

**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: CS/SB 1576

INTRODUCER: Agriculture Committee and Senator Steube

SUBJECT: Animal Welfare

DATE: February 1, 2018

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1576 requires animal shelters that take in stray dogs and cats to adopt written policies and procedures to ensure that every reasonable effort is made to quickly and reliably return the animals to their owners.

The bill allows a court to prohibit a person convicted of animal cruelty from owning, possessing, keeping, harboring, having contact with, or having custody or control over any animal. It leaves the time frame for the prohibition within the court's discretion.

The bill also increases the severity ranking for aggravated animal cruelty from a level three to a level five under the Criminal Punishment Code.

**II. Present Situation:**

In 2017, Hurricane Irma resulted in hundreds of lost or stray dogs and cats across Florida, putting an added strain on already beleaguered Florida families and overburdened animal shelters in the storm's aftermath.<sup>1</sup> During disasters and at other times, family pets have been euthanized before

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<sup>1</sup> Ryan, Patti. September 15, 2017. "As Irma Howled, Hundreds of Tampa Bay Area Cats and Dogs Got Lost." *Tampa Bay Times*. Accessed online January 17, 2018, at <http://www.tampabay.com/news/humaninterest/as-irma-howled-hundreds-of-tampa-bay-area-cats-and-dogs-got-lost/2337541>.

the shelter's hold period has ended, before the owners could be notified of the animal's location, or before the animal could be claimed.<sup>2</sup> In Escambia County, a woman has sued the county over claims that the county animal shelter euthanized her dog even though she had called the shelter to inform the staff that she would pick up the dog as soon as possible.<sup>3</sup>

Under section 828.12, F.S., the following acts are considered animal cruelty:

- Overloading, overdriving, or tormenting any animal;
- Depriving any animal of necessary sustenance or shelter;
- Unnecessarily mutilating or killing any animal; and
- Carrying any animal, on a vehicle or otherwise, in a cruel or inhumane manner.

Animal cruelty is a first degree misdemeanor, punishable by up to one year in the county jail and a \$1,000 fine.<sup>4</sup>

A person commits aggravated animal cruelty, a third degree felony,<sup>5</sup> by intentionally committing an act to an animal – or failing to act if the person is the owner having custody and control of the animal – and such action or omission results in:

- The cruel death of the animal, or
- The excessive or repeated infliction of unnecessary pain or suffering on an animal.<sup>6</sup>

Aggravated animal cruelty carries minimum mandatory sanctions of a \$2,500 fine and psychological testing or anger management for a first conviction,<sup>7</sup> and a \$5,000 fine and six months of incarceration for a second or subsequent conviction.<sup>8</sup> A person convicted a second or subsequent time of aggravated animal cruelty is ineligible for any form of early release, including gain time.<sup>9</sup>

Felony offenses subject to the Criminal Punishment Code<sup>10</sup> are listed in a single offense severity ranking chart, which uses 10 offense levels to rank felonies from least severe to most severe. Each felony offense is assigned to a level according to the severity of the offense, commensurate with the harm or potential for harm to the community that is caused by the offense, as determined by statute. Aggravated animal cruelty is level three on the offense severity ranking chart.<sup>11</sup>

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<sup>2</sup>Aronson, Claire. "His lost best friend was found and taken to animal shelter—and killed the same day." *Bradenton Herald*. Accessed online January 17, 2018, at <http://www.bradenton.com/news/local/article124559479.html>.

<sup>3</sup>Robinson, Kevin. August 17, 2015. "Woman Sues Escambia over Mistakenly Euthanized Dog." *Pensacola News Journal*, Accessed online January 17, 2018, at <http://www.pnj.com/story/news/local/escambia-county/2015/08/17/woman-sues-escambia-mistakenly-euthanized-dog/31868803/>.

<sup>4</sup> ss. 775.082 and 775.083, F.S.

<sup>5</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

<sup>6</sup> s. 828.12(2), F.S.

<sup>7</sup> s. 838.12(2)(a), F.S.

<sup>8</sup> s. 828.12(2)(b), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> All felony offenses, with the exception of capital felonies, committed on or after October 1, 1998, are subject to the Criminal Punishment Code.

<sup>11</sup> s. 921.0022, F.S.

### III. Effect of Proposed Changes:

**Section 1** creates s. 823.151, F.S., to provide that the Legislature finds that natural disasters may result in an increase in owned dogs and cats becoming lost or stray. It also directs animal control agencies and humane organizations to adopt policies and procedures to help return lost cats or dogs to identified owners. This would include the following:

- Screening for identification;
- A process for matching pets coming into the shelter with reports of lost pets made by pet owners;
- Public notice of stray dogs and cats at a location in the shelter or on the Internet;
- Reasonable efforts to notify identified pet owners;
- Public notice of shelter location, hours, fees, and return-to-owner process;
- Access for owners to claim lost pets outside of normal business hours;
- Direct return-to-owner protocols that allow animal control officers to directly return lost dogs and cats to their owners when the owners have been identified;
- Procedural safeguards to minimize the euthanasia of owned dogs and cats; and
- Temporary extension of local stray hold periods when an emergency is declared, if deemed appropriate by a local government.

The bill requires records of animals lost after a disaster to be made available to the public pursuant to public records provisions in chapter 119, F.S.

**Section 2** amends s. 828.12, F.S., to permit a court to prohibit a person convicted of animal cruelty from owning, possessing, keeping, harboring, having contact with, or having custody or control over any animal. The bill leaves the time frame for the prohibition within the court's discretion.

**Section 3** amends s. 921.0022, F.S., to increase the severity ranking for aggravated animal cruelty from a level three to a level five under the Criminal Punishment Code.

**Section 4** provides that this act shall take effect July 1, 2018.

### 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:**

Pet owners would have more assurance that lost pets would be more quickly and reliably returned to their families.

**C. Government Sector Impact:**

City and county animal shelters and animal control agencies may have an increase in costs to comply with the notice requirements and shelter of lost animals.

To the extent that persons are arrested for, charged with, and convicted of the criminal offenses modified in the bill, this bill will have an indeterminate fiscal impact of state and local governments. The Criminal Justice Impact Conference met on January 8, 2018, and determined that the bill will insignificantly increase the need for prison beds.<sup>12</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends sections 828.12 and 921.0022 of the Florida Statutes.  
This bill creates section 823.151 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Agriculture Committee on February 1, 2018:**

The committee substitute:

- Permits a court to prohibit a person convicted of animal cruelty from owning, possessing, keeping, harboring, having contact with, or having custody or control over any animal. The bill leaves the time frame for the prohibition within the court's discretion; and

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<sup>12</sup> An insignificant change in prison beds means a change of 10 or fewer.

- Increases the severity ranking for aggravated animal cruelty from a level three to a level five under the Criminal Punishment Code.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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