issued the order determines that testing of specimens is necessary to determine the disease status of the animal, the person with custody shall collect the specimens.

**(6) NONCOMPLIANCE BY OWNER.** If an owner is ordered under sub. (3) to pay, or post bond for the payment of, costs of custody, care or treatment of an animal, and refuses to do so upon demand, the animal shall be treated as an unclaimed animal subject to sub. (1m).

**173.25 Immunity for euthanizing animals.** A political subdivision, a person contracting under s. 173.15 (1), a humane officer or a law enforcement officer who has reasonable grounds to believe that s. 173.23 (1m) (c), (4) or (5) or a court order issued under s. 173.23 (3) authorize an animal to be euthanized is not liable for damages for the loss of the animal resulting from euthanizing the animal.

**173.27 Duties of the department.** The department shall do all of the following:

**(1) RULES.** (a) Adopt, by rule, standards for the training and certification of humane officers to ensure that humane officers are at least minimally qualified to perform the duties of a humane officer. The standards shall provide for training offered by the department or by others.

(b) Adopt, by rule, deadlines by which humane officers must obtain certification.

**(2) TRAINING.** Offer training courses for humane officers or approve training courses offered by others, or both. The department may charge a fee sufficient to recover the costs of training courses that it provides.

**(3) CERTIFICATION.** Examine, as necessary, and certify humane officers as qualified. The department may charge a fee, established by rule, sufficient to recover the costs of certification.

**(4) REGISTRY OF HUMANE OFFICERS.** Maintain and keep current a registry of all persons serving as humane officers for political subdivisions.

**SECTION 14.** 174.01 (2) of the statutes is amended to read:

174.01 **(2) INAPPLICABLE TO OFFICERS, VETERINARIANS AND PERSONS KILLING THEIR OWN DOG.** This section does not apply to an officer acting in the lawful performance of his or her duties under s. 29.05 (8) (b), 95.21, 173.23 (1m) (c), (3) or (4) or 174.02 (3) ~~or 174.046 (9)~~, or to a veterinarian killing a dog in a proper and humane manner or to a person killing his or her own dog in a proper and humane manner.

**SECTION 15.** 174.046 of the statutes is repealed.

**SECTION 16.** 174.13 (3) of the statutes is amended to read:

174.13 **(3)** An officer or pound ~~which~~ that has custody of unclaimed dogs shall maintain records as provided under s. ~~174.046~~ 173.17.

**SECTION 17.** 757.69 (1) (n) of the statutes is created to read:

757.69 **(1)** (n) Hold hearings and issue orders on petitions under s. 173.23 (3).

**SECTION 18.** 895.57 (1) (a) of the statutes is amended to read:

895.57 **(1)** (a) “Humane officer” means an officer appointed under s. ~~58.07~~ 173.03.

**SECTION 19.** 943.75 (1) (a) of the statutes is amended to read:

943.75 **(1)** (a) “Humane officer” means an officer appointed under s. ~~58.07~~ 173.03.

## 1997 Assembly Bill 585

– 7 –

**SECTION 20.** 951.01 (3e) of the statutes is created to read:

951.01 (3e) “Humane officer” means an officer appointed under s. 173.03.

**SECTION 21.** 951.01 (4) of the statutes is amended to read:

951.01 (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.

**SECTION 22.** 951.03 of the statutes is amended to read:

**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 enforcement officers or humane ~~society agents~~ officers engaged in the exercise of their official duties.

**SECTION 23.** 951.15 (title) of the statutes is repealed and recreated to read:

**951.15 (title) Abandoning animals.**

**SECTION 24.** 951.15 (1) of the statutes is renumbered 951.15.

**SECTION 25.** 951.15 (2) to (4) of the statutes are repealed.

**SECTION 26.** 951.16 of the statutes is renumbered 173.10 and amended to read:

**173.10 Investigation of cruelty complaints.** A person may apply for a search warrant under s. 968.12 if there is reason to believe that a violation of ~~this chapter ch. 951~~ ch. 951 has taken place or is taking place. 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. If the person applying for the search warrant is a humane officer, the warrant shall direct that the humane officer accompany the law enforcement officer who is directed to perform the search. The warrant shall be executed and returned to the court which issued the warrant in accordance with ss. 968.15 and 968.17. This section ~~shall~~ does not affect other powers and duties of law enforcement officers.

**SECTION 27.** 951.162 (title) of the statutes is repealed.

**SECTION 28.** 951.162 of the statutes is renumbered 173.12 (1) and amended to read:

173.12 (1) 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.~~

**SECTION 29.** 951.165 (title), (1), (2) and (3) of the statutes are renumbered 173.12 (title), (1m), (2) and (3), and 173.12 (1m) and (3), as renumbered, are amended to read:

173.12 (1m) 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~~ may 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 in or been trained for fighting. If the court makes such a finding, the animal shall be retained in custody ~~under s. 951.16.~~

(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 officer~~ or county or municipal pound. If there is no local humane officer or pound, the animal may be delivered to a local humane society or to another person designated by the court. 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 173.23 (1m), except that~~ the fees under s. 174.046 (8) (d) 173.23 (1m) (a) 4. are covered under s. ~~951.17 173.24.~~

**SECTION 30.** 951.17 of the statutes is renumbered 173.24, and 173.24 (1), (2) (a) and (3), as renumbered, are amended to read:

173.24 (1) A court shall assess the expenses under this section in any case in which there has been a search authorized under s. ~~951.16 173.10~~ 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 ch. 951.~~

(2) (a) Investigative expenses of any search under s. ~~951.16 173.10~~ or any seizure under this chapter.

(3) If the person alleged to have violated ~~this chapter ch. 951~~ 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.

**SECTION 31.** 951.18 (1) and (4) (a) 2. and (b) of the statutes are amended to read:

951.18 (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 (4) is subject to a Class C forfeiture. Any person who violates any of these provisions within 3 years after a humane officer issues an abatement order under s. 173.11 prohibiting the violation of that provision is subject to a Class A 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. Any person who intentionally violates s. 951.02 or 951.06, knowing that the animal that is the victim is used by a law enforcement agency to perform agency functions or duties and causing injury to the animal, is guilty of a Class E felony.

(4) (a) 2. A sentencing court shall require a criminal violator to pay restitution to a person, including any local humane officer or 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 officer or 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 accor-

dance with s. 174.046 (8) or (9), ~~except s. 174.046 (8) (a) does not apply and 173.23 (1m), except that~~ the fees under s. 174.046 (8) (d) 173.23 (1m) (a) 4, do not apply if the expenses are covered under s. ~~951.17~~ 173.24. 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. ~~951.165~~ 173.12 (3) (a) and an animal has been seized under s. ~~951.165~~ 173.12, the court shall act in accordance with s. ~~951.165~~ 173.12 (3).

**SECTION 32.** 968.20 (1) (intro.) and (2) of the statutes are amended to read:

968.20 (1) (intro.) Any person claiming the right to possession of property seized pursuant to a search warrant or seized without a search warrant may apply for its return to the circuit court for the county in which the property was seized or where the search warrant was returned. The court shall order such notice as it deems adequate to be given the district attorney and all persons who have or may have an interest in the property and shall hold a hearing to hear all claims to its true ownership. If the right to possession is proved to the court's satisfaction, it shall order the property, other than contraband or property covered under sub. (1m) or (1r) or s. ~~951.165~~ 173.12 or 173.21 (4) (b), returned if:

(2) Property not required for evidence or use in further investigation, unless contraband or property covered under sub. (1m) or (1r) or s. ~~951.165~~ 173.12, may be returned by the officer to the person from whom it was seized without the requirement of a hearing.

**SECTION 33. Nonstatutory provisions.**

(1) ADVISORY COMMITTEE. The department of agriculture, trade and consumer protection shall appoint a committee under section 227.13 of the statutes to advise the department concerning rules required to be promulgated under this act. The department shall ensure that the members of the committee represent a variety of interests related to animals.

**SECTION 34. Effective dates.** This act takes effect on the first day of the 19th month beginning after publication, except as follows:

(1) SECTION 33 (1) of this act takes effect on the day after publication.