

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: SB 420

INTRODUCER: Senator Grimsley

SUBJECT: Animal Control

DATE: February 16, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	<u>Favorable</u>
2.	<u>                    </u>	<u>                    </u>	<u>CA</u>	<u>                    </u>
3.	<u>                    </u>	<u>                    </u>	<u>FP</u>	<u>                    </u>

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**I. Summary:**

SB 420 provides a procedure for adopting or humanely disposing of impounded livestock, as an alternative to sale or auction, which are not always the best options for the health and safety of the animals. Notice of the impounded livestock may be provided in specified methods by county sheriffs. The bill requires the designated impounder to establish fees and to be responsible for damages caused while impounding the livestock. It provides cities with lawfully sanctioned animal control officers the same powers as the counties for the purpose of investigating animal cruelty cases and seizing the animals or petitioning for custody. The bill provides additional, supplemental, and alternative laws for enforcing county or municipal codes or ordinances, but clarifies that it does not prohibit a county or municipality from enforcing its own codes or ordinances by any other means.

**II. Present Situation:**

***Florida Fence Law***

Before the enactment of fencing laws, Florida was an open-range state. In the 1949 Legislative Session, Governor Fuller Warren approved Senate Bill 34, which required owners of livestock to prevent their animals from “running at large or straying upon public roads.” The act encouraged ranchers to build fences and contain wandering livestock. Sometimes known as the fence law, historians consider Senate Bill 34 the final measure in closing the open range.<sup>1</sup>

Under the provisions of Ch. 588, F.S., every owner who intentionally, willfully, carelessly, or negligently suffers or permits their livestock to run at large or stray upon Florida public roads are liable for any resulting injuries or property damage and may even be guilty of a second degree

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<sup>1</sup> *Stray Livestock Liability Laws*, <http://www.floridamemory.com/blog/2012/06/07/stray-livestock-liability-laws/> (last visited on Feb. 6, 2015).

misdemeanor.<sup>2</sup> Criminal penalties may include a term of imprisonment not exceeding 60 days and/or a fine of as much as \$500.<sup>3</sup>

### ***Auctions***

Current law requires animal control agencies to auction impounded livestock regardless of the circumstances. Often, this is not financially feasible and it may also prevent more timely solutions that would result in better conditions for the animals. The bill allows adoption when auctions are not feasible. The auction process does not allow the agencies to control the quality of placement. Known animal abusers have purchased animals at auction because current law does not prevent this. If the animals are adopted, there are quality control mechanisms available.<sup>4</sup>

### ***Municipal Issues***

Current animal control statutes do not give cities the same powers as counties. Some provisions of the law are reserved for counties and judicially appointed animal control officers because the officers are required to be trained, which affords greater authority in animal cruelty cases. The changes in this bill would give cities with trained officers the authority to petition for custody, pursue animal cruelty changes, and prosecute offenders without relying on the assistance of a county government.<sup>5</sup>

### ***Restitution***

The bill would allow non-governmental organizations to seek their own civil restitution. This often comes into play in larger animal cruelty cases. If a case involves a large number of animals, one agency cannot handle the workload alone. Often, many local humane societies and other groups will pitch in to provide care for the animals. Today, if criminal charges are not ultimately pursued, but the owner loses custody of the animals, local humane societies do not have the ability to pursue civil restitution and would have to pursue their costs through the governmental agency. This change will streamline the process for civil restitution.<sup>6</sup>

### ***Civil Citation Procedures***

Section 828.27, F.S., outlines the procedures for processing animal control citations. However, it is restrictive in nature and may not provide the same flexibility that local governments have in other code enforcement situations. It is unclear whether the more flexible procedures authorized in Ch. 162, F.S., apply to animal control. This change clears up that ambiguity and would definitively allow local governments to utilize tools such as local code enforcement boards or special magistrates in an effort to maximize collections.<sup>7</sup>

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<sup>2</sup> Sections 588.15 and 588.24, F.S.

<sup>3</sup> Section 588.24, F.S., citing sections 775.082 and 775.083, F.S.

<sup>4</sup> Florida Animal Control Association interview February 9, 2015.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

### III. Effect of Proposed Changes:

**Section 1** amends s. 588.17, F.S., to provide additional options for dealing with impounded livestock. In addition to sale or auction, it includes adoption and humane disposal when auctions are not feasible. It also provides the impounder with notification requirements in an effort to identify the owner of the impounded livestock.

**Section 2** amends s. 588.18, F.S., to require a designated impounder to establish fees and to be responsible for damages caused while impounding the livestock.

**Section 3** amends s. 588.20, F.S., to clarify that the requirements for reporting a sale or disposition apply only if the impounded livestock is offered for sale.

**Section 4** amends s. 588.23, F.S., to conform this section to changes made in the previous sections.

**Section 5** amends s. 828.03, F.S., to allow municipalities to employ trained animal control officers that are authorized to petition for custody of animals, pursue animal cruelty changes, and prosecute offenders without relying on the assistance of a county government.

**Section 6** amends s. 828.073, F.S., to conform provisions to changes made by the act. It authorizes any municipality with certified animal control officer to take charge of animals found in distress. It authorizes the officers to take custody of an animal or to order to provide certain care at the owner's expense. It authorizes courts to require the owner of an animal to pay for the care of the animal while in the care of an officer's designee. It also authorizes the allocation of auction proceeds to affected municipalities with animal control officers.

**Section 7** amends s. 828.27, F.S., to delete obsolete provisions relating to the proceeds collected for civil penalties imposed for violation of an ordinance relating to animal control or cruelty. It clarifies that certain provisions relating to local animal control are not the exclusive means of enforcing animal control laws. It also provides that this section does not prohibit a county or municipality from enforcing its codes or ordinances.

**Section 8** provides that this act shall take effect July 1, 2015.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill would make it easier for non-governmental organizations, such as local humane societies and other groups, to seek restitution for care of impounded animals in criminal cases.

**C. Government Sector Impact:**

The bill would reduce the time and funds necessary for governmental agencies to reimburse third party groups involved in the care and adoption of impounded animals.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends the following sections of the Florida Statutes: 588.17, 588.18, 588.20, 588.23, 828.03, 828.073, and 828.27.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.