

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 Agriculture

BILL: CS/SB 650

INTRODUCER: Agriculture Committee and Senator Taddeo and others

SUBJECT: Tethering of Domestic Dogs and Cats

DATE: March 4, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Argote	Becker	AG	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 650 prohibits the tethering of a domestic dog or a domestic cat to a stationary or inanimate object with a rope, chain, or other means to restrict, confine, or restrain its movement. The bill provides criteria for lawful attended tethering and prohibits the tethering of a dog or cat outdoors during severe weather conditions.

The bill provides for additional and increasing noncriminal penalties for a person who is found to be in violation of the bill's provisions. The bill allows for enforcement under s. 828.073, F.S.

The bill takes effect July 1, 2021.

II. Present Situation:

Animal Cruelty; Generally

Section 828.12, F.S., prohibits criminal offenses involving cruelty to animals.¹

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

¹ Section 828.12, F.S.

in a cruel or inhumane manner. Animal cruelty is a first degree misdemeanor, punishable by up to 1 year in jail and a fine of up to \$5,000.²

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 pain or suffering, or causes the same to be done. Aggravated animal cruelty is a third degree felony, punishable by up to 5 years in jail and a fine of up to \$10,000.³

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.⁴

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.⁵ 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.⁶

Dog and Cat Safety During Extreme Weather Conditions

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.⁷

² A first degree misdemeanor is punishable by up to 1 year in jail and a fine of up to \$1,000, or any higher amount specifically authorized by statute. *See* sections 775.082 and 775.083, F.S.

³ A third degree felony is punishable by up to 5 years imprisonment and up to a \$5,000 fine, or any higher amount specifically authorized by statute. *See* sections 775.082 and 775.083, F.S.

⁴ Section 828.13, F.S.

⁵ Section 828.27, F.S.

⁶ 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.

⁷ *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 March 2, 2021).

Animals Found In Distress

Under s. 828.073, F.S.,⁸ animals found in distress may be removed from its present custody or made the subject of an order to provide care, issued to its owner by the county court, any law enforcement officer, any animal control officer certified pursuant to s. 828.27, F.S.,⁹ or any agent of any county or of any society or association for the prevention of cruelty to animals appointed under s. 828.03, F.S.,¹⁰ and protected and disposed of appropriately and humanely.

Any law enforcement officer, any animal control officer, or any agent of any county or of any society or association for the prevention of cruelty to animals pursuant to s. 828.27, F.S., may lawfully take custody of any animal found neglected or cruelly treated by removing the animal from its present location or may order the owner of any animal found neglected or cruelly treated to provide certain care to the animal at the owner's expense without removal of the animal from its present location.

Subsequently, a petition seeking relief under this section shall be filed in the county court of the county in which the animal is found within 10 days after the animal is seized or an order to provide care is issued. The court is then required to schedule and commence a hearing on the petition within 30 days after the petition is filed to determine whether the owner, if known, is able to adequately provide for the animal and is fit to have custody of the animal. The hearing shall be concluded and the court order entered thereon within 60 days after the date the hearing is commenced.

If the court determines that the owner is able to provide adequately for, and have custody of, the animal, the order shall provide that the animal be claimed and removed by the owner within 7 days after the date of the order. Upon the court's judgment that the owner of the animal is unable or unfit to adequately provide for the animal, the court may follow guidelines pursuant to s. 828.073, F.S.¹¹

Hunting Dogs

Under s. 767.10, F.S., the Legislature finds that dangerous dogs are an increasingly serious and widespread threat to the safety and welfare of the people of this state because of unprovoked attacks which cause injury to persons and domestic animals, and such attacks are in part attributable to the failure of owners to confine and properly train and control their dogs.¹² Because of this growing problem, uniform requirements for the owners of dangerous dogs were imposed.¹³

Under s. 767.12(6), F.S., hunting dogs are exempt from the regulations imposed by s. 767.10, F.S., when engaged in any legal hunt or training procedure.¹⁴ Dogs engaged in training or

⁸ Section 828.073, F.S.

⁹ Section 828.27, F.S.

¹⁰ Section 828.03, F.S.

¹¹ Section 828.073, F.S.

¹² Section 767.10, F.S.

¹³ *Id.*

¹⁴ Section 767.12(6), F.S.

exhibiting in legal sports such as obedience trials, conformation shows, field trials, hunting/retrieving trials, and herding trials are exempt when engaged in any legal procedures.¹⁵ However, such dogs at all other times in all other respects are subject to both s. 767.10, F.S., and local laws. Dogs that have been classified as dangerous may not be used for hunting purposes.¹⁶

Noncriminal Violations

The term “noncriminal violation” is defined as any offense that is punishable under the laws of this state, or that would be punishable if committed in the state, by no other penalty than a fine, forfeiture, or other civil penalty. A noncriminal violation does not constitute a crime, and conviction for a noncriminal violation shall not give rise to any legal disability based on a criminal offense.¹⁷

III. Effect of Proposed Changes:

Section 1 creates s. 828.132, F.S., to prohibit the tethering of a domestic dog or a domestic cat to a stationary or inanimate object with a rope, chain, or other means to restrict, confine, or restrain its movement.

The bill prohibits the tethering of a domestic dog or a domestic cat unless the person is physically present with and attending to the dog or cat. The dog or cat must remain visible to the person at all times while tethered. This section does not apply when a dog or cat is tethered in a manner that does not jeopardize its health, safety, or well-being when:

- Attending, or participating in, a legal, organized public event in which the dog or cat and the person are permitted attendees or participants;
- Actively engaging in conduct that is directly related to the business of shepherding or herding cattle or livestock or related to the business of cultivating agricultural products and tethering is reasonably necessary for its safety;
- Being treated by a veterinarian or serviced by a groomer;
- Being trained for or actively serving in a law enforcement capacity;
- Being cared for as part of a rescue operation during a natural or manmade disaster;
- Temporarily tethered by any of the following entities for the period of time necessary to accomplish a task such as bathing, medical care, or any other short-term valid purpose for the safety of the animal, other animals, staff, or the public:
 - A public or private animal shelter.
 - A humane organization.
 - An animal control agency operated by a humane organization; by a county, municipality, or other incorporated political subdivision; or by a licensed commercial boarding facility.
- Temporarily tethered while being kept in a bona fide humane shelter or at a licensed commercial boarding facility; or
- Tethered in accordance with the regulations of a camping or recreational area.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Section 775.08(3), F.S.

The bill also provides that a person may not tether a domestic dog or cat outdoors during severe weather conditions. The bill does not apply to hunting dogs.

A person who tethers a dog or cat in violation of the provisions set forth within this bill commits a noncriminal violation as defined in s. 775.08(3), F.S., and is subject to the following penalties:

- For a first offense, a written warning and notice to comply;
- For a second offense, a fine of \$250; and
- For a third and every subsequent offense, a fine of \$500.

Section 2 provides that this act shall take effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates a noncriminal penalty of up to \$500, which may increase revenue if the provisions set forth by this bill are violated.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 828.132 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.)

CS by Agriculture on March 3, 2021:

The committee substitute specifies the entities that are authorized to temporarily tether a domestic dog or domestic cat for the period of time necessary to accomplish a task such as bathing, medical care, or any other short-term valid purpose for the safety of the animal, other animals, staff, or the public. These entities include: a public or private animal shelter; a humane organization; or an animal control agency operated by a humane organization, a county, municipality, or other incorporated political subdivision.

The committee substitute removes the requirement that compliance must be met within 30 days for a first offense. It also clarifies that the bill does not apply to hunting dogs. It specifies that the bill may not be construed to limit the authority of any local governmental entity to adopt or enforce an ordinance that is more restrictive or that imposes greater penalties than what is outlined in this bill.

- B. **Amendments:**

None.