

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1002

SPONSOR: Criminal Justice Committee and Senator King

SUBJECT: Cruelty to Animals

DATE: February 12, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Weidenbenner</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable</u>
2.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>APJ</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill expands the elements of the crime of cruelty to animals, punishable as a misdemeanor of the first degree, to include deprivation of medical attention and sanitation.

The bill requires that a person convicted of a felony of the third degree of intentionally committing an act which results in the cruel death of an animal, or which causes excessive or repeated infliction of unnecessary pain or suffering of an animal, attend an anger management program, when the court finds that the violation includes the knowing and intentional torment or torture of the animal. The offender, upon a second conviction, would pay a minimum fine of \$2,500 and serve a minimum sentence of 3 months. The minimum fine increases to \$5,000 and the minimum sentence increases to 6 months for persons convicted of a third or subsequent violation.

This bill substantially amends section 828.12 of the Florida Statutes.

II. Present Situation:

A person can be convicted of a misdemeanor of the first degree, punishable by up to one year incarceration or a fine of not more than \$5,000 or both, if he unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter or unnecessarily mutilates, or kills an animal. Deprivation of medical attention or sanitation are not currently specified elements of the crime.

A person can be convicted of a felony of the third degree, punishable by up to five years imprisonment or by a fine of not more than \$10,000 or both, for an intentional act which results in the cruel death of an animal, or excessive or repeated infliction of unnecessary pain or

suffering on an animal. There is no minimum mandatory fine or minimum mandatory sentence nor is there a requirement that a convicted person complete an anger management program. It should be noted, however, that the maximum potential fines currently set forth in s. 828.12, F.S., for both misdemeanor and felony animal cruelty offenses, exceed the fines which are normally imposed for misdemeanor and felony violations, as specified in s. 775.083, F.S.

The American Society for the Prevention of Cruelty to Animals (ASPCA), the Humane Society of the United States (HSUS) and the American Humane Association (AHA) all report that studies in psychology, sociology, and criminology have demonstrated that there is a link between animal cruelty and human violence. Currently, Florida's court system does not have the authority to require a person convicted of animal cruelty to undergo behavioral counseling.

III. Effect of Proposed Changes:

Section 1. Amends s. 828.12(1), F.S., to add deprivation of medical attention and sanitation to the elements of the crime of cruelty to animals punishable as a misdemeanor of the first degree.

Amends s. 828.12(2), F.S., concerning the crime of cruelty to animals punishable as a third degree felony, by increasing the existing scope of punishment as follows:

- (a) Provides that a person shall, in addition to the sentence imposed by this subsection, be ordered to complete an anger management program when the finder of fact determines that a violation includes the knowing and intentional torture or torment of an animal which injures, mutilates, or kills the animal. The offender must pay for the program unless the court finds him or her to be indigent.
- (b) Provides that a person shall, in addition to any other sentence imposed by this subsection, be required to pay a minimum mandatory fine of \$2,500 and serve a minimum mandatory period of incarceration of 3 months when a court determines that a violation includes an intentional act of cruelty to animals, upon being convicted of a violation of this subsection for a second time.
- (c) Provides that a person convicted of a third or subsequent violation of this subsection, be required to pay a minimum mandatory fine of \$5,000 and serve a minimum mandatory period of incarceration of 6 months. There shall be no parole or any form of early release. Any plea of nolo contendere (no contest) shall be considered a conviction for purposes of this subsection.

Sections 2 - 10. Reenact provisions of statutes relating to animal racing, fighting or baiting animals, arrest without warrant, the humane slaughter of livestock, penalties under the Humane Slaughter Act, pet dealers, the criminal justice information program, fingerprinting and photographing, and the criminal punishment code, to incorporate the amendments contained in the new act.

Section 11. This act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Individuals who are convicted of violating the cruelty to animals laws are exposed to increased fines and the cost of attending anger management programs.

C. Government Sector Impact:

The Criminal Justice Impact Conference considered SB 1002 on February 8, 2002, and determined that there would be no prison bed impact with the enactment of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.