

**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 Community Affairs

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BILL: SB 420

INTRODUCER: Senator Grimsley

SUBJECT: Animal Control

DATE: March 3, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	<u>Favorable</u>
2.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	<u>Pre-meeting</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 must 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 counties for the purpose of investigating animal cruelty cases and seizing 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 is liable for any resulting injuries or property damage and may 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. 20, 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 prevent more timely solutions that would result in better conditions for the animals. The auction process does not allow the agency to control the quality of the animals' 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***

Some powers are reserved under current animal control statutes for counties and judicially appointed animal control officers because those officers are required to receive training. City animal control officers are not given the same powers because they are not required to be trained. These powers are related to the authority to seize or petition for custody of animals in criminal animal cruelty cases.

### ***Restitution***

Civil restitution for non-governmental organizations often comes into play in larger animal cruelty cases. If a case involves a large number of animals, an agency may not be able to handle the workload alone. Often, many local humane societies and other groups assist in the provision of care for the animals. Today, if criminal charges are not ultimately pursued, local humane societies do not have the ability to pursue civil restitution, even if the owner loses custody of the animals. Instead they would have to pursue their costs through the relevant governmental agency.<sup>5</sup>

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

Section 828.27, F.S., outlines the procedures for processing and collecting on animal control citations. However, the statute 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.<sup>6</sup>

## **III. Effect of Proposed Changes:**

**Section 1** amends s. 588.17, F.S., to authorize adoption and humane disposal as options for dealing with impounded livestock, in addition to the currently authorized options of sale or auction. The bill also provides the "designated impounder" with notification requirements in an

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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 conducted by the Agriculture Committee.

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

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

effort to identify the owner of the impounded livestock. The bill provides that impounded livestock may not be auctioned or disposed of until at least 3 days after impounding.

**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** conforms s. 588.23, F.S., to changes made in the previous sections of the bill.

**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 charges, 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. The bill authorizes any municipality with certified animal control officers to take charge of animals found in distress. It authorizes the officers to take custody of an animal or to order an owner 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, including, but not limited to, the procedures provided in ch. 162, F.S.

**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:**

This 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:**

This 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 substantially 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.