

STORAGE NAME: h1123a.lt

DATE: March 26, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Elder Affairs & Long Term Care
ANALYSIS**

BILL #: HB 1123

RELATING TO: Cross-reporting of family violence

SPONSOR(S): Representative Effman & others

COMPANION BILL(S): SB 1676 (Similar)

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

- (1) Elder Affairs & Long Term Care YEAS 10 NAYS 0
- (2) Family Law & Children
- (3) Crime & Punishment
- (4)
- (5)

I. SUMMARY:

HB 1123 amends chapter 39, F.S., "Proceedings Related to Children" to add animal control officers or other agents appointed pursuant to 828.03 (related to "Agents of counties, societies, etc.") to the list of persons specifically required to report known or reasonably suspected cases of child abuse, neglect, or abandonment to the Department of Children & Family Services (DCF). An animal control officer or other agent, as described above, who fails to report or willfully prevents another person from reporting known or suspected child abuse to DCF is guilty of a second degree misdemeanor.

The bill creates a new section in chapter 39, F.S., requiring that any person who is required to report or investigate child abuse, abandonment, or neglect who knows or reasonably suspects that abuse, neglect, cruelty, or abandonment of an animal has taken place must report it to the local animal control officer or other agent as specified. Information to be provided in the report is specified. A criminal penalty is provided for failure to comply.

The bill amends chapter 415, F.S., to require that all persons who must report or investigate cases of abuse of disabled adults or elders must also report known or suspected cases of animal abuse. A criminal penalty is provided for failure to comply.

The bill amends chapter 828, F.S., "Animals: Cruelty; Sales; Animal Enterprise Protection" to require persons authorized to enforce that chapter to report known or reasonably suspected cases in which a child has been the victim of domestic violence, abuse, neglect, or abandonment immediately to DCF. The same requirement is made to report known or suspected cases of abuse, neglect, exploitation, or domestic violence involving a disabled adult or elderly person.

No fiscal impact is projected.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Who Must Report Known or Suspected Cases of Abuse

Currently, provisions related to child abuse are codified in chapter 39, F.S., and provisions related to abuse, neglect, and exploitation of disabled adults and elders are found in chapter 415, F.S.

Chapter 39 requires that **any person who knows of or suspects** child abuse, neglect, and abandonment are required to report. The section, however, goes on to delineate a list of persons specifically who must report. It includes health professionals, certain hospital workers, social workers, school personnel, persons who work with children in day care, foster care, residential services or institutions, and law enforcement officers.

Chapter 415 also requires that **any person who knows, or has reasonable suspicion** that a disabled adult or an elderly person has been or is being abused, neglected, or exploited must immediately report such knowledge or suspicion to the central abuse registry. It delineates a list of persons, substantially the same as the list in chapter 39 except for the addition of Human Rights Advocacy Committee members, persons associated of the long-term care ombudsman council member, and personnel of financial institutions, who are mandated to report.

Definition of Abuse

Chapter 39 defines abuse as, *"any willful act or threatened act that results in any physical, mental, or sexual injury or harm that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired."* It also includes omissions on the part of caregivers.

Section 415.101, related to disabled adults and elders defines the term as follows:

...the nonaccidental infliction of physical or psychological injury or sexual abuse upon a disabled adult or an elderly person by a relative, caregiver, or household member, or an action by any of those persons which could reasonably be expected to result in physical or psychological injury, or sexual abuse of a disabled adult or an elderly person by any person.

Definition: Animal Control Officer

Under current law, an animal control officer is defined in chapter 767 related to "Damage by Dogs" as:

any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals ...

Further, chapter 828, F.S., related to local animal control or cruelty ordinances, defines "animal control officer" and specifies that 16 hours of training are necessary, if the officer is to carry chemical agents used to subdue and tranquilize an animal:

Section 828.27 (1) (b), F.S., defines "Animal control officer" as:

*any person ... authorized to investigate, ... civil infractions relating to animal control or cruelty and to issue citations...
A n animal control officer is not authorized to bear arms or make arrests; ...*

County animal control officers are required to, and municipal officers may, complete a 40-hour minimum course training including such topics as: animal cruelty investigations, search and seizure, animal handling, courtroom demeanor, and civil citations. Animal control officers who were authorized before January 1, 1990 are not required to complete the course.

Cycle Of Violence

The American Humane Association reports that because children learn from adult role models and the society they live in, a home with violence, abuse, or neglect produces children who may pass these behaviors on to the next generation. The AHA's Internet web page includes the following information related to the nexus of animal and human mistreatment.

- Women and children are sometimes intimidated into silence about sexual or other abuses through threats made toward a favorite pet.
- Pets are sometimes hurt or killed to punish children for something they have done.
- Abused children may act out aggression and frustration on a pet they perceive as even more vulnerable than themselves.
- Physically or sexually abused children may kill their pets rather than have them hurt by the adult abuser in the home.

Does Cruelty to Animals Lead to Cruelty to People?

The AHA cites research that they report shows a strong correlation between substantial animal abuse in childhood and later personal violence to humans.

- In a study of men imprisoned for violent crimes versus a group of non-incarcerated, nonviolent individuals, 25% of the violent criminals reported "substantial cruelty" towards animals in their childhood, while none of the non-incarcerated men reported a history of animal cruelty.
- In a study of 57 families being treated for incidents of child abuse, 88% also abused animals. In two-thirds of the cases, it was the abusive parent who had killed or injured the animals to control a child. In one-third, the children had abused the animals, using them as scapegoats for their anger.
- "...a child who learns aggression against living creatures is more likely to rape, abuse and kill other humans as an adult" (Kellert & Felthous, 1985).
- " In 88% of families (receiving services from the N.J. Division of Youth and Family Services) where physical abuse occurred, animals in that home were also abused. In about two-thirds of the cases, the abusive parent had killed or injured the animal to discipline the child" (Deviney, Dickert, & Lockwood, 1983).
- Hellman and Blackman noted the frequent association between criminal violence in adulthood and a triad of symptoms: excessive bed-wetting, fire-setting, and animal abuse during childhood...animal abuse is so common among this type of criminal, the FBI's profiles of serial killers include histories of animal abuse.
- Twelve-year-old Eric Smith strangled his neighbor's cat with a garden hose, which was dismissed as a prank. One year later, he murdered four-year-old Derrick Robie (Denver Post, Associated Press, 8/15/93).
- Jeffrey Dahmer impaled frogs and cats and decapitated a dog as a child. As an adult, he killed and dismembered 17 people (various media reports).
- Brenda Spencer abused dogs and cats as a little girl by setting their tails on fire. As a grown woman, she fired 40 shots at San Diego school children, killing two and wounding nine.

B. EFFECT OF PROPOSED CHANGES:

The bill will add animal control officers specifically to the list of persons delineated in chapter 39, F.S., who, in addition to "**all persons**" are required to report known or suspected cases of abuse, neglect, abandonment and in the case of disabled adults and elders, exploitation, to the Department of Children & Family Services.

Persons who are currently required to report cases of human mistreatment include the following list of specified persons, in addition to "**all persons**":

physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of disabled adults or elderly persons; health professional or mental health professional other than one listed in subparagraph 1.; practitioner who relies solely on spiritual means for healing; nursing home staff; assisted living facility staff; adult day care center staff; adult family-care home staff; social worker; or other professional adult care, residential, or institutional staff; state, county, or municipal criminal justice employee or law enforcement officer; human rights advocacy committee or long-term care ombudsman council member; or bank, savings and loan, or credit union officer, trustee, or employee.

The bill would require that persons who must report or investigate child, disabled adult, and elder abuse also report known or suspected cases of animal abuse within 24 hours. Based on the provision cited above, that "all persons" must report known or suspected abuse, all citizens would be required to report incidents of animal abuse and would be subject to criminal penalties for failure to do so.

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?

Yes. Physicians, osteopathic physicians, medical examiners, chiropractic physicians, nurses, certain hospital personnel, health or mental health practitioners, school teachers and school officials, social workers, day care workers, and foster, residential, institutional or other professional child care workers are required to report known or suspected incidents of animal mistreatment.

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

No.

b. If an agency or program is eliminated or reduced:

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

N/A

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

N/A

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

N/A

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:

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

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

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?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 39.201, 39.205, 39.208, 415.1034, 415.111, 415.1114, 828.03, 828.073, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Adds "animal control officer" to the list of persons, in addition to "any person", who are specified in section 39.02, F.S., as being mandated to report known or suspected cases of child abuse.

Section 2. Provides that a person who is required to report known or suspected child abuse and knowingly and willfully fails to report or prevents another person from doing so is guilty of a second degree misdemeanor. This would subject animal control personnel to these criminal penalties.

Section 3. Creates section 39.208, F.S., to require that a person who is required to report or investigate child abuse, neglect or abandonment who knows of or reasonably suspects that cruelty, abuse, abandonment, or neglect of animal has take place must report that to the local animal control officer or other agent appointed pursuant to chapter 828 "Animals: cruelty; sales; animal enterprise protection." Information to be included in the report is specified.

Section 4. Amends subsection 1 of section 415.1034, F.S., related to the mandatory reporting of abuse, neglect, or exploitation of disabled adults or elderly person. This section adds animal control officers to the list of persons who are specifically delineated as being required to report known or suspected cases of abuse.

Section 5. Section 415.111, provides criminal penalties for persons who knowingly and willfully fail to report or prevents another person from reporting a case of known or suspected abuse, neglect, or exploitation of a disabled adult or elderly person. This would subject animal control personnel to these criminal penalties.

Section 6. Creates section 415.1114, F.S., to require that a person who is required to report or investigate abuse, neglect or exploitation of disabled adults or elderly persons who knows of or reasonably suspects that cruelty, abuse, abandonment, or neglect of animal has take place must report that to the local animal control officer or other agent appointed pursuant to chapter 828 "Animals: cruelty; sales; animal enterprise protection." Information to be included in the report is specified.

Section 7. A new subsection, (8) is added to section 828.073, F.S., "Animals found in distress; when agent may take charge; hearing; disposition; sale." The new subsection requires persons who are authorized to enforce the provisions of this section of 828 to report known or suspected cases of abuse involving children, disabled adults, or elderly persons.

Section 8. Provides an effective date of October 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

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

None.

D. FISCAL COMMENTS:

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The mandates provision does not apply.

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 amount of state tax shared with counties and municipalities.

V. COMMENTS:

The oblique effect of this bill will be to require any and all persons to report known or suspected cases of animal abuse, neglect, and cruelty. **This bill will subject every person to criminal penalties if they fail to report animal abuse.**

The bill requires a conforming amendment to make the change from 24 hours to 48 hours consistent for persons who must investigate or report child abuse and those who are responsible for disabled adults and elderly persons. The amendment should read as follows:

On page 5, line 27 after within

DELETE from the bill: 24 and INSERT 48

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The committee adopted five amendments which are summarized as follows:

1. Specifies that any person who must report known or suspected cases of child abuse must report known or suspected cases of animal abuse. Persons who come to know or have reasonable suspicion in the course of investigating child abuse that animal abuse has occurred must report the animal abuse.
2. Specifies that any person who must report known or suspected cases of abuse of a disabled adult or elderly person must report known or suspected cases of animal abuse. Persons who come to know or have reasonable suspicion in the course of investigating abuse of a disabled adult or elderly person that animal abuse has occurred must report the animal abuse.
3. Removes the requirement that known or suspected animal abuse be reported within 24 hours and revises the time frame to 48 hours.
4. Removes the compulsory "*shall*" from the list of information to be provided by child abuse reporters or investigators when reporting known or suspected animal abuse and replaces it with "*may*".
5. Removes the compulsory "*shall*" from the list of information to be provided by disabled adult and elderly abuse reporters or investigators when reporting known or suspected animal abuse and replaces it with "*may*".

VII. SIGNATURES:

COMMITTEE ON Elder Affairs & Long Term Care:
Prepared by:

Staff Director:

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