

**STORAGE NAME:** h1175.ag.doc

**DATE:** March 26, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
AGRICULTURE & CONSUMER AFFAIRS  
ANALYSIS**

**BILL #:** HB 1175

**RELATING TO:** Cruelty to animals

**SPONSOR(S):** Representative(s) Kottkamp

**TIED BILL(S):** None

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

- (1) AGRICULTURE & CONSUMER AFFAIRS (CCC)
- (2) CRIME PREVENTION, CORRECTIONS & SAFETY (HCC)
- (3) COUNCIL FOR COMPETITIVE COMMERCE
- (4)
- (5)

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I. SUMMARY:

In response to the increase in the number of animal abuse cases reported in recent years, this legislation strengthens the current animal cruelty statute, providing stiffer penalties for persons found guilty of animal abuse.

HB 1175 provides that a person found guilty of knowingly and intentionally torturing or tormenting an animal resulting in injury, mutilation or death, be ordered to complete an anger management treatment program, in addition to the penalties already provided. In addition, the bill provides that any person convicted on a second or subsequent violation of animal cruelty will be required to serve his/her full sentence and will not be eligible for parole, control release, or any form of early release. In addition to any other sentence imposed for an animal cruelty violation, a person convicted of an intentional act of cruelty to an animal will be required to pay a minimum mandatory fine of \$2500, serve a minimum mandatory sentence of 1 year, and complete an anger management treatment program or any other treatment program deemed appropriate by the court.

This legislation also provides exemptions for which the animal cruelty act does not apply. HB 1175 has no significant fiscal impact to state or local government and will take effect upon becoming a law.

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 checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input 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:

**Less Government:** By applying sentences that are more severe for acts of animal cruelty, the bill provides for more government.

B. PRESENT SITUATION:

Under the provisions of s. 828.12(1), F.S., a person who commits the following acts against an animal, or causes the same to be done, may be convicted of a misdemeanor offense, punishable by a term of up to one year incarceration, or a term of probation not to exceed one year, or a combination of incarceration and probation not exceeding one year, and a potential fine of \$5000. These misdemeanor offenses are set forth as follows: "Any person who 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, is guilty of a misdemeanor of the first degree...."

Under s. 828.12(2), F.S., a person "who intentionally commits an act to any animal which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or repeated infliction of unnecessary pain or suffering, or causes the same to be done, is guilty of a felony of the third degree...." A third degree felony is punishable by up to five years incarceration, up to five years probation, or a combination thereof, and up to a \$10,000 fine.

C. EFFECT OF PROPOSED CHANGES:

HB 1175 amends the misdemeanor animal cruelty statute to include depriving an animal of necessary medical attention or sanitation among those acts punishable under s. 828.12(1), F.S.

The bill further provides, where the court determines that a felony violation under s. 828.12(2), F.S., includes the knowing and intentional torture or torment of an animal that results in the injury, mutilation, or death of the animal, the court shall do three things:

- Order a psychological evaluation of the defendant to assist the court in determining a sentence and ordering an anger management treatment program or such other treatment program as the court deems appropriate;
- Impose a minimum \$2500 fine; and
- Impose a minimum mandatory sentence of incarceration of one year.

The bill exempts the following activities or the treatment of categories of animals from prosecution under s. 828.12, F.S.:

- The treatment of livestock and other animals used in the production of food, fiber, or other agricultural products, including the transportation or hauling of the animals, when such treatment is in accordance with accepted agricultural animal husbandry;
- The treatment of animals involved in research if the research facility is operating under the rules of research protocols set forth by the state or federal government;
- The treatment of animal involved in rodeos;
- The treatment of dogs used for legal hunting activities;
- Nuisance wildlife; and
- Wildlife and predator control regulated by local or general law.

The bill specifically protects the authority of the Fish and Wildlife Conservation Commission from any change or amendment to s. 828.12, F.S.

And lastly, the bill reenacts those provisions of Florida law that refer to s. 828.12, F.S., and becomes effective upon becoming a law.

D. SECTION-BY-SECTION ANALYSIS:

See Section C. (Effect of Proposed Changes).

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons convicted of animal cruelty would be required to complete an anger management program at their own expense.

D. FISCAL COMMENTS:

N/A

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 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 any state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

Prepared by:

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