

**1988 KEEPING AN ANIMAL WITH INTENT THAT IT ENGAGE IN FIGHTING — § 951.08(2)****Statutory Definition of the Crime**

Section 951.08(2) of the Criminal Code of Wisconsin is violated by one who owns, possesses, keeps, or trains any animal with the intent that the animal be engaged in an exhibition of fighting.

**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 (owned) (possessed) (kept) (trained) an animal.<sup>1</sup>
2. The defendant did so with the intent that the animal be engaged in an exhibition of fighting.

This requires that the defendant acted with the mental purpose<sup>2</sup> that the animal be engaged in an exhibition of fighting.

**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 1988 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(2) 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." Appendi v. New Jersey, 530 U.S. 466, 490 (2000).

1. The Committee recommends selecting one of the terms in parentheses, but believes it is proper to submit all alternatives that are supported by the evidence.
2. The Committee concluded that the "mental purpose" part of the definition of "with intent that" 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.