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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2015	.	
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The Committee on Appropriations (Grimsley) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 80 - 211

and insert:

Section 4. Section 828.073, Florida Statutes, is amended to read:

828.073 Animals found in distress; ~~when agent may take charge; hearing; disposition; sale.~~—

(1) The purpose of this section is to provide a means by which a neglected or mistreated animal may ~~can~~ be:



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11 (a) Removed from its present custody, or  
12 (b) Made the subject of an order to provide care, issued to  
13 its owner by the county court, any law enforcement officer, any  
14 animal control officer certified pursuant to s. 828.27, or any  
15 agent of any ~~the~~ county or of any society or association for the  
16 prevention of cruelty to animals appointed under s. 828.03,  
17  
18 and protected ~~given protection~~ and disposed of appropriately and  
19 humanely ~~an appropriate and humane disposition made.~~  
20 (2) Any law enforcement officer, any animal control officer  
21 certified pursuant to s. 828.27, or any agent of any county or  
22 of any society or association for the prevention of cruelty to  
23 animals appointed under ~~the provisions of~~ s. 828.03 may:  
24 (a) Lawfully take custody of any animal found neglected or  
25 cruelly treated by removing the animal from its present  
26 location, or  
27 (b) Order the owner of any animal found neglected or  
28 cruelly treated to provide certain care to the animal at the  
29 owner's expense without removal of the animal from its present  
30 location,  
31  
32 and shall file a petition seeking relief under this section in  
33 the county court of the county in which the animal is found  
34 within 10 days after the animal is seized or an order to provide  
35 care is issued. The court shall schedule and commence a hearing  
36 on the petition within 30 days after the petition is filed to  
37 determine whether the owner, if known, is able to adequately  
38 ~~adequately~~ provide for the animal and is fit to have custody of  
39 the animal. The hearing shall be concluded and the court order



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40 entered thereon within 60 days after the date the hearing is  
41 commenced. The timeframes set forth in this subsection are not  
42 jurisdictional. However, if a failure to meet such timeframes is  
43 attributable to the officer or agent, the owner is not required  
44 to pay the officer or agent for care of the animal during any  
45 period of delay caused by the officer or agent. A fee may not be  
46 charged for filing the petition. This subsection does not  
47 require court action for ~~the taking into~~ custody and properly  
48 disposing ~~making proper disposition~~ of stray or abandoned  
49 animals as lawfully performed by animal control agents.

50 (3) The law enforcement officer, the animal control officer  
51 certified pursuant to s. 828.27, or the agent of any county or  
52 of any society or association for the prevention of cruelty to  
53 animals taking custody charge of an any animal pursuant to the  
54 ~~provisions of~~ this section shall have written notice served, at  
55 least 3 days before the hearing scheduled under subsection (2),  
56 upon the owner of the animal, if he or she is known and is  
57 residing in the county where the animal was taken, in accordance  
58 ~~conformance with the provisions of~~ chapter 48 relating to  
59 service of process. The sheriff of the county may ~~shall~~ not  
60 charge a fee for service of such notice.

61 (4) (a) The law enforcement officer, the animal control  
62 officer certified pursuant to s. 828.27, or the agent of any  
63 county or of any society or association for the prevention of  
64 cruelty to animals taking custody charge of an animal pursuant  
65 to as provided for in this section shall provide for the animal  
66 until either:

67 1. The owner is adjudged by the court to be able to  
68 adequately provide ~~adequately~~ for, and have custody of, the



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69 animal, in which case the animal shall be returned to the owner  
70 upon payment by the owner for the care and provision for the  
71 animal while in the agent's or officer's custody; or

72 2. The animal is turned over to the officer or agent  
73 pursuant to as provided in paragraph (c) and humanely disposed  
74 of a humane disposition of the animal is made.

75 (b) If the court determines that the owner is able to  
76 provide adequately for, and have custody of, the animal, the  
77 order shall provide that the animal in the possession of the  
78 officer or agent be claimed and removed by the owner within 7  
79 days after the date of the order.

80 (c) Upon the court's judgment that the owner of the animal  
81 is unable or unfit to adequately provide for the animal:

82 1. The court may:

83 a. Order that the current owner have no further custody of  
84 the animal and that the animal be sold by the sheriff at public  
85 auction or, that the current owner have no further custody of  
86 the animal, and that any animal not bid upon be remanded to the  
87 custody of the Society for the Prevention of Cruelty to Animals,  
88 the Humane Society, the county, the municipality with animal  
89 control officers certified pursuant to s. 828.27, or any agency  
90 or person the judge deems appropriate, to be disposed of as the  
91 agency or person sees fit; or

92 b. Order that the animal be destroyed or remanded directly  
93 to the custody of the Society for the Prevention of Cruelty to  
94 Animals, the Humane Society, the county, the municipality with  
95 animal control officers certified pursuant to s. 828.27, or any  
96 agency or person the judge deems appropriate, to be disposed of  
97 as the agency or person sees fit.



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98           2. The court, upon proof of costs incurred by the officer  
99 or agent, may require that the owner pay for the care of the  
100 animal while in the custody of the officer or agent. A separate  
101 hearing may be held.

102           3. The court may order that other animals that are in the  
103 custody of the owner and that were not seized by the officer or  
104 agent be turned over to the officer or agent, if the court  
105 determines that the owner is unable or unfit to adequately  
106 provide for the animals. The court may enjoin the owner's  
107 further possession or custody of other animals.

108           (5) In determining the person's fitness to have custody of  
109 an animal ~~under the provisions of this act~~, the court may  
110 consider, among other matters:

111           (a) Testimony from the agent or officer who seized the  
112 animal and other witnesses as to the condition of the animal  
113 when seized and as to the conditions under which the animal was  
114 kept.

115           (b) Testimony and evidence as to the veterinary care  
116 provided to the animal.

117           (c) Testimony and evidence as to the type and amount of  
118 care provided to the animal.

119           (d) Expert testimony as to the community standards for  
120 proper and reasonable care of the same type of animal.

121           (e) Testimony from any witnesses as to prior treatment or  
122 condition of this or other animals in the same custody.

123           (f) The owner's past record of judgments pursuant to ~~under~~  
124 ~~the provisions of~~ this chapter.

125           (g) Convictions pursuant to applicable ~~under the~~ statutes  
126 prohibiting cruelty to animals.



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127 (h) ~~Any~~ Other evidence the court considers to be material  
128 or relevant.

129 (6) If the evidence indicates a lack of proper and  
130 reasonable care of the animal, the burden is on the owner to  
131 demonstrate by clear and convincing evidence that he or she is  
132 able and fit to have custody of and adequately provide  
133 ~~adequately~~ for the animal.

134 (7) In any case in which an animal is offered for auction  
135 under ~~the provisions of~~ this section, the proceeds shall be:

136 (a) Applied, first, to the cost of the sale.

137 (b) Applied, secondly, to the care of and provision for the  
138 animal by the law enforcement officer, the animal control  
139 officer certified pursuant to s. 828.27, or the agent of any  
140 county or of any society or association for the prevention of  
141 cruelty to animals taking custody charge.

142 (c) Applied, thirdly, to the payment of the owner for the  
143 sale of the animal.

144 (d) Paid over to the court if the owner is not known.

145  
146 ===== T I T L E A M E N D M E N T =====

147 And the title is amended as follows:

148 Delete lines 10 - 18

149 and insert:

150 act; amending s. 828.073, F.S.; conforming provisions;  
151 authorizing certain municipal animal control officers  
152 to take custody of an animal found neglected or  
153 cruelly treated or to order the owner of such an  
154 animal to provide certain care at the owner's expense;  
155 authorizing county courts to remand animals to the



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156 custody of certain municipalities; authorizing the  
157 allocation of auction proceeds to certain animal  
158 control officers; amending s. 828.27, F.S.; deleting