

1986 INSTIGATING FIGHTS BETWEEN ANIMALS — § 951.08(1)**Statutory Definition of the Crime**

Section 951.08(1) of the Criminal Code of Wisconsin is violated by one who intentionally [(instigates) (promotes)] [participates in the earnings from] [maintains or allows any place to be used for] a (cockfight) (dogfight).

State's Burden of Proof

Before you may find the defendant guilty of this offense, the State must prove by evidence which satisfies you beyond a reasonable doubt that the following two elements were present.

Elements of the Crime That the State Must Prove

1. The defendant [(instigated) (promoted)] [participated in the earnings from] [maintained or allowed any place to be used for] a (cockfight) (dogfight).¹
2. The defendant did so intentionally.

This requires that the defendant acted with the mental purpose² to [(instigate) (promote)] [participate in the earnings from] [maintain or allow any place to be used for] a (cockfight) (dogfight).

Deciding About Intent

You cannot look into a person's mind to find intent. Intent must be found, if found at all, from the defendant's acts, words, and statements, if any, and from all the facts and circumstances in this case bearing upon intent.

Jury's Decision

If you are satisfied beyond a reasonable doubt that both elements of this offense have been proved, you should find the defendant guilty.

If you are not so satisfied, you must find the defendant not guilty.

COMMENT

Wis JI-Criminal 1986 was approved by the Committee in February 2009 and involved adoption of a new format and nonsubstantive changes to the text.

Penalties for violations of § 951.08(1) are set forth in § 951.18(2): a Class I felony for the first violation and a Class H felony for the second or subsequent violation. For a case charged as a Class H felony, the fact of the prior conviction would not be a fact that is submitted to the jury. "Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt." Apprendi v. New Jersey, 530 U.S. 466, 490 (2000).

1. The instruction provides for selecting "cockfight" or "dogfight," which the Committee believes are the most likely cases to be charged. The statute applies however, to additional conduct: ". . . bullfight or other fight between the same or different kinds of animals or between an animal and a person." § 951.08(1).

2. The Committee concluded that the "mental purpose" part of the definition of "intentionally" is most likely to apply to this offense. For a complete discussion of the meaning of "intentionally" see Wis JI-Criminal 923A and Wis JI-Criminal 923B.