

By the Committee on Criminal Justice and Senator Saunders

307-1504-01

1 A bill to be entitled
2 An act relating to cruelty to animals; amending
3 s. 828.12, F.S.; providing additional acts
4 which constitute cruelty to an animal; provides
5 that any person convicted of such a violation,
6 where the court determines that the violation
7 includes the knowing and intentional torture or
8 torment of an animal that injures, mutilates,
9 or kills the animal, shall, in addition to any
10 other sentence imposed, be ordered to complete
11 an anger management treatment program;
12 providing a minimum mandatory fine and minimum
13 mandatory period of incarceration for
14 conviction of any crime where the court
15 determines that the violation includes an
16 intentional act of cruelty to animals;
17 providing for nonapplicability of the act;
18 providing construction; reenacting ss.
19 550.2415(6)(d), 828.122(5) and (6)(a), 828.17,
20 828.29(14), 943.051(3)(b)11., 985.212(1)(b)11.,
21 and 921.0022(3)(c), F.S., to incorporate the
22 amendment to s. 828.12, F.S., in references
23 thereto; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 828.12, Florida Statutes, is
28 amended to read:

29 828.12 Cruelty to animals.--
30 (1) A person who unnecessarily overloads, overdrives,
31 torments, deprives of necessary sustenance, medical attention,

1 sanitation, or shelter, or unnecessarily mutilates, or kills
2 any animal, or causes the same to be done, or carries in or
3 upon any vehicle, or otherwise, any animal in a cruel or
4 inhumane manner, is guilty of a misdemeanor of the first
5 degree, punishable as provided in s. 775.082 or by a fine of
6 not more than \$5,000, or both.

7 (2) A person who intentionally commits an act to any
8 animal which results in the cruel death, or excessive or
9 repeated infliction of unnecessary pain or suffering, or
10 causes the same to be done, is guilty of a felony of the third
11 degree, punishable as provided in s. 775.082 or by a fine of
12 not more than \$10,000, or both. Where the court determines
13 that the violation includes the knowing and intentional
14 torture or torment of an animal that results in the injury,
15 mutilation, or death of the animal, the court shall:

16 (a) Order that a psychological evaluation of the
17 defendant be conducted prior to sentencing to assist the court
18 in determining an appropriate sentence. The defendant shall
19 bear the cost of the evaluation unless he or she has been
20 found indigent by the court. If the evaluation results in a
21 recommendation of treatment, and if the court so orders, the
22 defendant shall be ordered to complete an anger management
23 treatment program, or any other treatment program specified by
24 the court, in addition to any sentence imposed pursuant to
25 this subsection.

26 (b) Impose a minimum fine of \$2,500.

27 (c) Impose a minimum mandatory sentence of
28 incarceration for 1 year.

29 (3) A veterinarian licensed to practice in the state
30 shall be held harmless from either criminal or civil liability
31 for any decisions made or services rendered under the

1 provisions of this section. Such a veterinarian is, therefore,
2 under this subsection, immune from a lawsuit for his or her
3 part in an investigation of cruelty to animals.

4 (4) A person who intentionally trips, fells, ropes, or
5 lassos the legs of a horse by any means for the purpose of
6 entertainment or sport shall be guilty of a third degree
7 felony, punishable as provided in s. 775.082, s. 775.083, or
8 s. 775.084. As used in this subsection, "trip" means any act
9 that consists of the use of any wire, pole, stick, rope, or
10 other apparatus to cause a horse to fall or lose its balance,
11 and "horse" means any animal of any registered breed of the
12 genus Equus, or any recognized hybrid thereof. The provisions
13 of this subsection shall not apply when tripping is used:

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

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

18 (c) For the purpose of administering veterinary care
19 to the horse.

20 (5) The provisions of this section do not apply to:

21 (a) The treatment of livestock and other animals used
22 in the farm or ranch production of food, fiber, or other
23 agricultural products, including the transportation,
24 relocation, or hauling from one place to another, when such
25 treatment is in accordance with accepted agricultural animal
26 husbandry.

27 (b) The treatment of animals involved in research if
28 such research facility is operating under rules or research
29 protocols set forth by the state or by the Federal Government.

30 (c) The treatment of animals involved in rodeos.

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1 (d) The treatment of dogs used for legal hunting
2 activities.

3 (e) Nuisance wildlife.

4 (f) Activities concerning wildlife and predator
5 control in the state, including trapping, regulated by local
6 or general law.

7 (g) Activities related to hunting and fishing.

8 (6) Nothing in this section shall be construed to
9 amend or in any manner change the authority of the Fish and
10 Wildlife Conservation Commission.

11 Section 2. For the purpose of incorporating the
12 amendment to section 828.12, Florida Statutes, in references
13 thereto, paragraph (d) of subsection (6) of section 550.2415,
14 Florida Statutes, is reenacted to read:

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

17 (6)

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

21 Section 3. For the purpose of incorporating the
22 amendment to section 828.12, Florida Statutes, in references
23 thereto, subsection (5) and paragraph (a) of subsection (6) of
24 section 828.122, Florida Statutes, are reenacted to read:

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

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

1 appropriate and humane care or disposition of the animals.

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

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

6 (a) Any person simulating a fight for the purpose of
7 using the simulated fight as part of a motion picture which
8 will be used on television or in a motion picture, provided s.
9 828.12 is not violated.

10 Section 4. For the purpose of incorporating the
11 amendment to section 828.12, Florida Statutes, in references
12 thereto, section 828.17, Florida Statutes, is reenacted to
13 read:

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

22 Section 5. For the purpose of incorporating the
23 amendment to section 828.12, Florida Statutes, in references
24 thereto, subsection (14) of section 828.29, Florida Statutes,
25 is reenacted to read:

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

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

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1 Section 6. For the purpose of incorporating the
2 amendment to section 828.12, Florida Statutes, in references
3 thereto, paragraph (b) of subsection (3) of section 943.051,
4 Florida Statutes, is reenacted to read:

5 943.051 Criminal justice information; collection and
6 storage; fingerprinting.--

7 (3)

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

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

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

13 3. Carrying a concealed weapon, as defined in s.
14 790.01(1).

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

17 5. Negligent treatment of children, as defined in s.
18 827.05.

19 6. Assault or battery on a law enforcement officer, a
20 firefighter, or other specified officers, as defined in s.
21 784.07(2)(a) and (b).

22 7. Open carrying of a weapon, as defined in s.
23 790.053.

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

25 9. Unlawful possession of a firearm, as defined in s.
26 790.22(5).

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

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

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

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1 13. Unlawful possession or discharge of a weapon or
2 firearm at a school-sponsored event or on school property as
3 defined in s. 790.115.

4 Section 7. For the purpose of incorporating the
5 amendment to section 828.12, Florida Statutes, in references
6 thereto, paragraph (b) of subsection (1) section 985.212,
7 Florida Statutes, is reenacted to read:

8 985.212 Fingerprinting and photographing.--

9 (1)

10 (b) A child who is charged with or found to have
11 committed one of the following offenses shall be
12 fingerprinted, and the fingerprints shall be submitted to the
13 Department of Law Enforcement as provided in s. 943.051(3)(b):

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

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

16 3. Carrying a concealed weapon, as defined in s.
17 790.01(1).

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

20 5. Negligent treatment of children, as defined in
21 former s. 827.05.

22 6. Assault on a law enforcement officer, a
23 firefighter, or other specified officers, as defined in s.
24 784.07(2)(a).

25 7. Open carrying of a weapon, as defined in s.
26 790.053.

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

28 9. Unlawful possession of a firearm, as defined in s.
29 790.22(5).

30 10. Petit theft, as defined in s. 812.014.

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

1 12. Arson, resulting in bodily harm to a firefighter,
2 as defined in s. 806.031(1).

3 13. Unlawful possession or discharge of a weapon or
4 firearm at a school-sponsored event or on school property as
5 defined in s. 790.115.

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

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1 Section 8. For the purpose of incorporating the
2 amendment to section 828.12, Florida Statutes, in references
3 thereto, paragraph (c) of subsection (3) of section 921.0022,
4 Florida Statutes, is reenacted to read:

5 921.0022 Criminal Punishment Code; offense severity
6 ranking chart.--

7 (3) OFFENSE SEVERITY RANKING CHART

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9 Florida	Felony	
10 Statute	Degree	Description
		(c) LEVEL 3
13 316.1935(2)	3rd	Fleeing or attempting to elude 14 law enforcement officer in marked 15 patrol vehicle with siren and 16 lights activated.
17 319.30(4)	3rd	Possession by junkyard of motor 18 vehicle with identification 19 number plate removed.
20 319.33(1)(a)	3rd	Alter or forge any certificate of 21 title to a motor vehicle or 22 mobile home.
23 319.33(1)(c)	3rd	Procure or pass title on stolen 24 vehicle.
25 319.33(4)	3rd	With intent to defraud, possess, 26 sell, etc., a blank, forged, or 27 unlawfully obtained title or 28 registration.
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1	328.05(2)	3rd	Possess, sell, or counterfeit
2			fictitious, stolen, or fraudulent
3			titles or bills of sale of
4			vessels.
5	328.07(4)	3rd	Manufacture, exchange, or possess
6			vessel with counterfeit or wrong
7			ID number.
8	376.302(5)	3rd	Fraud related to reimbursement
9			for cleanup expenses under the
10			Inland Protection Trust Fund.
11	501.001(2)(b)	2nd	Tampers with a consumer product
12			or the container using materially
13			false/misleading information.
14	697.08	3rd	Equity skimming.
15	790.15(3)	3rd	Person directs another to
16			discharge firearm from a vehicle.
17	796.05(1)	3rd	Live on earnings of a prostitute.
18	806.10(1)	3rd	Maliciously injure, destroy, or
19			interfere with vehicles or
20			equipment used in firefighting.
21	806.10(2)	3rd	Interferes with or assaults
22			firefighter in performance of
23			duty.
24	810.09(2)(c)	3rd	Trespass on property other than
25			structure or conveyance armed
26			with firearm or dangerous weapon.
27	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
28			less than \$10,000.
29	815.04(4)(b)	2nd	Computer offense devised to
30			defraud or obtain property.
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1	817.034(4)(a)3.	3rd	Engages in scheme to defraud
2			(Florida Communications Fraud
3			Act), property valued at less
4			than \$20,000.
5	817.233	3rd	Burning to defraud insurer.
6	828.12(2)	3rd	Tortures any animal with intent
7			to inflict intense pain, serious
8			physical injury, or death.
9	831.29	2nd	Possession of instruments for
10			counterfeiting drivers' licenses
11			or identification cards.
12	838.021(3)(b)	3rd	Threatens unlawful harm to public
13			servant.
14	843.19	3rd	Injure, disable, or kill police
15			dog or horse.
16	870.01(2)	3rd	Riot; inciting or encouraging.
17	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
18			cannabis (or other s.
19			893.03(1)(c), (2)(c)1., (2)(c)2.,
20			(2)(c)3., (2)(c)5., (2)(c)6.,
21			(2)(c)7., (2)(c)8., (2)(c)9.,
22			(3), or (4) drugs).
23	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
24			893.03(1)(c), (2)(c)1., (2)(c)2.,
25			(2)(c)3., (2)(c)5., (2)(c)6.,
26			(2)(c)7., (2)(c)8., (2)(c)9.,
27			(3), or (4) drugs within 200 feet
28			of university or public park.
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1	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
2			893.03(1)(c), (2)(c)1., (2)(c)2.,
3			(2)(c)3., (2)(c)5., (2)(c)6.,
4			(2)(c)7., (2)(c)8., (2)(c)9.,
5			(3), or (4) drugs within 200 feet
6			of public housing facility.
7	893.13(6)(a)	3rd	Possession of any controlled
8			substance other than felony
9			possession of cannabis.
10	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
11			controlled substance by fraud,
12			forgery, misrepresentation, etc.
13	893.13(7)(a)11.	3rd	Furnish false or fraudulent
14			material information on any
15			document or record required by
16			chapter 893.
17	918.13(1)(a)	3rd	Alter, destroy, or conceal
18			investigation evidence.
19	944.47		
20	(1)(a)1.-2.	3rd	Introduce contraband to
21			correctional facility.
22	944.47(1)(c)	2nd	Possess contraband while upon the
23			grounds of a correctional
24			institution.
25	985.3141	3rd	Escapes from a juvenile facility
26			(secure detention or residential
27			commitment facility).
28	Section 9.		This act shall take effect upon becoming a
29	law.		
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 360

- Changes penalty enhancement in certain felony animal cruelty violations from assessing victim injury points to requiring a minimum mandatory sentence.
- Requires a psychological evaluation of the defendant prior to sentencing in certain felony animal cruelty cases.
- Requires a minimum mandatory fine in certain felony animal cruelty cases.
- Exempts the application of the felony animal cruelty statute to certain acts or categories of animals.
- Protects the authority of the Fish and Wildlife Conservation Commission from any change or amendment by any construction of the language of the bill.