



**ASSEMBLY AMENDMENT 44,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 768**

May 6, 1998 – Offered by Representative GRONEMUS.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 12, line 9: after “judges;” insert “the unauthorized release of animals;
3 immunity from liability;”.

4 **2.** Page 58, line 6: after that line insert:

5 “**SECTION 63y.** 29.06 (1) (d) of the statutes, as affected by 1997 Wisconsin Act
6 35, is amended to read:

7 29.06 (1) (d) The provisions of s. 973.075 (1) (b) ~~1. to 3.~~ 2m. and (5) apply to
8 vehicles other than motor vehicles under this subsection.”.

9 **3.** Page 316, line 14: after that line insert:

10 “**SECTION 393tx.** 174.02 (1) (a) of the statutes is amended to read:

1 174.02 (1) (a) *Without notice*. Subject to s. 895.045 and except as provided in
2 s. 895.57 (4), the owner of a dog is liable for the full amount of damages caused by
3 the dog injuring or causing injury to a person, domestic animal or property.

4 **SECTION 393ty.** 174.02 (1) (b) of the statutes is amended to read:

5 174.02 (1) (b) *After notice*. Subject to s. 895.045 and except as provided in s.
6 895.57 (4), the owner of a dog is liable for 2 times the full amount of damages caused
7 by the dog injuring or causing injury to a person, domestic animal or property if the
8 owner was notified or knew that the dog previously injured or caused injury to a
9 person, domestic animal or property.”

10 **4.** Page 478, line 19: after that line insert:

11 “**SECTION 678mc.** 895.57 (title) of the statutes is amended to read:

12 **895.57** (title) **Damages and immunity; unauthorized release of animals.**

13 **SECTION 678mg.** 895.57 (1) (a) of the statutes is renumbered 895.57 (1) (am).

14 **SECTION 678mm.** 895.57 (1) (ag) of the statutes is created to read:

15 895.57 (1) (ag) “Animal” means all vertebrate and invertebrate species,
16 including mammals, birds, fish and shellfish but excluding humans.

17 **SECTION 678mr.** 895.57 (2) of the statutes is amended to read:

18 895.57 (2) A person who intentionally releases an animal that is lawfully
19 confined for scientific, farming, companionship or protection of persons or property,
20 recreation, restocking, research, exhibition, commercial or educational purposes,
21 acting without the consent of the owner or custodian of the animal, is liable to the
22 owner or custodian of the animal for damages, which punitive damages, attorney fees
23 and interest on the amount of the damages incurred at the rate of 12% per year from

1 the date of the intentional release. The damages awarded shall include the costs of
2 restoring the animal to confinement.

3 **SECTION 678mw.** 895.57 (4) of the statutes is created to read:

4 895.57 (4) (a) In this subsection, “security device” includes any of the following:

5 1. Any fence enumerated under s. 90.02.

6 2. A theft alarm signal device, a burglar alarm or any other security alarm
7 system or device.

8 3. A dog.

9 (b) Subject to par. (c), an owner or custodian of a confined animal is immune
10 from civil liability for any damages to a person if all of the following apply:

11 1. The person suffers the damages while violating or attempting to violate s.
12 943.75 (2m).

13 2. The damages are caused by a security device that is installed or used by the
14 owner or custodian and that the owner or custodian reasonably believes is necessary
15 to protect the confined animal or the premises containing the animal. For purposes
16 of this subdivision, it is not reasonable to install or use a security device that is
17 intended or likely to cause death or great bodily harm, as defined in s. 939.22 (14),
18 for the purpose of protecting a confined animal or the premises containing a confined
19 animal.

20 (c) If an owner or custodian of a confined animal uses a dog as a security device,
21 the owner or custodian is entitled to immunity under par. (b) only if the dog is on the
22 owner’s or custodian’s property at the time that it causes the damages.”.

23 **5.** Page 496, line 9: after that line insert:

24 **“SECTION 722jd.** 943.75 (1) (a) of the statutes is renumbered 943.75 (1) (am).

1 **SECTION 722je.** 943.75 (1) (ad) of the statutes is created to read:

2 943.75 (1) (ad) “Animal” means all vertebrate and invertebrate species,
3 including mammals, birds, fish and shellfish but excluding humans.

4 **SECTION 722jf.** 943.75 (2) of the statutes is amended to read:

5 943.75 (2) Whoever intentionally releases an animal that is lawfully confined
6 for ~~scientific, farming,~~ companionship or protection of persons or property,
7 recreation, ~~restocking, research,~~ exhibition, ~~commercial~~ or educational purposes,
8 acting without the consent of the owner or custodian of the animal, is guilty of a Class
9 C misdemeanor. A 2nd violation of this section by a person is a Class A misdemeanor.
10 A 3rd or subsequent violation of this section by a person is a Class E felony.

11 **SECTION 722jg.** 943.75 (2m) of the statutes is created to read:

12 943.75 (2m) Whoever intentionally releases an animal that is lawfully
13 confined for scientific, farming, restocking, research or commercial purposes, acting
14 without the consent of the owner or custodian of the animal, is guilty of a Class C
15 felony.

16 **SECTION 722jh.** 943.75 (3) of the statutes, as affected by 1997 Wisconsin Act
17 27, is amended to read:

18 943.75 (3) Subsection Subsections (2) does and (2m) do not apply to any
19 humane officer, local health officer, peace officer, employe of the department of
20 natural resources while on any land licensed under s. 29.573, 29.574, 29.575 or
21 29.578 or designated as a wildlife refuge under s. 29.57 (1) or employe of the
22 department of agriculture, trade and consumer protection if the officer’s or employe’s
23 acts are in good faith and in an apparently authorized and reasonable fulfillment of
24 his or her duties. This subsection does not limit any other person from claiming the
25 defense of privilege under s. 939.45 (3).

1 **SECTION 722ji.** 943.75 (4) of the statutes is amended to read:

2 943.75 (4) When the existence of an exception under sub. (3) has been placed
3 in issue by the trial evidence, the state must prove beyond a reasonable doubt that
4 the facts constituting the exception do not exist in order to sustain a finding of guilt
5 under sub. (2) or (2m).”.

6 **6.** Page 497, line 12: after that line insert:

7 “**SECTION 722mb.** 973.075 (1) (b) (intro.) of the statutes is renumbered 973.075
8 (1) (b) 1m. (intro.) and amended to read:

9 973.075 (1) (b) 1m. (intro.) All Except as provided in subd. 2m., all vehicles, as
10 defined in s. 939.22 (44), which are used to in any of the following ways:

11 a. To transport any property or weapon used or to be used or received in the
12 commission of any felony, ~~which are used in.~~

13 b. In the commission of a crime under s. 946.70, ~~which are used in.~~

14 c. In the commission of a crime in violation of s. 944.30, 944.31, 944.32, 944.33
15 or 944.34, ~~which are used in.~~

16 d. In the commission of a crime relating to a submerged cultural resource in
17 violation of s. 44.47 ~~or which are used to.~~

18 e. To cause more than \$1,000 worth of criminal damage to cemetery property
19 in violation of s. 943.01 (2) (d) or 943.012, ~~but.~~

20 **SECTION 722mf.** 973.075 (1) (b) 1. of the statutes is renumbered 973.075 (1) (b)
21 2m. a. and amended to read:

22 973.075 (1) (b) 2m. a. No vehicle used by any person as a common carrier in the
23 transaction of business as a common carrier is subject to forfeiture under ss. 973.075

1 to 973.077 unless it appears that the owner or other person in charge of the vehicle
2 had knowledge of or consented to the commission of the crime;.

3 **SECTION 722mk.** 973.075 (1) (b) 1m. f. of the statutes is created to read:

4 973.075 (1) (b) 1m. f. In the commission of a crime under s. 943.75 (2) or (2m).

5 **SECTION 722mp.** 973.075 (1) (b) 2. of the statutes is renumbered 973.075 (1)
6 (b) 2m. b. and amended to read:

7 973.075 (1) (b) 2m. b. No vehicle is subject to forfeiture under ss. 973.075 to
8 973.077 by reason of any act or omission established by the owner of the vehicle to
9 have been committed or omitted without his or her knowledge or consent; and.

10 **SECTION 722ms.** 973.075 (1) (b) 3. of the statutes is renumbered 973.075 (1) (b)
11 2m. c.

12 **SECTION 722mw.** 973.075 (1) (bm) of the statutes is created to read:

13 973.075 (1) (bm) Any property used or to be used in the commission of a crime
14 under s. 943.75 (2) or (2m), but if the property is encumbered by a bonafide perfected
15 security interest that was perfected before the date of the commission of the current
16 violation and the holder of the security interest neither had knowledge of nor
17 consented to the commission of that violation, the holder of the security interest shall
18 be paid from the proceeds of the forfeiture.

19 **SECTION 722my.** 973.075 (5) (intro.) of the statutes is amended to read:

20 973.075 (5) (intro.) All forfeitures under ss. 973.075 to 973.077 shall be made
21 with due provision for the rights of innocent persons under sub. (1) (b) ~~1. to 3.~~ 2m.,
22 (bm) and (d). Any property seized but not forfeited shall be returned to its rightful
23 owner. Any person claiming the right to possession of property seized may apply for
24 its return to the circuit court for the county in which the property was seized. The
25 court shall order such notice as it deems adequate to be given the district attorney

1 and all persons who have or may have an interest in the property and shall hold a
2 hearing to hear all claims to its true ownership. If the right to possession is proved
3 to the court's satisfaction, it shall order the property returned if:".

4 **7.** Page 575, line 11: after that line insert:

5 "(2e) UNAUTHORIZED RELEASE OF ANIMALS; CRIMINAL PENALTIES. The treatment of
6 section 943.75 (2) and (2m) of the statutes first applies to offenses committed on the
7 effective date of this subsection."

8 (END)