

776-109AXB-27

Bill No. HB 1401

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

Representative(s) Kottkamp offered the following:

Amendment (with title amendment)

On page 16, between lines 28 and 29, of the bill

insert:

Section 3. Section 828.12, Florida Statutes, is amended to read:

828.12 Cruelty to animals.--

(1) A person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance, medical attention, sanitation, 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, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or both.

(2) 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 causes the same to be done, is guilty of a felony of the third

1 degree, punishable as provided in s. 775.082 or by a fine of
2 not more than \$10,000, or both. Where the court determines
3 that the violation includes the knowing and intentional
4 torture or torment of an animal that results in the injury,
5 mutilation, or death of the animal, the court shall:

6 (a) Order that a psychological evaluation of the
7 defendant be conducted prior to sentencing to assist the court
8 in determining an appropriate sentence. The defendant shall
9 bear the cost of the evaluation unless he or she has been
10 found indigent by the court. If the evaluation results in a
11 recommendation of treatment, and if the court so orders, the
12 defendant shall be ordered to complete an anger management
13 treatment program, or any other treatment program specified by
14 the court, in addition to any sentence imposed pursuant to
15 this subsection.

16 (b) Impose a minimum fine of \$500.

17 (c) Impose a minimum mandatory sentence of
18 incarceration for 3 months.

19 (3) A veterinarian licensed to practice in the state
20 shall be held harmless from either criminal or civil liability
21 for any decisions made or services rendered under the
22 provisions of this section. Such a veterinarian is, therefore,
23 under this subsection, immune from a lawsuit for his or her
24 part in an investigation of cruelty to animals.

25 (4) A person who intentionally trips, fells, ropes, or
26 lassos the legs of a horse by any means for the purpose of
27 entertainment or sport shall be guilty of a third degree
28 felony, punishable as provided in s. 775.082, s. 775.083, or
29 s. 775.084. As used in this subsection, "trip" means any act
30 that consists of the use of any wire, pole, stick, rope, or
31 other apparatus to cause a horse to fall or lose its balance,

1 and "horse" means any animal of any registered breed of the
2 genus Equus, or any recognized hybrid thereof. The provisions
3 of this subsection shall not apply when tripping is used:

4 (a) To control a horse that is posing an immediate
5 threat to other livestock or human beings;

6 (b) For the purpose of identifying ownership of the
7 horse when its ownership is unknown; or

8 (c) For the purpose of administering veterinary care
9 to the horse.

10 Section 4. For the purpose of incorporating the
11 amendment to section 828.12, Florida Statutes, in references
12 thereto, paragraph (d) of subsection (6) of section 550.2415,
13 Florida Statutes, is reenacted to read:

14 550.2415 Racing of animals under certain conditions
15 prohibited; penalties; exceptions.--

16 (6)

17 (d) A conviction of cruelty to animals pursuant to s.
18 828.12 involving a racing animal constitutes a violation of
19 this chapter.

20 Section 5. For the purpose of incorporating the
21 amendment to section 828.12, Florida Statutes, in references
22 thereto, subsection (5) and paragraph (a) of subsection (6) of
23 section 828.122, Florida Statutes, are reenacted to read:

24 828.122 Fighting or baiting animals; offenses;
25 penalties.--

26 (5) Whenever an indictment is returned or an
27 information is filed charging a violation of s. 828.12 or of
28 this section and, in the case of an information, a magistrate
29 finds probable cause that a violation has occurred, the court
30 shall order the animals seized and shall provide for
31 appropriate and humane care or disposition of the animals.

1 This provision shall not be construed as a limitation on the
2 power to seize animals as evidence at the time of arrest.

3 (6) The provisions of subsection (3) and paragraph
4 (4)(b) shall not apply to:

5 (a) Any person simulating a fight for the purpose of
6 using the simulated fight as part of a motion picture which
7 will be used on television or in a motion picture, provided s.
8 828.12 is not violated.

9 Section 6. For the purpose of incorporating the
10 amendment to section 828.12, Florida Statutes, in references
11 thereto, section 828.17, Florida Statutes, is reenacted to
12 read:

13 828.17 Officer to arrest without warrant.--Any sheriff
14 or any other peace officer of the state, or any police officer
15 of any city or town of the state, shall arrest without warrant
16 any person found violating any of the provisions of ss.
17 828.04, 828.08, 828.12, and 828.13-828.16, and the officer
18 making the arrest shall hold the offender until a warrant can
19 be procured, and he or she shall use proper diligence to
20 procure such warrant.

21 Section 7. For the purpose of incorporating the
22 amendment to section 828.12, Florida Statutes, in references
23 thereto, subsection (14) of section 828.29, Florida Statutes,
24 is reenacted to read:

25 828.29 Dogs and cats transported or offered for sale;
26 health requirements; consumer guarantee.--

27 (14) The state attorney may bring an action to enjoin
28 any violator of this section or s. 828.12 or s. 828.13 from
29 being a pet dealer.

30 Section 8. For the purpose of incorporating the
31 amendment to section 828.12, Florida Statutes, in references

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1 thereto, paragraph (b) of subsection (3) of section 943.051,
2 Florida Statutes, is reenacted to read:

3 943.051 Criminal justice information; collection and
4 storage; fingerprinting.--

5 (3)

6 (b) A minor who is charged with or found to have
7 committed the following offenses shall be fingerprinted and
8 the fingerprints shall be submitted to the department:

9 1. Assault, as defined in s. 784.011.

10 2. Battery, as defined in s. 784.03.

11 3. Carrying a concealed weapon, as defined in s.
12 790.01(1).

13 4. Unlawful use of destructive devices or bombs, as
14 defined in s. 790.1615(1).

15 5. Negligent treatment of children, as defined in s.
16 827.05.

17 6. Assault or battery on a law enforcement officer, a
18 firefighter, or other specified officers, as defined in s.
19 784.07(2)(a) and (b).

20 7. Open carrying of a weapon, as defined in s.
21 790.053.

22 8. Exposure of sexual organs, as defined in s. 800.03.

23 9. Unlawful possession of a firearm, as defined in s.
24 790.22(5).

25 10. Petit theft, as defined in s. 812.014(3).

26 11. Cruelty to animals, as defined in s. 828.12(1).

27 12. Arson, as defined in s. 806.031(1).

28 13. Unlawful possession or discharge of a weapon or
29 firearm at a school-sponsored event or on school property as
30 defined in s. 790.115.

31 Section 9. For the purpose of incorporating the

1 amendment to section 828.12, Florida Statutes, in references
2 thereto, paragraph (b) of subsection (1) section 985.212,
3 Florida Statutes, is reenacted to read:
4 985.212 Fingerprinting and photographing.--
5 (1)
6 (b) A child who is charged with or found to have
7 committed one of the following offenses shall be
8 fingerprinted, and the fingerprints shall be submitted to the
9 Department of Law Enforcement as provided in s. 943.051(3)(b):
10 1. Assault, as defined in s. 784.011.
11 2. Battery, as defined in s. 784.03.
12 3. Carrying a concealed weapon, as defined in s.
13 790.01(1).
14 4. Unlawful use of destructive devices or bombs, as
15 defined in s. 790.1615(1).
16 5. Negligent treatment of children, as defined in
17 former s. 827.05.
18 6. Assault on a law enforcement officer, a
19 firefighter, or other specified officers, as defined in s.
20 784.07(2)(a).
21 7. Open carrying of a weapon, as defined in s.
22 790.053.
23 8. Exposure of sexual organs, as defined in s. 800.03.
24 9. Unlawful possession of a firearm, as defined in s.
25 790.22(5).
26 10. Petit theft, as defined in s. 812.014.
27 11. Cruelty to animals, as defined in s. 828.12(1).
28 12. Arson, resulting in bodily harm to a firefighter,
29 as defined in s. 806.031(1).
30 13. Unlawful possession or discharge of a weapon or
31 firearm at a school-sponsored event or on school property as

1 defined in s. 790.115.

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3 A law enforcement agency may fingerprint and photograph a
4 child taken into custody upon probable cause that such child
5 has committed any other violation of law, as the agency deems
6 appropriate. Such fingerprint records and photographs shall be
7 retained by the law enforcement agency in a separate file, and
8 these records and all copies thereof must be marked "Juvenile
9 Confidential." These records are not available for public
10 disclosure and inspection under s. 119.07(1) except as
11 provided in ss. 943.053 and 985.04(5), but shall be available
12 to other law enforcement agencies, criminal justice agencies,
13 state attorneys, the courts, the child, the parents or legal
14 custodians of the child, their attorneys, and any other person
15 authorized by the court to have access to such records. In
16 addition, such records may be submitted to the Department of
17 Law Enforcement for inclusion in the state criminal history
18 records and used by criminal justice agencies for criminal
19 justice purposes. These records may, in the discretion of the
20 court, be open to inspection by anyone upon a showing of
21 cause. The fingerprint and photograph records shall be
22 produced in the court whenever directed by the court. Any
23 photograph taken pursuant to this section may be shown by a
24 law enforcement officer to any victim or witness of a crime
25 for the purpose of identifying the person who committed such
26 crime.

27 Section 10. For the purpose of incorporating the
28 amendment to section 828.12, Florida Statutes, in references
29 thereto, paragraph (c) of subsection (3) of section 921.0022,
30 Florida Statutes, is reenacted to read:

31 921.0022 Criminal Punishment Code; offense severity

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1 ranking chart.--

2 (3) OFFENSE SEVERITY RANKING CHART

3

4 Florida Felony

5 Statute Degree Description

6

7 (c) LEVEL 3

8 316.1935(2) 3rd Fleeing or attempting to elude
9 law enforcement officer in marked
10 patrol vehicle with siren and
11 lights activated.

12 319.30(4) 3rd Possession by junkyard of motor
13 vehicle with identification
14 number plate removed.

15 319.33(1)(a) 3rd Alter or forge any certificate of
16 title to a motor vehicle or
17 mobile home.

18 319.33(1)(c) 3rd Procure or pass title on stolen
19 vehicle.

20 319.33(4) 3rd With intent to defraud, possess,
21 sell, etc., a blank, forged, or
22 unlawfully obtained title or
23 registration.

24 328.05(2) 3rd Possess, sell, or counterfeit
25 fictitious, stolen, or fraudulent
26 titles or bills of sale of
27 vessels.

28 328.07(4) 3rd Manufacture, exchange, or possess
29 vessel with counterfeit or wrong
30 ID number.

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1	376.302(5)	3rd	Fraud related to reimbursement
2			for cleanup expenses under the
3			Inland Protection Trust Fund.
4	501.001(2)(b)	2nd	Tampers with a consumer product
5			or the container using materially
6			false/misleading information.
7	697.08	3rd	Equity skimming.
8	790.15(3)	3rd	Person directs another to
9			discharge firearm from a vehicle.
10	796.05(1)	3rd	Live on earnings of a prostitute.
11	806.10(1)	3rd	Maliciously injure, destroy, or
12			interfere with vehicles or
13			equipment used in firefighting.
14	806.10(2)	3rd	Interferes with or assaults
15			firefighter in performance of
16			duty.
17	810.09(2)(c)	3rd	Trespass on property other than
18			structure or conveyance armed
19			with firearm or dangerous weapon.
20	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
21			less than \$10,000.
22	815.04(4)(b)	2nd	Computer offense devised to
23			defraud or obtain property.
24	817.034(4)(a)3.	3rd	Engages in scheme to defraud
25			(Florida Communications Fraud
26			Act), property valued at less
27			than \$20,000.
28	817.233	3rd	Burning to defraud insurer.
29	828.12(2)	3rd	Tortures any animal with intent
30			to inflict intense pain, serious
31			physical injury, or death.

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1	831.29	2nd	Possession of instruments for
2			counterfeiting drivers' licenses
3			or identification cards.
4	838.021(3)(b)	3rd	Threatens unlawful harm to public
5			servant.
6	843.19	3rd	Injure, disable, or kill police
7			dog or horse.
8	870.01(2)	3rd	Riot; inciting or encouraging.
9	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
10			cannabis (or other s.
11			893.03(1)(c), (2)(c)1., (2)(c)2.,
12			(2)(c)3., (2)(c)5., (2)(c)6.,
13			(2)(c)7., (2)(c)8., (2)(c)9.,
14			(3), or (4) drugs).
15	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
16			893.03(1)(c), (2)(c)1., (2)(c)2.,
17			(2)(c)3., (2)(c)5., (2)(c)6.,
18			(2)(c)7., (2)(c)8., (2)(c)9.,
19			(3), or (4) drugs within 200 feet
20			of university or public park.
21	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
22			893.03(1)(c), (2)(c)1., (2)(c)2.,
23			(2)(c)3., (2)(c)5., (2)(c)6.,
24			(2)(c)7., (2)(c)8., (2)(c)9.,
25			(3), or (4) drugs within 200 feet
26			of public housing facility.
27	893.13(6)(a)	3rd	Possession of any controlled
28			substance other than felony
29			possession of cannabis.
30	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
31			controlled substance by fraud,

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1 treatment program; providing a minimum
2 mandatory fine and minimum mandatory period of
3 incarceration for conviction of any crime where
4 the court determines that the violation
5 includes an intentional act of cruelty to
6 animals; reenacting ss. 550.2415(6)(d),
7 828.122(5) and (6)(a), 828.17, 828.29(14),
8 943.051(3)(b)11., 985.212(1)(b)11., and
9 921.0022(3)(c), F.S., to incorporate the
10 amendment to s. 828.12, F.S., in references
11 thereto;

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