



HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

HO-CHUNK NATION CODE (HCC)

TITLE 9 – CRIMINAL CODE

SECTION 951 – CRIMES AGAINST ANIMALS

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Definitions. In this chapter:

(1) “Animal” includes every living:

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

(1m) “Conservation warden” means a warden appointed by a jurisdiction to enforce fish and game laws.

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

(3) “Farm animal” means any warm-blooded animal normally raised on farms in the United States and used or intended for use as food or fiber.

(3e) “Humane officer” means an officer appointed by a jurisdiction to enforce laws regarding animals.

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(3f) “Fire department” includes a volunteer fire department, fire department, combined protective services department or any person designated by a jurisdiction to provide fire protection services.

(3m) “Law enforcement agency” means a governmental unit of one or more persons employed full time by the tribal, federal, state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(4) “Law enforcement officer” means any person who by virtue of the person's office or public employment is vested by law with the duty to maintain public order or to make arrests for crimes while acting within the scope of the person's authority but does not include a conservation warden.

(5) “Service dog” means a dog that is trained for the purpose of assisting a person with a sensory, mental, or physical disability or accommodating such a disability.

951.015 Construction and application.

(1) This chapter may not be interpreted as controverting any law regulating wild animals that are subject to regulation as captive wildlife, the taking of wild animals, defined as any mammal, bird, fish, or other creature of a wild nature endowed with sensation and the power of voluntary motion, or the slaughter of animals by persons acting under applicable law.

(2) For purposes of enforcing this chapter as to wild animals subject to regulation as captive wildlife, a conservation warden has the same powers and duties that a law enforcement officer has under this chapter.

(3) This chapter does not apply to:

(a) Teaching, research, or experimentation conducted pursuant to a protocol or procedure approved by an educational or research institution, and related incidental animal care activities, at facilities that are regulated under 7 USC 2131 to 2159 or 42 USC 289d.

(b) Bona fide scientific research involving species unregulated by federal law.

951.02 Mistreating animals. No person may treat any animal, whether belonging to the person or another, in a cruel manner. This section does not prohibit normal and accepted veterinary practices or for normal and accepted traditional religious practices as determined by the Ho-Chunk Nation Traditional Court.

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 Nation's territory or held for any purpose without the owner's consent. This section does not apply to law enforcement officers or humane officers engaged in the exercise of their official duties.

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.

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

951.06 Use of poisonous and controlled substances. No person may expose any domestic animal owned by another to any known poisonous substance, any controlled substance included in

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schedule I, II, III, IV or V of ch. 961, or any controlled substance analog of a controlled substance included in schedule I or II of ch. 961, 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 accepted veterinary practices.

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.

951.08 Instigating fights between animals.

(1) No person may intentionally instigate, promote, aid or abet as a principal, agent or employee, 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 confinement 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.

951.09 Shooting at caged or staked animals.

(1) No person may shoot, kill, or wound with a firearm, or with any deadly weapon, any animal that is tied, staked out, caged or otherwise intentionally confined in an artificial enclosure, regardless of size.

(2) (a) Whoever is concerned in the commission of a violation of this section is a principal and may be charged with and convicted of the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(b) A person is concerned in the commission of a violation of this section under par. (a) if the person does any of the following:

1. Instigates, promotes, aids, or abets the violation as a principal, agent, employee, participant, or spectator.
2. Participates in any earnings from the commission of the violation.
3. Intentionally maintains or allows any place to be used for the commission of the violation.

(3) This section does not apply to any of the following animals:

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- (a) A captive wild bird that is shot, killed, or wounded on a licensed bird hunting preserve.
- (b) Farm-raised deer.
- (c) Animals that are treated in accordance with normally acceptable husbandry practices.

951.095 Harassment of police and fire animals.

- (1) No person may do any of the following to any animal that is used by a law enforcement agency or fire department to perform agency or department functions or duties:
 - (a) Frighten, intimidate, threaten, abuse or harass the animal.
 - (b) Strike, shove, kick or otherwise subject the animal to physical contact.
 - (c) Strike the animal by using a dangerous weapon.
- (2) Subsection (1) does not apply to any of the following:
 - (a) Any act that is performed by or with the authorization of the animal's handler or rider.
 - (b) Any act that is necessary for the training of an animal to perform functions or duties for a law enforcement agency.

951.097 Harassment of service dogs.

- (1) (a) Any person may provide notice to another person in any manner that the latter person's behavior is interfering with the use of a service dog and may request that the latter person stop engaging in that behavior.
 - (b) No person, after receiving a notice and request under par. (a) regarding a service dog, may do any of the following:
 - 1. Recklessly interfere with the use of the service dog by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user.
 - 2. Intentionally interfere with the use of the service dog by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user.
- (2) (a) No person may recklessly allow his or her dog to interfere with the use of a service dog by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user.
 - (b) No person may intentionally allow his or her dog to interfere with the use of a service dog by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user.
- (3) (a) No person may recklessly injure a service dog or recklessly allow his or her dog to injure a service dog.
 - (b) No person may intentionally injure a service dog or intentionally allow his or her dog to injure a service dog.
- (4) (a) No person may recklessly cause the death of a service dog.
 - (b) No person may intentionally cause the death of a service dog.
- (5) No person may take possession of or exert control over a service dog without the consent of its owner or user and with the intent to deprive another of the use of the service dog.

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 the person provides proper brooder facilities for the care of such chicks, ducklings or other fowl during the time they are in the person's possession.
- (2) No retailer, defined as every person engaged in the business of making sales at retail within this jurisdiction, but, in the case of a person engaged in the business of selling both at retail and at wholesale, such term shall be applied only to the retail portion of such business, may sell, offer for

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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.

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.

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.

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.

(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

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enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

951.15 Abandoning or releasing animals. No person may abandon or release any animal.

951.18 Penalties.

(1) Any person violating s. 951.02, 951.03, 951.04, 951.05, 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 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 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 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 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 felony for the first violation and is guilty of a felony for the 2nd or subsequent violation.

(2m) Any person who violates s. 951.095 is subject to a Class B forfeiture. Any person who intentionally or negligently violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties, is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing injury to the animal, is guilty of a felony. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing death to the animal, is guilty of a felony.

(2s) Any person who violates s. 951.097 (1) (b) 1. or (2) (a), knowing that the dog that is the victim is a service dog, is guilty of a Class B misdemeanor. Any person who violates s. 951.097 (b) 2., (2) (b), or (3) (a), knowing that the dog that is the victim is a service dog, is guilty of a Class A misdemeanor. Any person who violates s. 951.097 (3) (b) or (4) (a), knowing that the dog that is the victim is a service dog, is guilty of a felony. Any person who violates s. 951.097 (4) (b) or (5), knowing that the dog that is the victim is a service dog, is guilty of a felony.

(3) In addition to penalties applicable to this chapter under this section, a prosecutor 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" means any of the following:

a. All special damages, but not general damages, including the money equivalent of loss resulting from property taken, destroyed, broken, or otherwise harmed and out-of-pocket losses, such as medical expenses.

b. Reasonable out-of-pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and prosecution of an offense under this chapter.

c. Expenses in keeping any animal that is involved in the crime.

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d. In a case under s. 951.095 or 951.097, the value of a replacement animal, if the affected animal is incapacitated or dead; the cost of training a replacement animal; or the cost of retraining the affected animal. The court shall base any determination of the value of a replacement service dog on the value of the service dog to the user and not on its cost or fair market value.

e. In a case under s. 951.095 or 951.097, all related veterinary and care expenses.

f. In a case under s. 951.095 or 951.097, the medical expenses of the animal's user, the cost of training the animal's user, and compensation for income lost by the animal's user.

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 or conservation warden, for any pecuniary loss suffered by the person as a result of the crime. This requirement applies regardless of whether the criminal violator is placed on probation. 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) 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. A sentencing court may order that an animal be delivered to the department of natural resources, if the animal is a wild animal that is subject to regulation under applicable law and the court considers the order to be reasonable and appropriate. The society, pound, officer or department of natural resources 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 any applicable law. If the animal is not a dog, the society, pound or officer may charge a fee for the release of the animal.

(c) Except as provided in s. 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.

Legislative History:

12/17/13	Legislature established the Criminal Code Workgroup through Resolution 12-17-13C.
12/11/14	The Criminal Code Workgroup presented the Criminal Code to the Administration Committee at which time it was referred to the full Legislature to be placed out for 45 Day Public Comment.
01/06/15	Legislature placed the Criminal Code out for 45 Day Public Comment by Resolution 01-06-15B.
03/17/15	Legislature placed the Criminal Code out for an additional 45 Day Public Comment by Resolution 03-17-15K.
05/05/15	Legislature enacted the Criminal Code through Resolution 05-05-15P.
05/17/16	Technical corrections made in accordance with Section 45 of the Legislative Organization Act (2 HCC § 11).