

STORAGE NAME: h1497a.jo.doc
DATE: April 12, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
JUDICIAL OVERSIGHT
ANALYSIS**

BILL #: HB 1497
RELATING TO: Cross-reporting of violence
SPONSOR(S): Representative Rich

TIED BILL(S):

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

- (1) JUDICIAL OVERSIGHT YEAS 8 NAYS 1
- (2) CHILD AND FAMILY SECURITY
- (3) CRIMINAL JUSTICE APPROPRIATIONS
- (4) COUNCIL FOR SMARTER GOVERNMENT
- (5)

I. SUMMARY:

The bill amends s. 39.201, Florida Statutes, to add animal control officers or agents appointed pursuant to s. 828.03, Florida Statutes, 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 via the central abuse hotline.

The bill provides that any person who is required to report or investigate child abuse, neglect, or abandonment and who, in the course of his or her employment, becomes aware of known or suspected animal abuse, neglect, cruelty or abandonment must report such to a local animal control officer or other agent. Such reports must be made within 24 hours and must contain information specified in the bill. The bill requires the Department of Children and Family Services' training program for child protective investigators to include training in the recognition of animal abuse and cruelty. A second degree misdemeanor is created for failure to report animal maltreatment.

The bill requires that any person authorized to enforce s. 828.073, Florida Statutes, relating to animals found in distress, must immediately report any known or suspected child abuse, neglect, or abandonment to the Department of Children and Family Services. Training programs required for county or municipal animal control officers must include training in the recognition of child abuse, neglect, and abandonment.

The bill has an effective date of October 1, 2001.

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 creates a criminal offense for failure to report known or suspected animal abuse, neglect, cruelty, or abandonment.

B. PRESENT SITUATION:

Definitions

Section 39.01(2), Florida Statutes, relating to children, 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. Abuse of a child includes acts or omissions..."

Section 39.01(45), Florida Statutes, defines neglect as "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(1), Florida Statutes, defines abandoned to mean "a situation in which the parent or legal guardian of a child, or in their absence, 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, which situation is sufficient to evince a willful rejection of parental obligations..."

An animal control officer is defined in s. 767.11(6), Florida Statutes, relating 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..."

Animal control officer is also defined in section 828.27(1)(b), F.S. (1999), as "any person employed or appointed by a county or municipality who is authorized to investigate, on public or private property, 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..." Officers employed by a county must and officers employed by a municipality may complete a 40 hour minimum standards training course 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.

Section 828.13, Florida Statutes, relating to animals, defines abandon to mean "to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner".

Chapter 828, Florida Statutes, contains two definitions of the term "cruelty". Section 828.27, Florida Statutes, defines cruelty as "any act of neglect, torture, or torment that causes unjustifiable pain or suffering of an animal". Section 828.12, Florida Statutes, defines cruelty to animals as anything that 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". Such **unnecessary** cruelty to animals is a first degree misdemeanor. **Intentional** cruelty to an animal is a third degree felony.

In addition, specific acts are identified and assigned criminal penalties, including, but not limited to:

M Leaving or depositing poison in certain specified locations is a first degree misdemeanor.

M Fighting or baiting animals is a third degree felony.

M Confinement of animals without sufficient food, water or exercise is a first degree misdemeanor.

M Confinement of livestock being transported by train, steam or sailing vessels, or otherwise, for longer than 28 hours without food, water and attention, or overcrowding resulting in overlying, crushing, wounding or death is a second degree misdemeanor.

M Artificial coloring and sale of rabbits, baby chicks, and ducklings is a second degree misdemeanor.

M Intentionally tripping, felling, roping, or lassoing the legs of a horse for purposes of entertainment or sport is a third degree felony.

Who Must Report Known or Suspected Cases of Child Abuse

The current child protection system took shape in the 1960's and our nation's mandatory reporting laws played a significant role in the evolving child welfare system. The 1960 White House Conference on Children and Youth urged states to enact legislation that would give a single agency mandated responsibility for cases of child abuse and neglect. In 1962 child abuse was "rediscovered" after publication of an article by Dr. C. Henry Kempe in the Journal of the American Medical Association describing the "battered child syndrome". As a result states began passing laws mandating that professionals working with children report cases of suspected child abuse and, at the same time, the Federal Children's Bureau published a model statute to serve as a guideline for state child protection legislation. Between 1963 and 1967 every state as well as the District of Columbia passed some form of child abuse reporting legislation. Mandatory reporting laws were popular for a variety of reasons; they legalized the problem of child abuse, they were proof that states were doing something about protecting children, and not uncommon in the development of public policy, they were believed to be the least expensive policy option available. Reporting laws also served to decriminalize child abuse and neglect with the exception of a child death.

In 1963, Florida began requiring that "any physician, including any licensed doctor of medicine, licensed osteopathic physician, intern and resident, having cause to believe that a child ... has had physical injury or injuries inflicted upon him... by a parent or caretaker, shall report or cause reports to be made..." (Chapter 63-24, LOF). Anyone knowingly or willfully violating this provision was guilty of a misdemeanor. In 1971, the list of required reporters was expanded to include physicians, nurses, teachers, social workers, or employees of a public or private facility. Legislation was passed in 1975 that required "any person" to report (Chapter 75-185, LOF). In 1979, the list of delineated reporters was expanded once again (Chapter 79-203, LOF) which then remained unchanged until judges were added in during the 1999 legislative session (Chapter 99-168, LOF).

Currently, under s. 39.201, Florida Statutes, **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. In addition, there is a delineated list of reporters, according to occupation, that are required to provide their names to the hotline staff. That list includes: physicians and other health care professionals; school personnel; social workers; persons who work with children in day care, foster care, other residential or institutional settings; law enforcement officers; and judges. Animal control officers are currently required to report child abuse, neglect, and abandonment as "any person" pursuant to s. 39.201, Florida Statutes.

Penalties for Failing to Report Child Abuse

Pursuant to s. 39.205(1), Florida Statutes, 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). Margaret Barber was a foster care counselor for the department assigned to the case of Bradley McGee. Bradley was subsequently killed by his stepfather.

The Link Between Child Abuse and Animal Cruelty

Anyone who has accustomed himself to regard the life of any living creature as worthless is in danger of arriving also at the idea of worthless human lives.

Albert Schweitzer

One of the most dangerous things that can happen to a child is to kill or torture an animal and get away with it.

Margaret Mead

To educate our people, and especially our children, to humane attitudes and actions toward living things is to preserve and strengthen our national heritage and the moral values we champion in the world.

John F. Kennedy

The American Humane Association reports that every year, more than one million children are confirmed as victims of abuse and/or neglect nationwide. At the same time, thousands of companion animals also become victims of malicious cruelty, many times within the same cycle of family violence. Pets are part of the family in the majority of American households, where nearly three-fourths of families with school-age children have at least one companion animal. These animals are often treated like members of the family, but if the family is experiencing violence, they can become targets as well. Abusive family members may threaten, injure or kill pets, often as way of threatening or controlling others in the family.

Over the past 25 years, numerous studies in psychology, sociology, and criminology have indicated that violent offenders often have childhood and adolescent histories of serious and repeated animal cruelty. The FBI recognized this connection in the early 1970s, when an analysis of serial killers suggested that most had killed or tortured animals as children. More commonly, animal cruelty is frequently an indicator in cases of domestic violence, child abuse and elder abuse. Specifically, more recent studies have shown:

M A study conducted by the Massachusetts Society for the Prevention of Cruelty to Animals and Northeastern University found that 70% of animal abusers had committed at least one

other criminal offense and almost 40% of animal abusers committed violent crimes against people (*Arluke, Levin & Luke, 1997 Cruelty to Animals and Other Crimes*).

M A 1997 survey of 50 of the largest shelters for battered women in 49 states and the District of Columbia found 85.4% of women and 63% of children entering the shelter talked about incidents of pet abuse in the family. Eighty-three percent of shelters indicated that they have observed the coexistence of domestic violence and pet abuse, but only 27% included questions relating to pet abuse in their intake interviews (*Ascione, 1997 The Abuse of Animals and Domestic Violence: A National Survey of Shelters for Women who are Battered. Society and Animals, 5(3): 205-218*).

M A survey of 38 women at a safehouse in Utah found that 74% had pets in the home and 71% of these reported that an animal had been threatened, harmed or killed by their abuser (*Ascione, 1995*).

M A larger survey of 101 women in the same state found almost identical results, with 72% of the pet-owning women reporting that an animal had been threatened, harmed or killed by their abuser. Nearly 20% of the women reported that they had delayed leaving their abuser out of fear that a pet would be harmed if they were to do so (*Ascione, 1997*).

M In a national survey of more than 1000 households conducted in December of 1996 by Penn and Schoen Inc. for The Humane Society of the United States (HSUS), 15% of respondents said that they or a family member had been the victim of family violence. In those cases where it was known that a pet was part of the household, 23% reported that the animal had been threatened, injured or killed. In addition, 32% said they knew of a friend or co-worker who was the victim of family violence and, in those cases where pets were in the home, 18% said that it had been reported that an animal had been threatened, injured or killed.

M A preliminary HSUS survey of 401 press reports of serious animal cruelty cases occurring in 1996 revealed that 29% of these reports also included accounts of violence against people. The majority of these cases involved male perpetrators and of these, 28% included incidents of domestic abuse, 27% involved child abuse and 16% reported murder or assaults.

Professionals working with families in crisis are becoming increasingly aware of the role that animals can play in the dynamics of violence within abusive families. The intentional harming or killing of pets by adults or children is now recognized as an important indicator of violence in the home. It is reported by advocacy groups to be essential that all those who seek to identify and reduce such violence be alert to this connection. Likewise, it is deemed important for professionals in domestic violence intervention, law-enforcement, child protection, human and veterinary medicine, education and animal care and control get to know their counterparts in other professions and work together to establish strategies for a coordinated response to these needs.

The Humane Society of the United States' First Strike Campaign was designed to share the knowledge that animal and human violence is related, to increase public awareness of the link between the two, and to encourage everyone to take animal cruelty seriously. The First Strike campaign strongly advocates for a multi-focused approach to addressing the connection between animal abuse and human violence. States are urged to enact animal cruelty laws that contain felony provisions, to mandate interagency cross reporting, to require convicted animal abusers to receive psychological counseling and/or evaluations, and to promote other programs designed to provide early intervention for perpetrators of violence. Additional goals of the campaign include:

M Promoting and facilitating cooperative action within communities and among agencies ...

M Helping community-action groups use available resources to develop coordinated responses ...

M Educating and training law enforcement officers and others regarding the link ...

Florida and Other States

Thirty-one states, including Florida, currently have a felony level offense for animal cruelty and several distinguish between misdemeanor neglect and felony cruelty. Some states have also enacted provisions requiring that second offenses of misdemeanor offenses be treated as felony offenses and some require mandatory jail time. Courts in a number of states have the authority to order psychological counseling at the abuser's expense. California, Colorado and Iowa mandate psychological counseling and/or evaluations. Michigan and Nevada require the same, but only of minors. Nine additional states provide courts with the discretion to order such counseling.

HB 1175 and CS/SB 360, entitled an act relating to animal cruelty, have been introduced for consideration during the 2001 session of the Florida Legislature. The bills provide that an individual convicted of felony animal cruelty under s. 828.12, Florida Statutes, in addition to any penalty imposed pursuant to the section, shall also be ordered to undergo psychological evaluation, complete an anger management class or any other treatment recommended by the evaluation, pay a mandatory fine of at least \$2,500 and serve a minimum mandatory period of incarceration of 1 year.

At least three states and the District of Columbia have statutes that specifically reference humane society officers as mandated reporters of child abuse and neglect:

M CALIFORNIA provides that any child care custodian, health practitioner, employee of a child protective agency, child visitation monitor, firefighter, animal control officer, or humane society officer who has knowledge of or observes a child, in his or her professional capacity or within the scope of his or her employment, whom he or she knows or reasonably suspects has been the victim of child abuse, shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident... (Penal Code 11166).

M CONNECTICUT provides that any selectman, town manager, or town, city, or borough welfare department, any probation officer, the Connecticut Humane Society, or the Commissioner of Social Services, the Commissioner of Children and Families or any child-caring institution or agency approved by the Commissioner of Children and Families, a child or his representative or attorney or a foster parent of a child, having information that a child or youth is neglected, uncared-for or dependent, may file a report ...(s. 46b-129).

M DISTRICT OF COLUMBIA provides that the Washington Humane Society is authorized to extend its operations to the protection of children as well as animals from cruelty and abuse. In pursuance thereof the said Society may cause its proper officers or agents to prefer complaints, before any court in the District of Columbia having jurisdiction, for the violation of any law relating to or affecting the protection of children in said District, and by its proper attorney may aid in bringing the facts before such court in any proceeding taken (s. 32-908).

M OHIO provides that when an officer or agent of the Ohio humane society or of a county humane society deems it for the best interest of a child, because of cruelty inflicted upon it or because of its surroundings, that it be removed from the possession and control of the parents or persons having charge of it, such officer or agent may take possession of the child summarily, and upon doing so shall immediately file a complaint in the juvenile court concerning such child...(s.1717.14, Revised Code).

Florida law references a link between child and animal abuse in s. 828.03, Florida Statutes, which provides that:

any county or any society or association for the prevention of cruelty to **children or animals**, organized under the laws of this state, may appoint agents for the purpose of **investigating** violations of any of the provisions of this chapter or any other law of the state for the purpose of protecting **children and animals** or preventing any act of cruelty thereto.

Just as abused children are taken to receive medical treatment, abused animals are often taken to veterinarians for care of their injuries. HSUS advocates that veterinarians should report suspected cases without liability. Currently, West Virginia and California both require reporting and provide immunity from liability, whereas Minnesota only requires reporting. Rhode Island and Idaho provide immunity from both civil and criminal liability arising out of reports of known or reasonably believed animal abandonment, neglect or abuse. Colorado law requires veterinarians to report child abuse or neglect to the county department of local law enforcement agency. Illinois law requires veterinarians to report elder abuse to the Illinois Department of aging or a designated agency. Section 828.12, Florida Statutes, relating to animal cruelty, provides that veterinarians licensed to practice in this state shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of the section.

A number of local communities have designed programs to utilize the knowledge now available related to the connection between animal and human abuse:

M The Shiloh Project is a Fairfax County, Virginia based non-profit organization established to break the cycle of violence for juvenile offenders by instilling them with a sense of compassion, respect and responsibility toward animals and others through the experience of training and nurturing homeless dogs who are waiting to be adopted. The early intervention provided by the Shiloh Project provides a rare and unique opportunity for juvenile offenders and at-risk youth to experience a healthy and nurturing relationship with an animal – a first step in learning how they relate emotionally to another living being.

The Project is directed towards youths who are at-risk of becoming violent or abusive due to an inability to express feelings or thoughts of compassion, nurturing and/or emotional attachment or involvement with others, who have exhibited violent and/or abusive towards animals or others, or who have themselves been victims of abuse or violence. Since its inception, the Project has shown positive results. Of youths served, over 90% showed an improvement in their attitudes towards animals, more than 85% displayed an improvement in their attitudes towards others and themselves, and 95% signed a confidential pledge vowing to never abuse an animal through violence or neglect.

M Surveys of domestic violence victims entering shelters show that approximately 70% of pet-owning domestic violence victims report their pets were threatened, hurt or killed by their partners. As a result, approximately 20% of domestic violence victims reported they delayed leaving their abusive situation out of fear for their pets' safety. While most domestic violence shelters cannot accept pets, as a result of the increased awareness of this connection between domestic violence and animal abuse, domestic violence shelters have started partnering with local animal protection agencies, veterinarians, kennels and other shelters for animals, to provide temporary emergency housing for the pets of domestic violence victims. Florida has a number of these "safe haven" programs, including Project Safe Families, Safe Pets in Miami and Shelter House and PAWS in Ft. Walton Beach.

C. EFFECT OF PROPOSED CHANGES:

The bill will add animal control officers, or other such agents, specifically to the list of persons delineated in chapter 39, Florida Statutes, 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.

The bill would require that persons who must report or investigate child abuse and, who in the course of their jobs, become aware of known or suspected cases of animal abuse, must report such instances within 24 hours, to the local animal control officer, other agent, or if not available, to the local law enforcement agency. The report must include certain specified information. Anyone required to report, who knowingly and willfully fails to so report, is guilty of a second degree misdemeanor.

The bill would require any person authorized to enforce the provisions of s. 828.073, Florida Statutes, who knows, or has reasonable cause to suspect, that a child is or has been a victim of abuse, abandonment, neglect, or domestic violence, to immediately report such knowledge or information to the DCF central abuse hotline, pursuant to s. 39.201, Florida Statutes.

The bill requires training for child protective investigators and animal control officers to include information related to the recognition of animal cruelty and child abuse and neglect respectively.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 39.201, Florida Statutes, to add “animal control officer or other agent appointed under s. 828.03” to the list of persons who are currently specified in s. 39.201, Florida Statutes, as being required to provide his or her name when reporting known or suspected cases of child abuse, neglect, or abandonment.

Section 2. Reenacts s. 39.205, Florida Statutes, which provides that a person who is required to report or investigate known or suspected child abuse, neglect or abandonment and who knowingly and willfully fails to report or knowingly and willfully prevents another person from reporting is guilty of a first degree misdemeanor.

Section 3. Creates s. 39.208, Florida Statutes, creates s. 39.208, Florida Statutes, to require that any individual who is required to report or investigate child abuse, neglect or abandonment and, who in the course of his or her employment, knows of or reasonably suspects that cruelty, abuse, neglect, or abandonment of an animal has occurred must report to local animal control within 24 hours. The report must include specified information. The section also requires the Department of Children and Family Services’ training program for child protective investigators to include training in the recognition of animal abuse, neglect, cruelty and abandonment.

Section 4. Amends s. 828.073, Florida Statutes, to require any person who is authorized to enforce the provisions of this section to report known or suspected child abuse, neglect, or abandonment to the Department of Children and Family Services, via the hotline. The section also requires the training for animal control officers to contain information in the recognition of child abuse, neglect and abandonment.

Section 5. Provides an effective date of October 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

The Department of Children and Family Services reports that requiring animal control officers to report child abuse and neglect will probably result in an increase in the number of calls coming into the hotline as well as an increase in the number of protective investigations initiated. The cost of a child abuse/neglect investigation is approximately \$600 which is a conservative estimate based on a 1997 model. If there were as few as 10 additional investigations a month, the cost would be \$72,000 annually.

All family services counselors are required to report child abuse/neglect and there are over 3,000 of these positions. Assuming that all of those counselors and their supervisors will need to be trained pursuant to the requirements of this bill on the indicators of animal maltreatment, the resulting cost would be \$389,771 (\$344,111 in overtime salary to make up for time spent in training by 3,044 counselors and their supervisors + \$45,660 cost of 1/2 day training @ \$15 per counselor.) If the assumption is that only protective investigators need to be trained, the cost would be \$88,046 in overtime costs and \$13,680 cost of training @ \$15 per investigator, for a total cost of \$101,726.

The Florida Animal Control Association (FACA) reports that the provisions of the bill will "further stress a profession which is already understaffed by 50% and cannot meet the current level of demand for animal control services".

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:

The bill will not reduce the authority of municipalities and counties to raise revenues.

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The mandatory reporting requirements for child abuse, neglect, and abandonment contained in s. 39.201, Florida Statutes, are more often than not, misinterpreted. Applicable subsections read as follows:

(1) **Any person**, including, but not limited to, any:

- (a) Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;
- (b) Health or mental health professional other than one listed in paragraph (a);
- (c) Practitioner who relies solely on spiritual means for healing;
- (d) School teacher or other school official or personnel;
- (e) Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker;
- (f) Law enforcement officer; or
- (g) Judge,

who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare **shall report** such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(2)(c) **Reporters in occupation categories designated in subsection (1) are required to provide their names to the hotline staff.** The names of reporters shall be entered into the record of the report, but shall be held confidential as provided in s. 39.202.

The section of the law above is almost always read to mean that only individuals in the professions specifically designated are required to report child abuse, neglect and abandonment and are subject to penalties for willful failure to report. In reality, **“any person”**, which means every individual in the state (including an animal control officer), is required to report and is subject to penalties for willfully not reporting. Individuals belonging to the listed professions must **(in addition to reporting) provide their name** to the hotline at the time a report is made.

Adding “animal control officer or other agent appointed under s. 828.03” to the list of professions required to provide the reporter’s name to the hotline, will not, in essence, make them a required reporter, because they already are required to report. Adding them to the listed professions might, nonetheless, precipitate an increase in the number of calls to DCF’s central abuse hotline. After implementation of the Kayla McKean Child Protection Act in 1999, the number of calls to the hotline increased dramatically, with children being removed from their homes in record numbers, 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.

The reporting of animal neglect or cruelty is not currently required of anyone by law and the institution of such requirement accompanied by a criminal penalty for willful failure to report, could reasonably be expected to result in an increase in the number of calls to and workload of county and municipal animal control facilities, serving to overburden the animal control system with only minimal, if any, enforcement of the criminal penalties – the state has prosecuted only one case of failure to report child abuse since a penalty was instituted in 1963.

The bill contains the provision that “any person who is required to report or investigate child abuse, abandonment, or neglect, except judges, **who in the course of his or her job** knows or has reasonable cause to suspect that abuse, neglect, cruelty, or abandonment of an animal has occurred shall report...” . This language is somewhat unclear, particularly in light of how often the requirements of s. 39.201(1), Florida Statutes, are misunderstood. Is the phrase “who in the course of his or her job” intended to:

M be limited to the list of professions from which reporters are required to give their names when reporting;

M encompass all professions that may come into contact with animals or children, such as electric and gas meter readers or plumbers who come to a house to work and notice abuse or neglect of animals;

M exempt from reporting those individuals who may suspect or be aware of animal neglect or abuse but their suspicions or knowledge did not result from carrying out their job.

Many times when changes are made in the law that create provisions or penalties that might affect a significant portion of the population, they are brought to the attention of professionals and the general public through a media campaign and these public awareness campaigns can produce stunning results. In the early 1970s, a media campaign was introduced to publicize the existence of child abuse and the new reporting laws. At the same time, toll-free phone service for reporting became available. In Florida, the implementation of toll-free reporting and the public awareness campaign alerting people to the existence of the toll-free number resulted in an increase in the number of abuse reports from 17 to 19,000 in 1970. Such a campaign would be necessary to inform professionals and the general public of the new requirement to report animal cruelty and neglect, particularly in light of the criminal penalty for failure to report. Drawing attention to changes in reporting laws always has the effect of increasing reports, which may or may not result in the need for additional resources for both the child protection system and the animal control profession.

While Florida has a well publicized child abuse reporting system with strictly delineated statutory requirements for its use, there is no comparable system in the animal control arena. This is likely to create confusion in reporting animal neglect and cruelty. In addition, there does not appear to be a provision either in current law or in the bill for maintaining the confidentiality of information contained in animal abuse reports, including the name of the reporter.

While the connection between animal abuse and other types of family violence has been clearly documented, there is no reference in the bill to reporting abuse and neglect of the frail elderly population. Section 415.1034, Florida Statutes, relating to mandatory reporting abuse, neglect, or exploitation of vulnerable adults, is substantially similar to s. 39.201, Florida Statutes, relating to mandatory reporting of child abuse, neglect, and abandonment.

While the bill provides for training for child protective investigators and animal control officers in the areas of animal cruelty and child abuse and neglect respectively, it does not require training for the other professionals, **who in the course of their job**, are required to report animal cruelty.

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Training costs for social workers, school professionals, day care center workers, meter readers, etc. could be considerable.

The bill does not provide immunity from any civil or criminal liability arising from a report of animal cruelty or neglect to persons acting or reporting in good faith.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 12, 2001, the Committee on Judicial Oversight adopted one amendment. The amendment provides for the following:

M the addition of medical attention and sanitation to factor, the deprivation of which, constitutes animal cruelty;

M the imposition of a minimum fine of \$500, a minimum mandatory period of incarceration of three months, and anger management treatment or any other treatment recommended as the result of a psychological evaluation, when the court determines that the violation includes knowing and intentional torture or torment of an animal that results in injury, mutilation or death; and

M exceptions to the above.

VII. SIGNATURES:

COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

Staff Director:

Carol Preston

Lynne Overton