

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

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 588.17, Florida Statutes, is amended to

27 read:

28 588.17 Disposition of impounded livestock.—

29 (1) Upon the impounding of any livestock by the sheriff or
 30 his or her deputies or designees, or any other law enforcement
 31 officers of the county, the county animal control center, or
 32 state highway patrol officers, the sheriff shall ~~forthwith~~ serve
 33 written notice upon the owner, advising the such owner of the
 34 location or place where the livestock is being held and
 35 impounded, of the amount due by reason of the such impounding,
 36 and that unless the such livestock is be redeemed within 3 days
 37 after the date of the notice, from date thereof that the
 38 livestock will same shall be offered for sale.

39 (2) ~~If In the event~~ the owner of the such livestock is
 40 unknown or cannot be found, service upon the owner shall be
 41 obtained by ~~once~~ publishing a notice once in a newspaper of
 42 general circulation in the county where the livestock is
 43 impounded, excluding ~~(Sundays and holidays excluded)~~. If there
 44 is be no such newspaper, ~~then by posting of~~ the notice shall be
 45 posted at the courthouse door and at two other conspicuous
 46 places in the within said county.

47 Such notice shall be in substantially the following form:

48
 49 "TO WHOM IT MAY CONCERN:

50 YOU ARE HEREBY NOTIFIED THAT THE FOLLOWING DESCRIBED
 51 LIVESTOCK ... (GIVING FULL AND ACCURATE DESCRIPTION OF SAME,
 52 INCLUDING MARKS AND BRANDS)... IS NOW IMPOUNDED AT ... (GIVING

79 THE FOLLOWING DESCRIBED LIVESTOCK ... (GIVING FULL AND ACCURATE
 80 DESCRIPTION OF EACH HEAD OF LIVESTOCK)... AT O'CLOCK,
 81 M. (THE HOUR OF SALE WILL ~~TO~~ BE BETWEEN 11 A.M. AND 2 P.M.
 82 EASTERN STANDARD TIME) ON THE DAY OF AT THE FOLLOWING
 83 PLACE (WHICH PLACE SHALL BE WHERE THE LIVESTOCK IS
 84 IMPOUNDED OR AT THE PLACE PROVIDED BY THE COUNTY COMMISSIONERS
 85 FOR THE TAKING UP AND KEEPING OF SUCH LIVESTOCK) TO SATISFY A
 86 CLAIM IN THE SUM OF FOR FEES, EXPENSES FOR FEEDING AND
 87 CARE, AND OTHER RELATED COSTS ~~HEREOF~~.
 88 ... (DATE) ... (SHERIFF) ...
 89 OF COUNTY, FLORIDA"

91 (4) Notwithstanding subsections (1)-(3), the sheriff or
 92 the county animal control center may offer for adoption or
 93 humanely dispose of stray livestock, excluding cattle. If the
 94 livestock is to be offered for adoption or humanely disposed of,
 95 the sheriff or the county animal control center shall:

96 (a) Provide written notice to the owner, if known,
 97 advising the owner of the location where the livestock is
 98 impounded, of the amount due by reason of the impounding, and
 99 that unless the livestock is redeemed within a timeframe to be
 100 established by the sheriff or the county animal control center,
 101 which shall be a period of at least 3 business days, the
 102 livestock will be offered for adoption or humanely disposed of;
 103 or

104 (b) If the owner is unknown or cannot be located, obtain

105 service upon the owner by publishing a notice on the sheriff's
 106 or the county animal control center's website. If the livestock
 107 is not redeemed within a timeframe to be established by the
 108 authorized agency, which shall be a period of at least 3
 109 business days, the livestock will be offered for adoption or
 110 humanely disposed of.

111 Section 2. Section 588.18, Florida Statutes, is amended to
 112 read:

113 588.18 Livestock at large; fees.—The fees allowed for
 114 impounding, serving notice, care and feeding, advertising, and
 115 disposing of impounded animals shall be determined by the
 116 sheriff or the county animal control center of each county.
 117 Damages caused ~~done~~ by the sheriff or the county animal control
 118 center, ~~sheriff's designees, or any other law enforcement~~
 119 ~~officer~~ in pursuit, or in the capture, handling, or care of the
 120 livestock are the sole responsibility of the sheriff or the
 121 county animal control center ~~other law enforcement agency.~~

122 Section 3. Section 588.23, Florida Statutes, is amended to
 123 read:

124 588.23 Right of owner.—The owner of any impounded
 125 livestock has ~~shall have~~ the right at any time before the
 126 disposition ~~sale~~ thereof to redeem the livestock ~~same~~ by paying
 127 to the sheriff or the county animal control center all
 128 impounding expenses, including fees, keeping charges,
 129 advertising, or other costs incurred therewith, which sum shall
 130 be deposited by the sheriff or the county animal control center

131 with the clerk of the circuit court who shall pay all fees and
132 costs as allowed in s. 588.18. If ~~In the event~~ there is a
133 dispute as to the amount of such costs and expenses, the owner
134 may give bond with sufficient sureties to be approved by the
135 sheriff or the county animal control center, in an amount to be
136 determined by the sheriff or the county animal control center,
137 but not exceeding the fair cash value of such livestock,
138 conditioned to pay such costs and damages; thereafter, within 10
139 days, the owner shall institute suit in equity to have the
140 damage adjudicated by a court of equity or referred to a jury if
141 requested by either party to such suit.

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

144 828.073 Animals found in distress; ~~when agent may take~~
145 ~~charge; hearing; disposition; sale.~~-

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

148 (a) Removed from its present custody, or

149 (b) Made the subject of an order to provide care, issued
150 to its owner by the county court, any law enforcement officer,
151 any animal control officer certified pursuant to s. 828.27, or
152 any agent of any ~~the~~ county or of any society or association for
153 the prevention of cruelty to animals appointed under s. 828.03,
154
155 and protected ~~given protection~~ and disposed of appropriately and
156 humanely ~~an appropriate and humane disposition made.~~

157 (2) Any law enforcement officer, any animal control
158 officer certified pursuant to s. 828.27, or any agent of any
159 county or of any society or association for the prevention of
160 cruelty to animals appointed under ~~the provisions of~~ s. 828.03
161 may:

162 (a) Lawfully take custody of any animal found neglected or
163 cruelly treated by removing the animal from its present
164 location, or

165 (b) Order the owner of any animal found neglected or
166 cruelly treated to provide certain care to the animal at the
167 owner's expense without removal of the animal from its present
168 location,

169
170 and shall file a petition seeking relief under this section in
171 the county court of the county in which the animal is found
172 within 10 days after the animal is seized or an order to provide
173 care is issued. The court shall schedule and commence a hearing
174 on the petition within 30 days after the petition is filed to
175 determine whether the owner, if known, is able to adequately
176 provide ~~adequately~~ for the animal and is fit to have custody of
177 the animal. The hearing shall be concluded and the court order
178 entered thereon within 60 days after the date the hearing is
179 commenced. The timeframes set forth in this subsection are not
180 jurisdictional. However, if a failure to meet such timeframes is
181 attributable to the officer or agent, the owner is not required
182 to pay the officer or agent for care of the animal during any

183 period of delay caused by the officer or agent. A fee may not be
184 charged for filing the petition. This subsection does not
185 require court action for ~~the taking into~~ custody and properly
186 disposing ~~making proper disposition~~ of stray or abandoned
187 animals as lawfully performed by animal control agents.

188 (3) The law enforcement officer, the animal control
189 officer certified pursuant to s. 828.27, or the agent of any
190 county or of any society or association for the prevention of
191 cruelty to animals taking custody charge of an ~~any~~ animal
192 pursuant to ~~the provisions of~~ this section shall have written
193 notice served, at least 3 days before the hearing scheduled
194 under subsection (2), upon the owner of the animal, if he or she
195 is known and is residing in the county where the animal was
196 taken, in accordance ~~conformance~~ with ~~the provisions of~~ chapter
197 48 relating to service of process. The sheriff of the county may
198 ~~shall~~ not charge a fee for service of such notice.

199 (4) (a) The law enforcement officer, the animal control
200 officer certified pursuant to s. 828.27, or the agent of any
201 county or of any society or association for the prevention of
202 cruelty to animals taking custody charge of an animal pursuant
203 to ~~as provided for in~~ this section shall provide for the animal
204 until either:

205 1. The owner is adjudged by the court to be able to
206 adequately provide ~~adequately~~ for, and have custody of, the
207 animal, in which case the animal shall be returned to the owner
208 upon payment by the owner for the care and provision for the

209 animal while in the agent's or officer's custody; or

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

213 (b) If the court determines that the owner is able to
 214 provide adequately for, and have custody of, the animal, the
 215 order shall provide that the animal in the possession of the
 216 officer or agent be claimed and removed by the owner within 7
 217 days after the date of the order.

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

220 1. The court may:

221 a. Order that the current owner have no further custody of
 222 the animal and that the animal be sold by the sheriff at public
 223 auction ~~or, that the current owner have no further custody of~~
 224 ~~the animal, and that any animal not bid upon be remanded to the~~
 225 custody of the Society for the Prevention of Cruelty to Animals,
 226 the Humane Society, the county, the municipality with animal
 227 control officers certified pursuant to s. 828.27, or any agency
 228 or person the judge deems appropriate, to be disposed of as the
 229 agency or person sees fit; or

230 b. Order that the animal be destroyed or remanded directly
 231 to the custody of the Society for the Prevention of Cruelty to
 232 Animals, the Humane Society, the county, the municipality with
 233 animal control officers certified pursuant to s. 828.27, or any
 234 agency or person the judge deems appropriate, to be disposed of

235 as the agency or person sees fit.

236 2. The court, upon proof of costs incurred by the officer
237 or agent, may require that the owner pay for the care of the
238 animal while in the custody of the officer or agent. A separate
239 hearing may be held.

240 3. The court may order that other animals that are in the
241 custody of the owner and that were not seized by the officer or
242 agent be turned over to the officer or agent, ~~if~~ if the court
243 determines that the owner is unable or unfit to adequately
244 provide for the animals. The court may enjoin the owner's
245 further possession or custody of other animals.

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

249 (a) Testimony from the agent or officer who seized the
250 animal and other witnesses as to the condition of the animal
251 when seized and as to the conditions under which the animal was
252 kept.

253 (b) Testimony and evidence as to the veterinary care
254 provided to the animal.

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

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

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

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

263 (g) Convictions pursuant to applicable ~~under the~~ statutes
 264 prohibiting cruelty to animals.

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

267 (6) If the evidence indicates a lack of proper and
 268 reasonable care of the animal, the burden is on the owner to
 269 demonstrate by clear and convincing evidence that he or she is
 270 able and fit to have custody of and adequately provide
 271 ~~adequately~~ for the animal.

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

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

275 (b) Applied, secondly, to the care of and provision for
 276 the animal by the law enforcement officer, the animal control
 277 officer certified pursuant to s. 828.27, or the agent of any
 278 county or of any society or association for the prevention of
 279 cruelty to animals taking custody ~~charge~~.

280 (c) Applied, thirdly, to the payment of the owner for the
 281 sale of the animal.

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

283 Section 5. Subsection (4) of section 828.27, Florida
 284 Statutes, is amended, and subsection (8) is added to that
 285 section, to read:

286 828.27 Local animal control or cruelty ordinances;

287 penalty.—

288 (4) (a) 1. County-employed animal control officers must
 289 ~~shall~~, and municipally employed animal control officers may,
 290 successfully complete a 40-hour minimum standards training
 291 course. Such course must ~~shall~~ include, but is not limited to,
 292 training for: animal cruelty investigations, search and seizure,
 293 animal handling, courtroom demeanor, and civil citations. The
 294 course curriculum must be approved by the Florida Animal Control
 295 Association. An animal control officer who successfully
 296 completes such course shall be issued a certificate indicating
 297 that he or she has received a passing grade.

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

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

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

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

318 (8) This section is an additional, supplemental, and
319 alternative means of enforcing county or municipal codes or
320 ordinances. This section does not prohibit a county or
321 municipality from enforcing its codes or ordinances by any other
322 means, including, but not limited to, the procedures provided in
323 chapter 162.

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