

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1121 Community Cats

SPONSOR(S): Agriculture and Natural Resources Subcommittee and Raschein

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1320

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	11 Y, 0 N, As CS	Kaiser	Blalock
2) Local & Federal Affairs Committee			
3) Civil Justice Subcommittee			
4) State Affairs Committee			

SUMMARY ANALYSIS

One cat and her offspring can produce up to 370,000 kittens in seven years. Many of these animals are abandoned, stray, or feral cats that have limited human contact. These cats typically live in groups called colonies and are known as “community cats.” If left uncontrolled to breed, these community cats can spread disease and become health and safety hazards to people.

One option that can help curtail community cat overpopulation is the implementation of trap, neuter, and release (TNR) programs. Several counties have implemented this type of population control program with success. However, there are concerns that the release of community cats back to where they were trapped constitutes abandonment and therefore violates state animal cruelty laws.

The bill amends current law to provide definitions for “community cat,” “community cat caregiver,” and, “community cat program.” “Community cat” means an outdoor, free-roaming cat that lacks visible owner identification. “Community cat caregiver” means any person other than an owner or custodian who provides food, water, or shelter to one or more community cats as part of a community cat program. “Community cat program” means a program in which an eligible cat is examined by a licensed veterinarian, sterilized, vaccinated for rabies and any other diseases deemed appropriate by the veterinarian, ear-tipped, and then returned to the area where it was originally captured immediately after any recovery period as recommended by a veterinarian.

The bill specifically provides that community cats are considered a domestic animal and the release of a community cat by a community cat program does not constitute abandonment or unlawful release of the cat. The bill also provides that a county or municipality is not precluded from enacting an ordinance related to community cat programs designed to humanely curtail community cat population growth.

The bill does not appear to have a fiscal impact on state government. It may have an insignificant positive fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

One cat and her offspring can produce up to 370,000 kittens in seven years. Many of these animals are abandoned, stray, or feral cats that have had limited human contact. Much of the time, these animals end up in animal shelters and are eventually euthanized because they are not socialized to humans and, therefore, unadoptable. These cats typically live in groups called colonies and are known as “community cats.” If left uncontrolled to breed, these cats can spread disease and become health and safety hazards to people.

Studies have shown that managing community cats through trap-neuter-return (TNR) programs can result in reduced community cat populations.¹ Under a TNR program, cats are humanely trapped, examined by a veterinarian, spayed or neutered, vaccinated and permanently identified by a harmless ear notch.² The cats are then returned to where they were originally trapped.

Animal cruelty is defined in s. 828.27(1), F.S., to mean any act of neglect, torture, or torment that causes unjustifiable pain or suffering of an animal. Section 828.27(2), F.S., also provides that the governing body of a county or municipality is authorized to enact ordinances relating to animal control or cruelty. These ordinances must provide:

- That a violation of such an ordinance is a civil infraction.
- A maximum civil penalty not exceeding \$500.
- A civil penalty of less than the maximum civil penalty if the person who has committed the civil infraction does not contest the citation.
- Issuance of a citation by an officer who has probable cause to believe that a person has committed an act in violation of an ordinance.
- The citation may be contested in the county court.
- That if a person fails to pay the civil penalty, fails to appear in court to contest the citation, or fails to appear in court for certain aggravated or recurrent law violations as required by subsection (6), the court may issue an order to show cause upon the request of the governing body of the county or municipality. This order shall require such persons to appear before the court to explain why action on the citation has not been taken. If any person who is issued such order fails to appear in response to the court’s directive, he/she may be held in contempt of court.
- Such procedures and provisions as are necessary to implement any ordinances enacted under the authority of this section.

In addition, s. 828.27, F.S., provides that nothing contained in this section prevents any county or municipality from enacting any ordinance relating to animal control or cruelty which is identical to the provisions of chapter 828, F.S., or any other state law, except as to penalty. However, no county or municipal ordinance relating to animal control or cruelty can conflict with the provisions of chapter 828, F.S., or any other state law. Notwithstanding these provisions, the governing body of any county or municipality is authorized to enact ordinances prohibiting or regulating noise from any domesticated animal, the violation of which is punishable upon conviction by a fine not to exceed \$500 or by imprisonment in the county jail for a period not to exceed 60 days, or by both such fine and imprisonment, for each violation of such ordinance. These provisions do not apply to animals on land zoned for agricultural purposes.

¹ <http://www.spcaflorida.org/community-cats/>

² The ear tip or notch is a universal sign that the cat has been trapped and fixed.

There have been some concerns that the release of community cats under a community cat TNR program back to where they were originally trapped could constitute abandonment and, thus, violate state animal cruelty laws.

Effect of Proposed Changes

The bill amends section 828.27, F.S., to provide definitions for “community cat,” “community cat caregiver,” and, “community cat program.” “Community cat” means an outdoor, free-roaming cat that lacks visible owner identification. “Community cat caregiver” means any person other than an owner or custodian who provides food, water, or shelter to one or more community cats as part of a community cat program. “Community cat program” means a program in which an eligible cat is examined by a licensed veterinarian, sterilized, vaccinated for rabies and any other diseases deemed appropriate by the veterinarian, ear-tipped, and then returned to the area where it was originally captured after any recovery period as recommended by a veterinarian.

The bill provides that community cats are considered a domestic animal³ and the release of a community cat by a community cat program does not constitute abandonment or unlawful release of the cat under chapter 828, F.S. The bill also provides that a county or municipality is not precluded from enacting an ordinance related to community cat programs designed to humanely curtail community cat population growth.

B. SECTION DIRECTORY:

Section 1: Amends s. 828.27, F.S.; providing definitions; providing that release of a community cat by a community cat program is not abandonment or unlawful release of the cat under specified circumstances; providing that counties and municipalities may enact ordinances relating to community cat programs to curtail community cat population growth; providing immunity for such ordinances; and, providing an exception.

Section 2: Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

See Fiscal Comments section

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

³ As defined in s. 585.01, F.S.
STORAGE NAME: h1121a.ANRS
DATE: 3/25/2013

D. FISCAL COMMENTS:

According to studies,⁴ implementing a TNR program can result in local governments seeing a decline in expenditures associated trapping, holding, and euthanizing stray, abandoned, and feral cats.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

Utah and Illinois have enacted similar legislation endorsing “community cats programs.”

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On Wednesday, March 20, 2013, the Agriculture and Natural Resources Subcommittee adopted one amendment to HB 1121. The amendment:

- Amended the definition of “community cat program” to provide that the community cat will be released after a recovery period as recommended by the veterinarian.
- Changed the term domestic “species” to domestic “animal” to conform to current statute.
- Removed language relating to immunity from civil and criminal liability.

⁴ John Dunham & Associates, *The Fiscal Impact of Trap, Neuter and Return Policies in Controlling Feral Cat Populations in the United States*, 2010.