

By the Committee on Criminal Justice; and Senator King

307-1903-02

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;
5 providing a penalty; providing that any person
6 convicted of specified acts which constitute
7 cruelty to an animal, where the finder of fact
8 determines that the violation includes the
9 knowing and intentional torture or torment of
10 an animal, shall, in addition to any other
11 sentence imposed, be ordered to complete an
12 anger management treatment program; providing a
13 minimum mandatory fine and minimum mandatory
14 period of incarceration; providing penalties
15 for second or subsequent violations; reenacting
16 ss. 550.2415(6)(d), 828.122(5) and (6)(a),
17 828.17, 828.24(3), 828.26(3), 828.29(14),
18 943.051(3)(b), 985.212(1)(b), 921.0022(3)(c),
19 F.S., to incorporate the amendment to s.
20 828.12, F.S., in references thereto; providing
21 an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 828.12, Florida Statutes, is
26 amended to read:

27 828.12 Cruelty to animals.--
28 (1) A person who unnecessarily overloads, overdrives,
29 torments, deprives of necessary sustenance, medical attention,
30 sanitation, or shelter, or unnecessarily mutilates, or kills
31 any animal, or causes the same to be done, or carries in or

1 upon any vehicle, or otherwise, any animal in a cruel or
2 inhumane manner, is guilty of a misdemeanor of the first
3 degree, punishable as provided in s. 775.082 or by a fine of
4 not more than \$5,000, or both.

5 (2) A person who intentionally commits an act to any
6 animal which results in the cruel death, or excessive or
7 repeated infliction of unnecessary pain or suffering, or
8 causes the same to be done, is guilty of a felony of the third
9 degree, punishable as provided in s. 775.082 or by a fine of
10 not more than \$10,000, or both.

11 (a) A person convicted of a violation of this
12 subsection, when the finder of fact determines that the
13 violation includes the knowing and intentional torture or
14 torment of an animal which injures, mutilates, or kills the
15 animal, shall, in addition to the sentence imposed pursuant to
16 this subsection, be ordered to complete an anger management
17 treatment program. The person ordered to complete the anger
18 management treatment program shall pay the cost of the
19 program, unless the person has been determined by the court to
20 be indigent, in which case the cost shall be paid by the
21 county.

22 (b) In addition to any other sentence imposed for a
23 violation of this subsection, any person convicted of a second
24 crime where the court determines that the violation includes
25 an intentional act of cruelty to animals shall be required to
26 pay a minimum mandatory fine of \$2,500 and serve a minimum
27 mandatory period of incarceration of 3 months.

28 (c) Any person convicted of a third or subsequent
29 violation of this subsection shall be required to pay a
30 minimum mandatory fine of \$5,000 and serve a minimum mandatory
31 period of incarceration of 6 months. In addition, the person

1 shall be released only upon expiration of sentence, shall not
2 be eligible for parole, control release, or any form of early
3 release, and must serve 100 percent of the court-imposed
4 sentence. Any plea of nolo contendere shall be considered a
5 conviction for purposes of this subsection.

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

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

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

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

26 (c) For the purpose of administering veterinary care
27 to the horse.

28 Section 2. For the purpose of incorporating the
29 amendment to section 828.12, Florida Statutes, in references
30 thereto, paragraph (d) of subsection (6) of section 550.2415,
31 Florida Statutes, is reenacted to read:

1 550.2415 Racing of animals under certain conditions
2 prohibited; penalties; exceptions.--

3 (6)

4 (d) A conviction of cruelty to animals pursuant to s.
5 828.12 involving a racing animal constitutes a violation of
6 this chapter.

7 Section 3. For the purpose of incorporating the
8 amendment to section 828.12, Florida Statutes, in references
9 thereto, subsection (5) and paragraph (a) of subsection (6) of
10 section 828.122, Florida Statutes, are reenacted to read:

11 828.122 Fighting or baiting animals; offenses;
12 penalties.--

13 (5) Whenever an indictment is returned or an
14 information is filed charging a violation of s. 828.12 or of
15 this section and, in the case of an information, a magistrate
16 finds probable cause that a violation has occurred, the court
17 shall order the animals seized and shall provide for
18 appropriate and humane care or disposition of the animals.
19 This provision shall not be construed as a limitation on the
20 power to seize animals as evidence at the time of arrest.

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

23 (a) Any person simulating a fight for the purpose of
24 using the simulated fight as part of a motion picture which
25 will be used on television or in a motion picture, provided s.
26 828.12 is not violated.

27 Section 4. For the purpose of incorporating the
28 amendment to section 828.12, Florida Statutes, in references
29 thereto, section 828.17, Florida Statutes, is reenacted to
30 read:

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1 828.17 Officer to arrest without warrant.--Any sheriff
2 or any other peace officer of the state, or any police officer
3 of any city or town of the state, shall arrest without warrant
4 any person found violating any of the provisions of ss.
5 828.04, 828.08, 828.12, and 828.13-828.16, and the officer
6 making the arrest shall hold the offender until a warrant can
7 be procured, and he or she shall use proper diligence to
8 procure such warrant.

9 Section 5. For the purpose of incorporating the
10 amendment to section 828.12, Florida Statutes, in references
11 thereto, subsection (3) of section 828.24, Florida Statutes,
12 is reenacted to read:

13 828.24 Prohibited acts; exemption.--

14 (3) Nothing in this section precludes the enforcement
15 of s. 828.12 relating to cruelty to animals.

16 Section 6. For the purpose of incorporating the
17 amendment to section 828.12, Florida Statutes, in references
18 thereto, subsection (3) of section 828.26, Florida Statutes,
19 is reenacted to read:

20 828.26 Penalties.--

21 (3) Nothing in this section precludes the enforcement
22 of s. 828.12, relating to cruelty to animals.

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

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

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

1 Section 8. 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 9. For the purpose of incorporating the
5 amendment to section 828.12, Florida Statutes, in references
6 thereto, paragraph (b) of subsection (1) of 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.

6
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 (c) The court shall be responsible for the
2 fingerprinting of any child at the disposition hearing if the
3 child has been adjudicated or had adjudication withheld for
4 any felony in the case currently before the court.

5 Section 10. For the purpose of incorporating the
6 amendment to section 828.12, Florida Statutes, in references
7 thereto, paragraph (c) of subsection (3) of section 921.0022,
8 Florida Statutes, is reenacted to read:

9 921.0022 Criminal Punishment Code; offense severity
10 ranking chart.--

11 (3) OFFENSE SEVERITY RANKING CHART

12	13 Florida	14 Felony	
15	16 Statute	17 Degree	18 Description
19			(c) LEVEL 3
20	316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in marked patrol vehicle with siren and lights activated.
21	319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
22	319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
23	319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.

1	319.33(4)	3rd	With intent to defraud, possess,
2			sell, etc., a blank, forged, or
3			unlawfully obtained title or
4			registration.
5	328.05(2)	3rd	Possess, sell, or counterfeit
6			fictitious, stolen, or fraudulent
7			titles or bills of sale of
8			vessels.
9	328.07(4)	3rd	Manufacture, exchange, or possess
10			vessel with counterfeit or wrong
11			ID number.
12	376.302(5)	3rd	Fraud related to reimbursement
13			for cleanup expenses under the
14			Inland Protection Trust Fund.
15	501.001(2)(b)	2nd	Tampers with a consumer product
16			or the container using materially
17			false/misleading information.
18	697.08	3rd	Equity skimming.
19	790.15(3)	3rd	Person directs another to
20			discharge firearm from a vehicle.
21	796.05(1)	3rd	Live on earnings of a prostitute.
22	806.10(1)	3rd	Maliciously injure, destroy, or
23			interfere with vehicles or
24			equipment used in firefighting.
25	806.10(2)	3rd	Interferes with or assaults
26			firefighter in performance of
27			duty.
28	810.09(2)(c)	3rd	Trespass on property other than
29			structure or conveyance armed
30			with firearm or dangerous weapon.
31			

1	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
2			less than \$10,000.
3	815.04(4)(b)	2nd	Computer offense devised to
4			defraud or obtain property.
5	817.034(4)(a)3.	3rd	Engages in scheme to defraud
6			(Florida Communications Fraud
7			Act), property valued at less
8			than \$20,000.
9	817.233	3rd	Burning to defraud insurer.
10	817.234(8)&(9)	3rd	Unlawful solicitation of persons
11			involved in motor vehicle
12			accidents.
13	817.234(11)(a)	3rd	Insurance fraud; property value
14			less than \$20,000.
15	817.505(4)	3rd	Patient brokering.
16	828.12(2)	3rd	Tortures any animal with intent
17			to inflict intense pain, serious
18			physical injury, or death.
19	831.28(2)(a)	3rd	Counterfeiting a payment
20			instrument with intent to defraud
21			or possessing a counterfeit
22			payment instrument.
23	831.29	2nd	Possession of instruments for
24			counterfeiting drivers' licenses
25			or identification cards.
26	838.021(3)(b)	3rd	Threatens unlawful harm to public
27			servant.
28	843.19	3rd	Injure, disable, or kill police
29			dog or horse.
30	870.01(2)	3rd	Riot; inciting or encouraging.
31			

1	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
2			cannabis (or other s.
3			893.03(1)(c), (2)(c)1., (2)(c)2.,
4			(2)(c)3., (2)(c)5., (2)(c)6.,
5			(2)(c)7., (2)(c)8., (2)(c)9.,
6			(3), or (4) drugs).
7	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
8			893.03(1)(c), (2)(c)1., (2)(c)2.,
9			(2)(c)3., (2)(c)5., (2)(c)6.,
10			(2)(c)7., (2)(c)8., (2)(c)9.,
11			(3), or (4) drugs within 200 feet
12			of university or public park.
13	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
14			893.03(1)(c), (2)(c)1., (2)(c)2.,
15			(2)(c)3., (2)(c)5., (2)(c)6.,
16			(2)(c)7., (2)(c)8., (2)(c)9.,
17			(3), or (4) drugs within 200 feet
18			of public housing facility.
19	893.13(6)(a)	3rd	Possession of any controlled
20			substance other than felony
21			possession of cannabis.
22	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
23			controlled substance by fraud,
24			forgery, misrepresentation, etc.
25	893.13(7)(a)11.	3rd	Furnish false or fraudulent
26			material information on any
27			document or record required by
28			chapter 893.
29	918.13(1)(a)	3rd	Alter, destroy, or conceal
30			investigation evidence.
31			

1 944.47
2 (1)(a)1.-2. 3rd Introduce contraband to
3 correctional facility.
4 944.47(1)(c) 2nd Possess contraband while upon the
5 grounds of a correctional
6 institution.
7 985.3141 3rd Escapes from a juvenile facility
8 (secure detention or residential
9 commitment facility).
10 Section 11. This act shall take effect upon becoming a
11 law.
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13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
14 COMMITTEE SUBSTITUTE FOR
15 Senate Bill 1002
16 - The bill has been amended to require the finder of fact,
17 rather than the court, to make certain factual
18 determinations regarding intentional torture of an
19 animal which, if found, would require the court to order
20 that the defendant complete an anger management program.
21 - The bill now requires a second and third conviction of a
22 violation of s. 828.12(2), F.S., which includes an
23 intentional act of cruelty to animals, in order for the
24 minimum mandatory fines and jail sentences to be
25 applicable.
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