

October 19, 2023

Testimony on Assembly Bill 75

Good morning, and thank you Chairman Tusler and members of the Assembly Committee on Judiciary for allowing me the opportunity to share my testimony with you today regarding Assembly Bill 75, which would amend the criminal penalties for certain types of animal abuse.

In February of 2019, a Marshfield man placed nine newborn puppies into a trash bag and placed them in a dumpster. Luckily, a passerby heard noises coming from the dumpster and contacted the Marshfield Police Department. The puppies were saved, but given the freezing temperatures they surely would have died soon if someone had not found them.

The man who threw the puppies away was arrested and charged with intentional mistreatment of animals and intentional abandonment of animals. Both of these crimes are only misdemeanors. Under current Wisconsin law, these types of crimes can only be charged as a felony if the action of the defendant did in fact result in the mutilation, disfigurement, or death of an animal. Given this, even though the perpetrator in this case said on camera that he intended for the puppies to die as a result of his action, he can only be charged with a misdemeanor.

This bill would remedy this by saying that a person is guilty of a Class I felony if they commit an act of animal abuse that they *knew or should reasonably have known* could result in grievous bodily harm or death of an animal, regardless of whether that death or grievous harm actually occurs. The penalty if bodily harm or death does occur is raised to a Class H felony.

Additionally, current law states that a court may order that a person who commits an act of animal abuse may not own, possess, or train any animal for a specified period of time. This bill would require a court to prohibit a person from owning, possessing, residing with, or training any other animal or type of species of animal, for a specific period of time if they are convicted of misdemeanor or felony animal abuse.

As is the case with the Marshfield man who abandoned the puppies, many animal abusers have other animals at home. Despite their crimes, they are able to keep their animals after a conviction. This bill would ensure that animal abusers are not able to continue to have animals in their homes.

The bill also clarifies that in the case of farm animals, the bill does not apply to normally accepted husbandry practices. Additionally, mistreating animals does not prohibit the training or hunting with dogs as allowed by the DNR.

By passing this bill, we can ensure that those who treat animals in this way are adequately punished and do not have the opportunity to abuse other animals after their conviction.

Thank you again for allowing me the opportunity to share testimony in support of this bill, and I welcome any questions you might have.



Testimony in Opposition of Assembly Bill 75  
Presented to the Assembly Committee on Judiciary  
Megan Nicholson, Wisconsin State Director, The Humane Society of the United States  
October 19, 2023

Chairman Tusler, Vice-Chair Rettinger and members of the committee,

On behalf of the Humane Society of the United States and its thousands of supporters throughout Wisconsin, I encourage you to oppose Assembly Bill 75.

In 2021, The HSUS supported and contributed language to AB 368 by Representative Spiros which was intended to close a loophole that prevented felony prosecution of animal cruelty crimes when there was intent to kill the animal, but the animal survived. It added mandatory no-contact orders for those convicted of felony crimes against animals to the existing law. Those crimes include violent and intentional acts such as animal fighting, sexual assault of animals, intentional killing, and torture.

However, AB 75 requires mandatory no-contact orders for all animal cruelty offenses, including minor misdemeanor violations. If this bill passes, Wisconsin will become one of only two states (RI) that mandate judges to order that a person may not reside in a household with an animal for up to 5 years for a misdemeanor offense. Wisconsinites are known for our strong family relationships. You can find multigenerational households throughout the state. Mandating that a person cannot reside in a home with an animal for up to 5 years due to a misdemeanor could disproportionately affect those households.

Some misdemeanor offenses cause serious harm, and in those cases, we wholeheartedly support prohibiting contact with animals. Other cases do not cause harm and are a matter of providing resources and information to bring the owner in compliance with the law. In the interest of fair sentencing, we support maintaining the court's authority to determine an appropriate penalty after examining the circumstances and reviewing a defendant's history of animal abuse to determine whether they are a threat to animals.

Additionally, AB 75 creates more loopholes by removing cruelty protections for a subset of dogs based on their use: "This section 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."

This language creates an additional burden on the investigating officer should the alleged state the injury or death of a dog in question occurred during training or hunting. The bill does not explain how the officer can establish whether the injury or death was inflicted during training or hunting. In addition, the language regarding care and treatment is overly vague. If a dog has a severely broken leg and the owner chooses to do nothing more than wrap it, would that be considered cared for and treated? There's no mention of using a licensed veterinarian nor language to establish a practicable timeline for treatment.

Wisconsin's Law Enforcement Officers and Humane Officers tasked with investigating crimes against animals often struggle with convincing prosecutors to move forward with meaningful charges. As written, AB 75 creates additional roadblocks.

The original bill, AB 368, from last session made it clear that training and hunting with dogs is not prohibited by the legislation – and we supported that. The bill author received a memo from the Legislative Reference Bureau on May 7, 2021 confirming this: “Therefore, it is unlikely that the injury or death of an animal during lawful, licensed hunting while using commonly accepted hunting practices would violate s. 951.02, Stats. Likewise, as noted above, the bill draft specifies that the animal cruelty statute does not prohibit using dogs for training or hunting in the manner authorized under ch. 29, Stats.”

Instead of sticking with reasonable language of AB 368, the bill before you specifically sections out a group of dogs. All dogs, regardless of breed or use, should be covered under our long-standing animal cruelty laws. Creating a separate standard based on use removes accountability for humane animal treatment for one subgroup of Wisconsin dog owners and out-of-state owners who bring their dogs to Wisconsin. This, alongside our concerns regarding judicial discretion, are reason enough to vote no on AB 75 as written.

Megan Nicholson  
Wisconsin State Director  
The Humane Society of the United States  
mnicholson@humanesociety.org



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# Wisconsin Legislative Council



Anne Sappenfield  
Director

TO: REPRESENTATIVE JOHN SPIROS

FROM: Tom Koss, Staff Attorney

RE: Comparison of LRB-2046/2, Relating to Grievous Bodily Harm to or the Death of an Animal and Ch. 951, Stats.

DATE: May 7, 2021

This memorandum, prepared at your request, discusses provisions relating to the use of dogs while hunting in LRB-2046/2, a bill draft that prohibits conduct that causes or may cause grievous bodily harm to or the death of an animal under ch. 951, Stats.

## ANIMAL CRUELTY LAWS

### Current Law

Chapter 951, Stats., addresses various crimes against animals, such as the mistreatment of animals, dognapping, and harassment of police and fire animals. Section 951.015, titled "Construction and application," provides that the chapter "may not be interpreted as controverting any law regulating wild animals that are subject to regulation under ch. 169,<sup>1</sup> the taking of wild animals, as defined in s. 29.001 (90),<sup>2</sup> or the slaughter of animals by persons acting under state or federal law." [s. 951.015 (1), Stats.] A separate section of this chapter prohibits a person from treating any animal in a cruel manner and specifies that normal and accepted veterinary practices are not prohibited. A "cruel" manner means that the person caused unnecessary and excessive pain or suffering or unjustifiable injury or death. [ss. 951.01 (2) and 951.02, Stats.]

Generally, a person who unintentionally treats an animal in a cruel manner is subject to a Class C forfeiture. A person who intentionally or negligently treats an animal in a cruel manner is guilty of a Class A misdemeanor. A person who intentionally treats an animal in a cruel manner that results in mutilation, disfigurement, or death is guilty of a Class I felony. [s. 951.18 (1), Stats.]

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<sup>1</sup> Chapter 169, Stats., regulates captive wildlife.

<sup>2</sup> "Wild animal" means "any mammal, bird, fish, or other creature of a wild nature endowed with sensation and the power of voluntary motion." [s. 29.001 (90), Stats.]



## The Bill Draft

The bill draft increases the penalty for intentionally treating an animal in a cruel manner that results, or may result in, grievous bodily harm<sup>3</sup> or death, and prohibits intentionally treating an animal in a cruel manner<sup>4</sup> regardless of whether the animal suffers from grievous bodily harm or death.

Specifically, under the bill draft, a person who intentionally treats an animal in a cruel manner that results in grievous bodily harm to, or the death of, the animal is guilty of a Class H felony.

Additionally, the bill draft creates a new provision which specifies that a person who intentionally treats an animal in a cruel manner and who knows, or reasonably should know, that those actions may result in grievous bodily harm to, or the death of, the animal is guilty of a Class I felony.

## APPLICABILITY TO HUNTING DOGS

The bill draft clarifies the treatment of training dogs for hunting and hunting with dogs under existing law by specifying that training or hunting with dogs in the manner authorized under ch. 29, Stats., does not constitute cruel treatment of an animal.

Chapter 29, Stats., defines hunting to include taking and pursuing any wild animal. [s. 29.001 (42), Stats.] Several provisions in that chapter explicitly permit hunters to use dogs to hunt, or pursue, game. For example, a bear hunting license allows a hunter to use a dog to pursue a bear, subject to season limits and as long as the dog is uniquely tattooed or wears a collar with the owner's name and address. [s. 29.184, Stats.] Similarly, a wolf harvesting license authorizes a hunter to use up to six dogs to track or trail wolves, subject to season limits. [s. 29.185 (6) (a) 2., Stats.]

In *State v. Kuenzi*, the Court of Appeals held that while a person could be charged with mistreating animals under s. 951.02, Stats., while taking a wild animal, the inquiry into whether the animal cruelty statute controverts such an action "must be assessed based on the backdrop of common hunting practices," and must consider "whether the alleged acts caused 'unnecessary and excessive pain or suffering or unjustifiable injury or death.'" [*State v. Kuenzi*, 2011 WI App 30, ¶ 34.] Therefore, it is unlikely that the injury or death of an animal during lawful, licensed hunting while using commonly-accepted hunting practices would violate s. 951.02, Stats. Likewise, as noted above, the bill draft specifies that the animal cruelty statute does not prohibit using dogs for training or hunting in the manner authorized under ch. 29, Stats.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

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<sup>3</sup> The bill draft replaces the terms "mutilation" and "disfigurement" with "grievous bodily harm," which is defined to mean 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.

<sup>4</sup> The bill draft also amends the definition of "cruel" to include engaging in actions that are likely to cause an animal to experience unnecessary and excessive pain or suffering or unjustifiable injury or death.





State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-2046/2

MLJ:ekg&cjs

## 2021 BILL

1     **AN ACT** *to amend* 951.01 (2), 951.02, 951.18 (1) and 951.18 (4) (c); and *to create*  
2             951.01 (3c) of the statutes; **relating to:** grievous bodily harm to or the death  
3             of an animal and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a person who commits an act of animal abuse is subject to a Class C forfeiture, unless the animal abuse results in the mutilation, disfigurement, or death of the animal, in which case the person is guilty of a Class I felony. Under current law, animal abuse means treating an animal in a cruel manner, but the prohibition on animal abuse does not prohibit normal and accepted veterinary practices.

**Under this bill, the prohibition on animal abuse also does not prohibit training or hunting with dogs in the manner authorized by the department of natural resources.** Under this bill, a person who commits an act of animal abuse is guilty of a Class H felony if the animal abuse results in grievous bodily harm to or the death of the animal and is guilty of a Class I felony if the person knows or reasonably should know that the animal abuse may result in grievous bodily harm to or the death of an animal, regardless of whether grievous bodily harm or death occurs.

Under current law, a court may order that a person who commits an act of animal abuse 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 five years. Under the bill, the court may enter such an order, including an order that the person may not reside with any animal or type or species of animal, if the person is convicted of a misdemeanor

**BILL**

violation, and must enter such an order, including an order that the person may not reside with any animal or type or species of animal, for a period of up to fifteen years if the person is convicted of a felony violation.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

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

1           **SECTION 1.** 951.01 (2) of the statutes is amended to read:

2           951.01 (2) “Cruel” means causing or engaging in actions that are likely to cause  
3 unnecessary and excessive pain or suffering or unjustifiable injury or death.

4           **SECTION 2.** 951.01 (3c) of the statutes is created to read:

5           951.01 (3c) “Grievous bodily harm” means serious bodily injury, including  
6 fractured or dislocated bones, deep cuts, burns, torn members of the body, tissue  
7 damage as a result of exposure to cold temperatures, serious damage to internal  
8 organs, starvation, or other severe bodily injuries. In the case of farm animals,  
9 grievous bodily harm does not include normally acceptable husbandry practices.

10          **SECTION 3.** 951.02 of the statutes is amended to read:

11          **951.02 Mistreating animals.** No person may treat any animal, whether  
12 belonging to the person or another, in a cruel manner. This section does not prohibit  
13 normal and accepted veterinary practices or training or hunting with dogs in the  
14 manner authorized under ch. 29.

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

16          951.18 (1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05,  
17 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 is subject to a  
18 Class C forfeiture. Any person who violates any of these provisions within 3 years  
19 after a humane officer issues an abatement order under s. 173.11 prohibiting the



**BILL**

1 violation of that provision is subject to a Class A forfeiture. Any person who  
2 intentionally or negligently violates any of those sections is guilty of a Class A  
3 misdemeanor. Any person who intentionally violates s. 951.02, resulting in ~~the~~  
4 ~~mutilation, disfigurement~~ grievous bodily harm to or the death of an animal, is guilty  
5 of a Class I ~~H~~ felony. Any person who intentionally violates s. 951.02 and who knows  
6 or reasonably should know that his or her actions may result in grievous bodily harm  
7 to or the death of an animal, regardless of whether grievous bodily harm or death  
8 occurs, is guilty of a Class I felony. Any person who intentionally violates s. 951.02  
9 or 951.06, knowing that the animal that is the victim is used by a law enforcement  
10 agency to perform agency functions or duties and causing injury to the animal, is  
11 guilty of a Class I felony.

12 **SECTION 5.** 951.18 (4) (c) of the statutes is amended to read:

13 951.18 (4) (c) Except as provided in s. 951.08 (2m), a sentencing court may order  
14 that ~~the criminal violator~~ a person convicted of a misdemeanor violation may not  
15 own, possess, reside with, or train any animal or type or species of animal for a period  
16 specified by the court, but not to exceed 5 years, and a sentencing court shall order  
17 that a person convicted of a felony violation may not own, possess, reside with, or  
18 train any animal or type or species of animal for a period specified by the court, not  
19 to exceed 15 years. In computing the time period, time which the person spent in  
20 actual confinement serving a sentence shall be excluded.

21 (END)

October 19, 2023

Honorable Chair Tusler, Vice-Chair Rettinger and Committee Members,

***RE: Please oppose Assembly Bill 75; increasing penalties creates an equity issue for those with lesser means, courts should have judicial discretion when issuing no contact orders***

On behalf of the American Society for the Prevention of Cruelty to Animals (ASPCA), North America's first animal welfare organization and our thousands of Wisconsin supporters, I write to express our opposition to Assembly Bill 75.

The ASPCA believes that simply enhancing penalties as this bill proposes is an ineffective way to deter and address animal cruelty crimes and raises troubling issues of equity related to enforcement. Statistical data does not support the notion that increasing penalties is an effective deterrent.

Additionally, the mandate for courts to order the prohibition of possession or residing with an animal for misdemeanor infractions would not help but more likely harm animals. We advocate for laws to empower courts to have judicial discretion in imposing orders prohibiting persons convicted of intentional animal cruelty or serious neglect from having contact with animals as a condition of parole, probation, or for a defined period of time upon release from jail. This discretion allows courts to evaluate the individual facts of each case and apply equitable sentences based on those circumstances.

Further, exempting dogs who suffer injuries during hunting constitutes an irrational and harmful backward step for Wisconsin's humane law.

For these reasons, we respectfully urge you to oppose Assembly Bill 75. Thank you for your time and consideration of our views.

Sincerely,

*Angelique Reynoso*

Senior Manager, State Legislation  
Government Relations  
American Society for the Prevention of Cruelty to Animals (ASPCA)

DATE: October 18, 2023

TO: Assembly Committee on Judiciary

FROM: Jill Kline, Wisconsin Humane Society

RE: Please oppose Assembly Bill 75; It removes judges' discretion in sentencing misdemeanor animal offenses and lessens cruelty protections for a subset of dogs.

Dear Committee Members,

I'm writing on behalf of the Wisconsin Humane Society, the state's largest and oldest animal welfare organization. Our organization runs shelters in Milwaukee, Ozaukee, Racine, Brown, Kenosha, and Door Counties and, through that work, has become the mainstream voice for companion animals across the state. We serve more than 40,000 animals each year, and our service area includes more than a third of Wisconsin's families.

I urge you to oppose Assembly Bill 75, relating to mistreating an animal and providing a penalty, as written when it is heard by the Committee on Judiciary on October 19, 2023.

AB 75 was written to close a loophole that prevented felony prosecution for egregious acts of cruelty with the intent to kill an animal who survives. The Wisconsin Humane Society works every day to protect animals from harm, and we have strong concerns about unintended consequences that two provisions in the bill will have for Wisconsin's animals and families. The **requires** judges to restrict ownership for those prosecuted for both felony and misdemeanor offenses of Chapter 951. If passed, Wisconsin will become one of only two states (the other is Rhode Island) to require a judge to order that a person can't own or reside with an animal for up to five years for a misdemeanor offense.

**By stripping judges of discretion in misdemeanor cases, the bill unnecessarily puts multi-generational households and their animals at risk, which will have a disproportionate impact on people of color.** The bill would require judges in misdemeanor cases to bar defendants from residing with animals for up to five years. In multigenerational households, this of course would prohibit all family members from having an animal. Multigenerational households are disproportionately families of color, and this change will have a disproportionate impact on Wisconsinites of color. Thirteen percent of Wisconsin households are multigenerational, but 25% of Wisconsin households of color are multigenerational. The language in AB 75 mandating the prohibition of possession or residing with an animal for misdemeanor infractions would harm rather than help animals and will result in families having to choose between housing a family member or a beloved pet. Instead of this mandate, the Wisconsin Humane Society supports laws that empower courts to have judicial discretion to impose orders prohibiting persons convicted of intentional animal cruelty or serious neglect from having contact with animals as a condition of parole, probation, or for a defined period of time upon release from jail. This discretion allows courts to evaluate the individual facts of each case and apply equitable sentences based on those circumstances.

**By broadly exempting dogs harmed while training or hunting, the bill creates a huge and unnecessary loophole allowing cruelty in the hunting context.** AB 75 was written to protect animals from pain and suffering, but this language creates a loophole by specifically removing cruelty protections for dogs used for hunting by adding this language: "This section does not apply to an injury or the care and treatment of that injury, sustained by a dog while training or



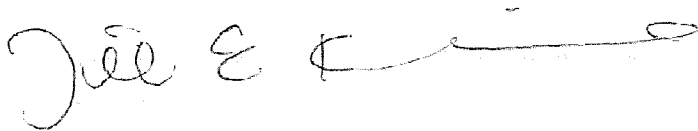
hunting with dogs in the manner authorized under Chapter 29 if the injury is cared for and treated as soon as is practicable under the circumstances.” The bill language does not require that the dog be treated by a licensed veterinarian, nor does it establish what a practicable timeline is for such treatment. Additionally, it does not explain how the investigating officer can establish whether the injury was inflicted during training or hunting, or even whether the injured dog was being used for training or hunting.

Hunters do not need this blanket exemption from responsibility. Lawful hunting practices, including hunting with dogs, are already exempt from cruelty laws. The Wisconsin Humane Society strongly opposes removing protections for any dogs from our state’s long-standing animal cruelty code. Dogs engaged in hunting deserve the same protections as every other dog, and this last-minute addition strays from the intent of this bill. This language would remove accountability for humane animal treatment for one small subgroup of Wisconsin dog owners, and there is no reason to exempt dog owners from protecting their animals from pain and suffering.

Interestingly, while the bill as drafted would have a disproportionate negative impact on people of color, it creates a loophole for hunters who, per U.S. Fish and Wildlife Service data, are 97% white.

I urge you to oppose AB 75 as written. Thank you for your care for all of Wisconsin’s animals, and please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill E. Kline". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jill Kline, Vice President of Culture and Community Impact  
Wisconsin Humane Society