

STORAGE NAME: h3675c.ag
DATE: April 16, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
AGRICULTURE
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3675

RELATING TO: Cruelty to Animals

SPONSOR(S): Representative Melvin

COMPANION BILL(S): SB 2104 (s) Senator Kurth

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) LAW ENFORCEMENT AND PUBLIC SAFETY YEAS 5 NAYS 0
 - (2) AGRICULTURE YEAS 5 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

HB 3675 addresses the humane treatment of animals. The bill requires a person who has been found guilty of, or has had adjudication of guilt withheld for, cruelty to animals to forfeit, to the local authorities, the animals subject to the violation.

The bill allows the court to issue an order for a person who has been previously convicted of cruelty to animals to possess one or more animals upon satisfactorily showing that such animal(s) will be well treated.

The bill makes it a first degree misdemeanor for a person to possess an animal after having been found guilty of animal cruelty. Exceptions are provided for persons who:

- have received an order from the court allowing possession of an animal, or
- possess animals for sale or resale, or for the sale of animal byproducts, are properly licensed, and receive at least 30 percent of their annual gross income from such sale or resale of animals or animal byproducts.

The bill authorizes a court, if it so wishes, to prohibit a person from possessing an animal as a condition of probation.

This bill has no fiscal impact and becomes effective upon becoming law.

A strike-everything amendment was adopted in the Committee on Law Enforcement and Public Safety. The effects of this amendment are explained in Section VI. (Amendments or Committee Substitute Changes).

The bill was further amended in the Committee on Agriculture. Please refer to Section VI. (Amendments or Committee Substitute Changes) for the effect of the changes.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Currently, section 828.12, F.S., addresses what constitutes cruelty to animals and the penalties for such acts. Present law also exempts veterinarians from lawsuits for their part in an investigation of cruelty to animals.

B. EFFECT OF PROPOSED CHANGES:

HB 3675 requires a person who has been found guilty of, or had adjudication of guilt withheld for, cruelty to animals to immediately forfeit said animal(s) to local authorities. A court may issue an order allowing possession of one or more animals to a person who has been previously convicted of animal cruelty upon showing to the satisfaction of the court that such animal(s) will be well treated.

A person possessing an animal(s) after having been previously convicted of animal cruelty commits a misdemeanor of the first degree, punishable by imprisonment not to exceed one year or a fine not to exceed \$1,000. This provision shall not apply if the person shows proof from the court allowing possession of an animal. Neither shall the provision apply if the person possesses animals, or a byproduct thereof, for sale or resale, is properly licensed, and receives at least 30 percent of his/her annual gross income from the sale or resale of animals or animal byproducts.

The bill authorizes a court, if it so wishes as a condition of probation, to prohibit a person from possessing an animal.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced: **Not Applicable**

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

(2) what is the cost of such responsibility at the new level/agency?

(3) how is the new agency accountable to the people governed?

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment: **Not Applicable**

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

- b. Does the bill directly affect the legal rights and obligations between family members?

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. STATUTE(S) AFFECTED:

Section 828.12, Florida Statutes

E. SECTION-BY-SECTION RESEARCH:

Please see Section II. (Effect of Proposed Changes) for specific changes.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS: **Not Applicable**

1. Non-recurring Effects:

2. Recurring Effects:

3. Long Run Effects Other Than Normal Growth:

4. Total Revenues and Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE: **Not Applicable**

1. Non-recurring Effects:

2. Recurring Effects:

3. Long Run Effects Other Than Normal Growth:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: **Not Applicable**

1. Direct Private Sector Costs:

2. Direct Private Sector Benefits:

3. Effects on Competition, Private Enterprise and Employment Markets:

D. FISCAL COMMENTS:

Not applicable.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill is not subject to the mandates provision.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce revenue raising authority.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the state tax shared with counties and municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Law Enforcement and Public Safety adopted a strike-everything amendment on April 1, 1998. The strike-everything amendment amends the definition of "dangerous dog" as one injuring or killing without provocation. The language previously read injuring or killing more than once.

The amendment changes the language to state that a dog attacking a human may immediately be confiscated by an animal control authority. The statutes currently state a dog that attacks and causes severe injury or death to a human shall immediately be confiscated by an animal control authority. The amendment also removes the word "reckless" as it applies to the owner's disregard for the animal's propensities.

The original text of the bill is reinserted and amended to distinguish between domestic animals and wildlife.

STORAGE NAME: h3675c.ag

DATE: April 16, 1998

PAGE 7

And lastly, the amendment requires a person found guilty of animal cruelty to forfeit all wildlife that were the subject of the violation to the Florida Game and Fresh Water Fish Commission (commission). The commission shall determine if a person previously convicted of cruelty to wildlife may possess wildlife thereafter.

In the Committee on Agriculture, a substitute amendment was offered for HB 3675. Subsequently, an amendment to the substitute was offered and adopted; followed by the adoption of the substitute amendment.

The substitute amendment removes the penalty for possessing an animal after having been found guilty of animal cruelty.

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND PUBLIC SAFETY:

Prepared by:

Legislative Research Director:

J. Gregory Godsey

Kurt E Ahrendt

AS REVISED BY THE COMMITTEE ON AGRICULTURE:

Prepared by:

Legislative Research Director:

Debbi Kaiser

Susan D. Reese