

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.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 522

INTRODUCER: Senator Gruters

SUBJECT: Cruelty to Dogs

DATE: December 9, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wagoner	Jones	CJ	Pre-meeting
2.			JU	
3.			RC	

I. Summary:

SB 522 prohibits a person from leaving a dog outside and unattended, regardless of whether the dog has access to an outdoor shelter, if the temperature is below 32°F or the National Weather Service (NWS) has issued a severe weather advisory or warning. Such person would be guilty of animal cruelty, a first degree misdemeanor.

The bill may have a positive indeterminate jail bed impact. *See* Section V. Fiscal Impact Statement.

This bill is effective July 1, 2020.

II. Present Situation:

Animal Cruelty; Generally

Section 828.12, F.S., prohibits criminal offenses involving cruelty to animals.

Specifically, a person commits animal cruelty if he or she unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner. Animal cruelty is a first degree misdemeanor, punishable by up to one year in jail and a fine of up to \$5,000.¹

A person commits aggravated animal cruelty if he or she intentionally commits an act to any animal, or a person who owns or has the custody or control of any animal and fails to act, which results in the cruel death, or excessive or repeated infliction of unnecessary

¹ A first degree misdemeanor is punishable by up to one year in jail and a fine of up to \$1,000, or any higher amount specifically authorized by statute. Sections 775.082 and 775.083, F.S.

pain or suffering, or causes the same to be done. Aggravated animal cruelty is a third degree felony, punishable by up to five years in jail and a fine of up to \$10,000.²

A person who commits multiple acts of animal cruelty or aggravated animal cruelty against one animal may be charged with a separate offense for each act, or against more than one animal may be charged with a separate offense for each animal such cruelty was committed upon.

In addition, s. 828.13, F.S., provides that animal owners who abandon their animal to suffer injury or malnutrition or abandons any animal in a street, road, or public place without providing for the care, sustenance, protection, and shelter of such animal is guilty of a first degree misdemeanor.

Further, s. 828.27, F.S., provides that the governing body of a county or municipality may enact ordinances relating to animal control or cruelty. Violation of such county ordinance is a civil infraction, with a maximum civil penalty not to exceed \$500. Twenty-three counties have ordinances in place prohibiting a dog from being outside or tethered during periods of extreme weather conditions, such as extreme heat, freezing or near-freezing temperatures, during thunderstorms, lightning storms, tornado watches or warnings, or during tropical storm or hurricane watches or warnings.³

Reporting of Animal Cruelty

A private citizen may report suspected animal cruelty to a law enforcement officer or an animal control officer.

The Veterinary Medical Practice Act contains a confidentiality provision that prohibits a veterinarian from discussing a patient's medical condition with anyone except the client.⁴ However, in any criminal action or situation where a veterinarian suspects a criminal violation, a veterinarian may report such violation to a law enforcement officer, an animal control officer, or an appointed animal protection agent under s. 828.03, F.S., without notice to the client.⁵

Dog Safety during Extreme Weather Conditions

Prolonged exposure to unsafe cold weather conditions can lead to hypothermia and frostbite in dogs.⁶ The Tufts Animal Care and Condition (TACC) system, a guiding resource for veterinarians to identify signs of animal neglect, provides a scale of temperature conditions and dog safety. The TACC scale provides that dogs at all sizes exposed to temperatures between 30°F and 35°F are in a "potentially unsafe situation" and warns veterinarians that those

² A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine, or any higher amount specifically authorized by statute. Sections 775.082 and 775.083.

³ Alachua, Brevard, Broward, Charlotte, Citrus, Clay, Collier, Escambia, Franklin, Gilchrist, Hernando, Hillsborough, Lake, Leon, Manatee, Martin, Miami-Dade, Monroe, Nassau, Palm Beach, St. Lucie, Sarasota, and Wakulla County.

⁴ Section 474.2165(4), F.S.

⁵ *Id.*

⁶ See Pet Plan, Dr. Kim Smyth, *How Cold is Too Cold for Your Dog?*, November 8, 2018, available at <https://www.gopetplan.com/blogpost/cold-weather-and-dogs> (last visited November 5, 2019).

exposures may be “indicators of neglect.”⁷ The TACC scale stipulates that these temperature risks vary depending on the length of exposure, age of the dog, breed and coat of the dog, acclimation to weather conditions, and the availability of shelter and bedding.⁸

As a dangerous storm approaches, many residents flee to safer areas, and some leave their pets behind. During Hurricane Irma, the Palm Beach County Animal Care and Control director reported that many pets had been left chained to trees and parked cars, as their owner left them behind to “ride out the storm” on their own. At the time of the reporting, 49 dogs and two cats had been rescued by animal control officers.⁹

National Weather Service Advisories and Warnings

The NWS provides weather, water, and climate forecasts and warnings for the protection of life and property. Regional Weather Forecast Offices (WFOs) issue advisories, warnings, statements, and short term forecasts to their respective county warning area. Severe weather products issued by WFOs include Severe Thunderstorm Warning, Tornado Warning, Severe Weather Statement, and Watch County Notification Message.¹⁰ An advisory highlights special weather conditions that are less serious than a warning. Advisories are for events that may cause significant inconvenience, and if caution is not exercised, it could lead to situations that may threaten life and/or property.¹¹ A warning is issued when a hazardous weather or hydrologic event is occurring, is imminent, or has a very high probability of occurring. A warning is used for conditions posing a threat to life or property.¹²

III. Effect of Proposed Changes:

This bill prohibits a person from leaving a dog outside and unattended, regardless of whether the dog has access to an outdoor shelter, if the temperature is below 32°F or the National Weather Service has issued a severe weather advisory or warning. Such person would be guilty of animal cruelty, a first degree misdemeanor.¹³

For purposes of this bill, a dog is considered to have been left outside and unattended if it is left in a securely fenced yard or a kennel or is tethered by use of a restraint.

⁷ Tufts Center for Animals and Public Policy, *Tufts Animal Care and Condition (TACC) scales for assessing body condition, weather and environmental safety, and physical care in dogs*, available at <https://vet.tufts.edu/wp-content/uploads/tacc.pdf> (last visited November 5, 2019).

⁸ *Id.*

⁹ See DML NEWS, *Pets Abandoned, Chained on Leashes, as Owners Flee Hurricane Irma*, September 9, 2017, available at <https://dmlnews.com/pets-abandoned-chained-leashes-owners-flee-hurricane-irma/> (last visited November 15, 2019).

¹⁰ NWS, *National Weather Service Instruction 10-511, WFO Severe Weather Products Specification*, August 20, 2018, available at <https://www.nws.noaa.gov/directives/sym/pd01005011curr.pdf> (last visited November 18, 2019). Severe Weather Statements provide the public with updated information about a Severe Thunderstorm Warning or a Tornado Warning, including whether a warning has been canceled. Watch County Notification Messages are issued by WFOs to provide the public with a list of counties, parishes, independent cities, and marine zones in a convective watch area.

¹¹ NWS, *Glossary*, available at <https://w1.weather.gov/glossary/> (last visited November 15, 2019).

¹² *Id.*

¹³ A first degree misdemeanor is punishable by up to a year in county jail and a fine of up to \$1,000. Sections 775.082 and 775.083.

This bill defines “restraint” as a chain, a rope, a tether, a leash, a cable, or another device that attaches a dog to a stationary object or trolley system.

This bill is effective July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the jail bed impact, if any, has not yet received the bill. However, the bill may have a positive indeterminate jail bed impact because the bill creates a new misdemeanor offense.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 828.12 of the Florida Statutes.

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.

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