

STORAGE NAME: h0327a.flc

DATE: March 8, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FAMILY LAW AND CHILDREN
ANALYSIS**

BILL #: HB 327

RELATING TO: Family Violence/Cross-reporting

SPONSOR(S): Representative Effman

TIED BILL(S):

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

- (1) FAMILY LAW AND CHILDREN YEAS 5 NAYS 3
 - (2) LAW ENFORCEMENT & CRIME PREVENTION
 - (3) CHILDREN & FAMILIES
 - (4) GENERAL GOVERNMENT APPROPRIATIONS
 - (5)
-

I. SUMMARY:

This bill amends s. 39.201, F.S., to add animal control officers to the list of persons specifically required to provide their name when reporting known or suspected cases of child abuse, neglect, or abandonment to the Department of Children and Family Services' central abuse hotline. Failure to knowingly or willfully report, or prevent someone from reporting, known or suspected child abuse, neglect or abandonment is a misdemeanor of the first degree, punishable by up to a year in jail or a \$1000 fine. The bill also provides that any person required to report or investigate known or suspected child abuse, neglect, or abandonment, must also report known or suspected cases of animal abuse, to the local animal control officer or other such agent. The bill specifies what information must be provided in such a report. Knowingly or willfully failing to report such animal abuse is a misdemeanor of the second degree, punishable by up to 60 days in jail or a \$500 fine.

An increased workload is anticipated for both the Department of Children and Family Services and county animal control officers. Both entities have reported that the resulting cost can be absorbed within their current budgets.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

The bill requires reporting of animal abuse by persons who must report or investigate child abuse, including Department of Children and Family Services' employees, judges, law enforcement personnel, and others.

B. PRESENT SITUATION:

Definitions

Abuse, under chapter 39, is defined 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. Abuse of a child includes acts or omissions..." Section 39.01(2), F.S. (1999)

Neglect occurs "when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired..." Section 39.01(45), F.S. (1999).

Abandonment of a child means "...the caregiver responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child..." Section 39.01(1), F.S. (1999)

Chapter 767, F.S., titled Damage by Dogs, defines animal control officer 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..." Section 767.11(6), F.S. (1999).

Animal control officer is also defined in section 828.27(1)(b), F.S. (1999), as "any person...authorized to investigate,...civil infractions relating to animal control or cruelty and to issue citations... An 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 prior to January 1, 1990, are not required to complete the course.

Who Must Report Known or Suspected Cases of Child Abuse

Currently, under s. 39.201, F.S., **any person** who knows of or suspects child abuse, neglect, and abandonment is required to report that knowledge or suspicion to the Department of Children and Family Services' ("DCF") central abuse hotline. Furthermore, there is a delineated list of reporters, according to occupation, that are required to provide their names to the hotline staff. That list includes: health care professionals; school personnel; social workers; persons who work with children in day care, foster care, residential services or institutions; law enforcement officers; and judges.

Penalties for Failing to Report Child Abuse

Under s. 39.205(1), F.S. (1999), a person who knowingly or willfully fails to report known or suspected child abuse, abandonment, or neglect, or knowingly or willfully prevents another person from doing so, is guilty of a first degree misdemeanor. A first degree misdemeanor is punishable by up to one year in jail or a \$1000 fine. According to the Department of Children and Family Services, to the best of their knowledge, only one case of failure to report child abuse has been prosecuted. See *Barber v. State*, 592 So.2d 330 (Fla. 2d DCA 1992).

The Link Between Child Abuse and Animal Cruelty

The American Humane Association reports that research indicates a strong correlation between substantial animal abuse and violence towards people.

- (1) "...a child who learns aggression against living creatures is more likely to rape, abuse and kill other humans as an adult" (Kellert & Felthous, 1985).
- (2) "In 88% of families (receiving services from the New Jersey Division of Youth and Family Services) where the 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).
- (3) A study of 28 convicted sexual homicide perpetrators found that prevalence of cruelty to animals was 36% in childhood and 46% in adolescence (Ressler, Burgess & Douglas, 1988).
- (4) 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.
- (5) 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).
- (6) 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).

Violence to Humans and Animals: An Important Link, Factsheet, American Human Association.

In testimony presented to Congress, Senator William S. Cohen stated "It is the responsibility of our private and public support systems to recognize signs that a child is in trouble and intervene in an effective manner. The FBI has identified clusters of traits indicating problems: firesetting, cruelty to animals, truancy, et cetera. Where there is fire setting, there could be sexual abuse. Where there is truancy, there could be drug problems. Where there is fighting and cruelty to people or animals, the perpetrator could be responding to abuses he is suffering or has suffered. Most importantly these signals should not be treated as isolated events, but rather trigger responses from the educators, criminal justice professionals, public health officials, and animal control specialists, working in concert." 104 Cong. Rec. S4630 (May 2, 1996) (statement of Sen. Cohen).

C. EFFECT OF PROPOSED CHANGES:

This bill will add animal control officers, or other such agents, specifically to the list of persons delineated in chapter 39, F.S., who are required to provide their names when reporting known or suspected cases of child abuse, neglect, or abandonment to the DCF central abuse hotline. Under current law, animal control officers are already required to report known or suspected cases of child abuse to the central abuse hotline. Under the bill, the animal control officers, or other such agents, would be required to give their names.

The bill would require that persons who must report or investigate child abuse also report known or suspected cases of animal abuse within 24 hours, to the local animal control officer, agent, or if not available, to the local law enforcement agency. The report must include the following information: description of the animal; a description of any injury, cruelty, or abuse of the animal, including any evidence of prior injury, cruelty, or abuse of the animal or of other animals; any evidence of current and prior neglect or abandonment of the animal or other animals; the name and address of the person or persons alleged to be responsible for causing the injury, abuse, neglect, cruelty, or abandonment of the animal; the source of the report; any action taken by the reporting source with regard to the injury, abuse, neglect, cruelty, or abandonment of the animal; and the name, address, and telephone number of the person making the report. Currently, section 39.201(1)(a), F.S. (1999), provides that **any person** is required to report known or suspected child abuse. Therefore, every citizen in the State of Florida would be required to report known or suspected cases of animal abuse, under the bill.

Any person required under the bill to report known or suspected animal abuse, who knowingly and willfully fails to do so is guilty of a second degree misdemeanor. A second degree misdemeanor is punishable by up to 60 days in jail or a \$500 fine. Under current law, there are no criminal penalties associated with failure to report animal abuse.

The bill would require any person authorized to enforce the provisions of s. 828.073, F.S., who knows, or has reasonable cause to suspect, that a child is or has been a victim of abuse, abandonment, neglect, or domestic violence, must immediately report such knowledge or information to the DCF central abuse hotline, pursuant to s. 39.201, F.S. Chapter 828 relates to animals and includes provisions on animal cruelty, animal sales, and animal enterprise protection. Specifically, s. 828.073, F.S., provides the means by which a neglected or mistreated animal can be removed from its present custody or made the subject of an order requiring the owner to provide care.

Those persons authorized to enforce the provisions of s. 828.073, F.S., include law enforcement officers and agents of the county or any society or association for the prevention of cruelty to animals. Under s. 39.201(1)(f), F.S., law enforcement officers are specifically named as mandatory reporters of known or suspected child abuse. County agents and agents of societies or associations for the prevention of cruelty to animals currently are in the category of "any person" required to report known or suspected child abuse to the DCF central abuse hotline as provided for in s. 39.201, F.S. Therefore, under current law, law enforcement officers, county agents, and agents of societies or associations for the prevention of cruelty to animals are already subject to reporting requirements.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 39.201, F.S., to add "animal control officer or other agent appointed pursuant to s. 828.03" to the list of persons who are currently specified in s. 39.201, F.S., in addition to "any person," as being mandated to report known or suspected cases of child abuse, neglect, or abandonment. Reporters in the specified occupational categories are required to provide their names to the hotline.

Section 2. Section 39.205, F.S., currently provides that a person who is required to report or investigate known or suspected child abuse, abandonment, or neglect and knowingly and willfully fails to report or prevents another person from doing so is guilty of a first degree misdemeanor. A first degree misdemeanor is punishable by up to one year in jail or a \$1000 fine. This section republishes current law to alert those unfamiliar with this chapter, of the possibility of criminal sanctions.

Section 3. Creates s. 39.208, F.S., to require that a person who is required to report or investigate child abuse, neglect, or abandonment and who knows of or reasonably suspects that cruelty, abuse, abandonment, or neglect of an animal has taken place must report that to the local animal control officer or other agent appointed pursuant to chapter 828, within 24 hours. The report must include specified information. Knowingly or willfully failing to report animal abuse is a second degree misdemeanor, punishable by up to 60 days in jail or a \$500 fine.

Section 4. Amends s. 828.073, F.S., by adding a new subsection (8). The new subsection requires persons who are authorized to enforce the provisions of this section of chapter 828 to report known or suspected cases of abuse involving children to the Department of Children and Family Services pursuant to s. 39.201, F.S.

Section 5. Provides an effective date of October 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

An increase in revenue may result from increased reporting to animal control authorities.

2. Expenditures:

See "Fiscal Comments."

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

It is anticipated that this bill might precipitate an increase in the number of calls to the Department of Children and Family Services' central abuse hotline. After implementation of the Kayla McKean Child Protection Act in 1999, the number of hotline calls increased substantially. This resulted in an increased number of children being removed from their homes, often times with no place to put them. One suggested reason for the increase continues to be the addition of judges to the list of professionals required to provide their names when reporting abuse. The Department has requested 455 new investigators and 63 new hotline positions to handle the increase and reduce case loads. The Department has reported that any additional workload resulting from this bill can be absorbed into its current budget.

Additionally, it should be anticipated that calls, to animal control authorities, or law enforcement, reporting animal abuse would also increase. Currently, there is no requirement for any person to report animal abuse, nor is there a criminal penalty for not doing so. This bill would require all persons to report animal abuse, or be subject to a criminal penalty. The animal control agencies have reported that any additional workload resulting from this bill can be absorbed into its current budget.

Finally, there may be some fiscal impact associated with training for animal control officers. Costs may be contained by donations. According to the Florida Animal Control Association, the Humane Society of the United States has offered a package of training materials for duplication, and the supervisor of the Broward County Sheriff's Office Abuse and Neglect Unit has offered to teach a lecture at the Association's Annual Convention.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The Florida Animal Control Association supports the bill.

The Association of Directors of Florida Animal Services Agencies have expressed the following concerns:

- (1)Animal control officers are already charged with reporting such occurrences under F.S. 39.201(1), F.S., and do so regularly.
- (2)Mandated reporting by animal control officers places them at higher risk:
 - (a)People will stop allowing animal control officers into their homes and curtilage;
 - (b)People may become more aggressive in rejecting unarmed animal control officers;
 - (c)Place animal control officers in greater physical danger than present work demands, as they routinely deal with violent people and vicious dogs.
- (3)Mandated reporting by animal control officers could result in reducing their effectiveness.
- (4)Criminal liability is incurred by officers who are already at the low end of the pay scale with average pay less than \$19,000.
- (5)Additional training will be required which will take animal control officers off the road at agencies with fewer people than needed to adequately do the job - minimum training levels would require several hours of instruction and study.

It should be noted that in consideration of the criminal penalty involved with the knowing and willful failure to report, or preventing another from reporting, child abuse, neglect, or abandonment, a cross-reference to s. 39.205, F.S., might be added to proposed s. 828.073(8), F.S.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Family Law and Children adopted an amendment which would remove judges from the group of persons required to report known or suspected cases of animal abuse, neglect, cruelty, or abandonment.

VII. SIGNATURES:

COMMITTEE ON FAMILY LAW AND CHILDREN:

Prepared by:

Staff Director:

Maggie Geraci

Carol Preston