

By the Committees on Appropriations; and Community Affairs; and
Senator Grimsley

576-03802-15

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1 A bill to be entitled
2 An act relating to animal control; amending s. 588.17,
3 F.S.; providing a procedure for adopting or humanely
4 disposing of impounded stray livestock, except cattle,
5 as an alternative to sale or auction; amending s.
6 588.18, F.S.; requiring a county animal control center
7 to establish fees and be responsible for damages
8 caused while impounding livestock; amending s. 588.23,
9 F.S.; conforming provisions to changes made by the
10 act; amending s. 828.073, F.S.; conforming provisions
11 to changes made by this act; authorizing certain
12 municipal animal control officers to take custody of
13 an animal found neglected or cruelly treated or to
14 order the owner of such an animal to provide certain
15 care at the owner's expense; authorizing county courts
16 to remand animals to the custody of certain
17 municipalities; authorizing the allocation of auction
18 proceeds to certain animal control officers; amending
19 s. 828.27, F.S.; deleting obsolete provisions;
20 clarifying that certain provisions relating to local
21 animal control are not the exclusive means of
22 enforcing animal control laws; providing an effective
23 date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Subsection (4) is added to section 588.17,
28 Florida Statutes, to read:

29 588.17 Disposition of impounded livestock.—

576-03802-15

2015420c2

30 (4) Notwithstanding the requirements of subsections (1)-
31 (3), the sheriff or the county animal control center may offer
32 for adoption or humanely dispose of stray livestock, excluding
33 cattle. If the livestock is to be offered for adoption or
34 humanely disposed of, the sheriff or the county animal control
35 center shall:

36 (a) Provide written notice to the owner, if known, advising
37 the owner of the location where the livestock is impounded and
38 of the amount due by reason of the impounding, and that unless
39 the livestock is redeemed within a timeframe to be established
40 by the sheriff or the county animal control center, which shall
41 be a period of at least 3 business days, the livestock will be
42 offered for adoption or humanely disposed of; or

43 (b) If the owner is unknown or cannot be located, obtain
44 service upon the owner by publishing a notice on the sheriff's
45 or the county animal control center's website. If the livestock
46 is not redeemed within a timeframe to be established by the
47 authorized agency, which shall be a period of at least 3
48 business days, the livestock will be offered for adoption or
49 humanely disposed of.

50 Section 2. Section 588.18, Florida Statutes, is amended to
51 read:

52 588.18 Livestock at large; fees.—The fees allowed for
53 impounding, serving notice, care and feeding, advertising, and
54 disposing of impounded animals shall be determined by the
55 sheriff or the county animal control center of each county.
56 Damages done by the sheriff or the county animal control center,
57 ~~sheriff's designees, or any other law enforcement officer in~~
58 ~~pursuit,~~ or in the capture, handling, or care of the livestock

576-03802-15

2015420c2

59 are the sole responsibility of the sheriff or the county animal
60 control center ~~other law enforcement agency~~.

61 Section 3. Section 588.23, Florida Statutes, is amended to
62 read:

63 588.23 Right of owner.—The owner of any impounded livestock
64 has ~~shall have~~ the right at any time before the disposition ~~sale~~
65 thereof to redeem the livestock ~~same~~ by paying to the sheriff or
66 the county animal control center all impounding expenses,
67 including fees, keeping charges, advertising, or other costs
68 incurred therewith which sum shall be deposited by the sheriff
69 or the county animal control center with the clerk of the
70 circuit court who shall pay all fees and costs as allowed in s.
71 588.18. If ~~In the event~~ there is a dispute as to the amount of
72 such costs and expenses, the owner may give bond with sufficient
73 sureties to be approved by the sheriff or the county animal
74 control center, in an amount to be determined by the sheriff or
75 the county animal control center, but not exceeding the fair
76 cash value of such livestock, conditioned to pay such costs and
77 damages; thereafter, within 10 days, the owner shall institute
78 suit in equity to have the damage adjudicated by a court of
79 equity or referred to a jury if requested by either party to
80 such suit.

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

83 828.073 Animals found in distress; ~~when agent may take~~
84 ~~charge; hearing; disposition; sale.~~—

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

87 (a) Removed from its present custody, or

576-03802-15

2015420c2

88 (b) Made the subject of an order to provide care, issued to
89 its owner by the county court, any law enforcement officer, any
90 animal control officer certified pursuant to s. 828.27, or any
91 agent of any ~~the~~ county or of any society or association for the
92 prevention of cruelty to animals appointed under s. 828.03,

93
94 and protected ~~given protection~~ and disposed of appropriately and
95 humanely ~~an appropriate and humane disposition made.~~

96 (2) Any law enforcement officer, any animal control officer
97 certified pursuant to s. 828.27, or any agent of any county or
98 of any society or association for the prevention of cruelty to
99 animals appointed under ~~the provisions of~~ s. 828.03 may:

100 (a) Lawfully take custody of any animal found neglected or
101 cruelly treated by removing the animal from its present
102 location, or

103 (b) Order the owner of any animal found neglected or
104 cruelly treated to provide certain care to the animal at the
105 owner's expense without removal of the animal from its present
106 location,

107
108 and shall file a petition seeking relief under this section in
109 the county court of the county in which the animal is found
110 within 10 days after the animal is seized or an order to provide
111 care is issued. The court shall schedule and commence a hearing
112 on the petition within 30 days after the petition is filed to
113 determine whether the owner, if known, is able to adequately
114 provide ~~adequately~~ for the animal and is fit to have custody of
115 the animal. The hearing shall be concluded and the court order
116 entered thereon within 60 days after the date the hearing is

576-03802-15

2015420c2

117 commenced. The timeframes set forth in this subsection are not
118 jurisdictional. However, if a failure to meet such timeframes is
119 attributable to the officer or agent, the owner is not required
120 to pay the officer or agent for care of the animal during any
121 period of delay caused by the officer or agent. A fee may not be
122 charged for filing the petition. This subsection does not
123 require court action for ~~the taking into~~ custody and properly
124 disposing ~~making proper disposition~~ of stray or abandoned
125 animals as lawfully performed by animal control agents.

126 (3) The law enforcement officer, the animal control officer
127 certified pursuant to s. 828.27, or the agent of any county or
128 of any society or association for the prevention of cruelty to
129 animals taking custody charge of an any animal pursuant to ~~the~~
130 ~~provisions of~~ this section shall have written notice served, at
131 least 3 days before the hearing scheduled under subsection (2),
132 upon the owner of the animal, if he or she is known and is
133 residing in the county where the animal was taken, in accordance
134 ~~conformance with the provisions of~~ chapter 48 relating to
135 service of process. The sheriff of the county may ~~shall~~ not
136 charge a fee for service of such notice.

137 (4) (a) The law enforcement officer, the animal control
138 officer certified pursuant to s. 828.27, or the agent of any
139 county or of any society or association for the prevention of
140 cruelty to animals taking custody charge of an animal pursuant
141 to ~~as provided for in~~ this section shall provide for the animal
142 until either:

143 1. The owner is adjudged by the court to be able to
144 adequately provide ~~adequately~~ for, and have custody of, the
145 animal, in which case the animal shall be returned to the owner

576-03802-15

2015420c2

146 upon payment by the owner for the care and provision for the
147 animal while in the agent's or officer's custody; or

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

151 (b) If the court determines that the owner is able to
152 provide adequately for, and have custody of, the animal, the
153 order shall provide that the animal in the possession of the
154 officer or agent be claimed and removed by the owner within 7
155 days after the date of the order.

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

158 1. The court may:

159 a. Order that the current owner have no further custody of
160 the animal and that the animal be sold by the sheriff at public
161 auction or, ~~that the current owner have no further custody of~~
162 ~~the animal, and that any animal not bid upon be~~ remanded to the
163 custody of the Society for the Prevention of Cruelty to Animals,
164 the Humane Society, the county, the municipality with animal
165 control officers certified pursuant to s. 828.27, or any agency
166 or person the judge deems appropriate, ~~to be disposed of as the~~
167 agency or person sees fit; or

168 b. Order that the animal be destroyed or remanded directly
169 to the custody of the Society for the Prevention of Cruelty to
170 Animals, the Humane Society, the county, the municipality with
171 animal control officers certified pursuant to s. 828.27, or any
172 agency or person the judge deems appropriate, ~~to be disposed of~~
173 as the agency or person sees fit.

174 2. The court, upon proof of costs incurred by the officer

576-03802-15

2015420c2

175 or agent, may require that the owner pay for the care of the
176 animal while in the custody of the officer or agent. A separate
177 hearing may be held.

178 3. The court may order that other animals that are in the
179 custody of the owner and that were not seized by the officer or
180 agent be turned over to the officer or agent, ~~if~~ if the court
181 determines that the owner is unable or unfit to adequately
182 provide for the animals. The court may enjoin the owner's
183 further possession or custody of other animals.

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

187 (a) Testimony from the agent or officer who seized the
188 animal and other witnesses as to the condition of the animal
189 when seized and as to the conditions under which the animal was
190 kept.

191 (b) Testimony and evidence as to the veterinary care
192 provided to the animal.

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

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

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

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

201 (g) Convictions pursuant to applicable ~~under the~~ statutes
202 prohibiting cruelty to animals.

203 (h) ~~Any~~ Other evidence the court considers to be material

576-03802-15

2015420c2

204 or relevant.

205 (6) If the evidence indicates a lack of proper and
206 reasonable care of the animal, the burden is on the owner to
207 demonstrate by clear and convincing evidence that he or she is
208 able and fit to have custody of and adequately provide
209 ~~adequately~~ for the animal.

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

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

213 (b) Applied, secondly, to the care of and provision for the
214 animal by the law enforcement officer, the animal control
215 officer certified pursuant to s. 828.27, or the agent of any
216 county or of any society or association for the prevention of
217 cruelty to animals taking custody charge.

218 (c) Applied, thirdly, to the payment of the owner for the
219 sale of the animal.

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

221 Section 5. Subsection (4) of section 828.27, Florida
222 Statutes, is amended, and subsection (8) is added to that
223 section, to read:

224 828.27 Local animal control or cruelty ordinances;
225 penalty.—

226 (4) (a) 1. County-employed animal control officers must
227 ~~shall~~, and municipally employed animal control officers may,
228 successfully complete a 40-hour minimum standards training
229 course. Such course must ~~shall~~ include, but is not limited to,
230 training for: animal cruelty investigations, search and seizure,
231 animal handling, courtroom demeanor, and civil citations. The
232 course curriculum must be approved by the Florida Animal Control

576-03802-15

2015420c2

233 Association. An animal control officer who successfully
234 completes such course shall be issued a certificate indicating
235 that he or she has received a passing grade.

236 2. Any animal control officer who is authorized before
237 ~~prior to~~ January 1, 1990, by a county or municipality to issue
238 citations is not required to complete the minimum standards
239 training course.

240 3. In order to maintain valid certification, every 2 years
241 each certified ~~county-employed~~ animal control officer must ~~shall~~
242 complete 4 hours of postcertification continuing education
243 training. Such training may include, but is not limited to,
244 training for: animal cruelty investigations, search and seizure,
245 animal handling, courtroom demeanor, and civil citations.

246 (b)~~1~~. The governing body of a county or municipality may
247 impose and collect a surcharge of up to \$5 upon each civil
248 penalty imposed for violation of an ordinance relating to animal
249 control or cruelty. The proceeds from such surcharges shall be
250 used to pay the costs of training for animal control officers.

251 ~~2. In addition to the uses set forth in subparagraph 1., a~~
252 ~~county, as defined in s. 125.011, may use the proceeds specified~~
253 ~~in that subparagraph and any carryover or fund balance from such~~
254 ~~proceeds for animal shelter operating expenses. This~~
255 ~~subparagraph expires July 1, 2014.~~

256 (8) This section is an additional, supplemental, and
257 alternative means of enforcing county or municipal codes or
258 ordinances. This section does not prohibit a county or
259 municipality from enforcing its codes or ordinances by any other
260 means, including, but not limited to, the procedures provided in
261 chapter 162.

576-03802-15

2015420c2

262

Section 6. This act shall take effect July 1, 2015.