

By the Committee on Agriculture and Consumer Services; and
Senator Campbell

303-777-02

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A bill to be entitled
An act relating to cross-reporting of violence;
amending ss. 39.201 and 828.073, F.S.;
requiring animal control officers or other
agents appointed under s. 828.03, F.S., to
report known or suspected child abuse,
abandonment, or neglect; requiring a training
component; reenacting s. 39.205, F.S.;
providing a penalty; creating s. 39.208, F.S.;
requiring persons who are required to report or
investigate child abuse, abandonment, or
neglect under ch. 39, F.S., to report known or
suspected animal abuse, neglect, cruelty, or
abandonment; specifying information to be
reported; requiring a training component;
providing an effective date.

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

Section 1. Subsection (1) and paragraph (b) of
subsection (2) of section 39.201, Florida Statutes, are
amended to read:

39.201 Mandatory reports of child abuse, abandonment,
or neglect; mandatory reports of death; central abuse
hotline.--

(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;

1 (b) Health or mental health professional other than
2 one listed in paragraph (a);

3 (c) Practitioner who relies solely on spiritual means
4 for healing;

5 (d) School teacher or other school official or
6 personnel;

7 (e) Social worker, day care center worker, or other
8 professional child care, foster care, residential, or
9 institutional worker;

10 (f) Animal control officer or other agent appointed
11 under s. 828.03;

12 (g)~~(f)~~ Law enforcement officer; or

13 (h)~~(g)~~ Judge,

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

20 (2)

21 (b) The department must consider valid and accept for
22 investigation any report received by the central abuse hotline
23 from a judge, teacher or other professional school official,
24 or physician, as specified in paragraph (1)(a), paragraph
25 (1)(d), or paragraph (1)(h)~~(1)(g)~~, who is acting in his or her
26 professional capacity, alleging harm as defined in s. 39.01.

27 Section 2. Subsection (1) of section 39.205, Florida
28 Statutes, is reenacted to read:

29 39.205 Penalties relating to reporting of child abuse,
30 abandonment, or neglect.--

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1 (1) A person who is required to report known or
2 suspected child abuse, abandonment, or neglect and who
3 knowingly and willfully fails to do so, or who knowingly and
4 willfully prevents another person from doing so, is guilty of
5 a misdemeanor of the first degree, punishable as provided in
6 s. 775.082 or s. 775.083. A judge subject to discipline
7 pursuant to s. 12, Art. V of the Florida Constitution shall
8 not be subject to criminal prosecution when the information
9 was received in the course of official duties.

10 Section 3. Section 39.208, Florida Statutes, is
11 created to read:

12 39.208 Reports of abuse, neglect, cruelty, or
13 abandonment of an animal required.--

14 (1) Any person who is required to report or
15 investigate child abuse, abandonment, or neglect, except
16 judges, who in the course of his or her job knows or has
17 reasonable cause to suspect that abuse, neglect, cruelty, or
18 abandonment of an animal has occurred shall report such
19 knowledge or suspicion, within 24 hours, to the local animal
20 control officer or other agent appointed under s. 828.03. If
21 no such local officer or agent exists, the report shall be
22 made to the law enforcement agency that has jurisdictional
23 responsibility.

24 (2) The report must include the following information:

25 (a) A description of the animal.

26 (b) A description of any injury, cruelty, or abuse of
27 the animal, including any evidence of prior injury, cruelty,
28 or abuse of the animal or of other animals.

29 (c) Any evidence of neglect or abandonment of the
30 animal, including any evidence of prior neglect or abandonment
31 of the animal or of other animals.

1 (d) The name and address of the person or persons
2 alleged to be responsible for causing the injury, abuse,
3 neglect, cruelty, or abandonment of the animal.

4 (e) The source of the report.

5 (f) Any action taken by the reporting source with
6 regard to the injury, abuse, neglect, cruelty, or abandonment
7 of the animal.

8 (g) The name, address, and telephone number of the
9 person making the report.

10 (3) The department's training program for persons who
11 are required to investigate child abuse, abandonment, or
12 neglect shall include training in the detection of animal
13 abuse, neglect, cruelty, and abandonment.

14 Section 4. Section 828.073, Florida Statutes, is
15 amended to read:

16 828.073 Animals and children found in distress; when
17 agent may take charge; hearing; disposition; sale.--

18 (1) The purpose of this section is to provide a means
19 by which a neglected or mistreated animal or child can be:

20 (a) Removed from its present custody, or

21 (b) Made the subject of an order to provide care,
22 issued to its owner by the county court, any law enforcement
23 officer, or any agent of the county or of any society or
24 association for the prevention of cruelty to animals appointed
25 under s. 828.03,

26
27 and given protection and an appropriate and humane disposition
28 made.

29 (2) Any law enforcement officer or any agent of any
30 county or of any society or association for the prevention of
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1 cruelty to animals appointed under the provisions of s. 828.03
2 may:

3 (a) Lawfully take custody of any animal found
4 neglected or cruelly treated by removing the animal from its
5 present location, or

6 (b) Order the owner of any animal found neglected or
7 cruelly treated to provide certain care to the animal at the
8 owner's expense without removal of the animal from its present
9 location,

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11 and shall forthwith petition the county court judge of the
12 county wherein the animal is found for a hearing, to be set
13 within 30 days after the date of seizure of the animal or
14 issuance of the order to provide care and held not more than
15 15 days after the setting of such date, to determine whether
16 the owner, if known, is able to provide adequately for the
17 animal and is fit to have custody of the animal. The hearing
18 shall be concluded and the court order entered thereon within
19 60 days after the date the hearing is commenced. No fee shall
20 be charged for the filing of the petition. Nothing herein is
21 intended to require court action for the taking into custody
22 and making proper disposition of stray or abandoned animals as
23 lawfully performed by animal control agents.

24 (3) The officer or agent of any county or of any
25 society or association for the prevention of cruelty to
26 animals taking charge of any animal pursuant to the provisions
27 of this section shall have written notice served, at least 5
28 days prior to the hearing set forth in subsection (2), upon
29 the owner of the animal, if he or she is known and is residing
30 in the county where the animal was taken, in conformance with
31 the provisions of chapter 48 relating to service of process.

1 The sheriff of the county shall not charge a fee for service
2 of such notice. If the owner of the animal is known but is
3 residing outside of the county wherein the animal was taken,
4 notice of the hearing shall be by publication in conformance
5 with the provisions of chapter 49.

6 (4)(a) The officer or agent of any county or of any
7 society or association for the prevention of cruelty to
8 animals taking charge of an animal as provided for in this
9 section shall provide for the animal until either:

10 1. The owner is adjudged by the court to be able to
11 provide adequately for, and have custody of, the animal, in
12 which case the animal shall be returned to the owner upon
13 payment by the owner for the care and provision for the animal
14 while in the agent's or officer's custody; or

15 2. The animal is turned over to the officer or agent
16 as provided in paragraph (c) and a humane disposition of the
17 animal is made.

18 (b) If the court determines that the owner is able to
19 provide adequately for, and have custody of, the animal, the
20 order shall provide that the animal in the possession of the
21 officer or agent be claimed and removed by the owner within 7
22 days after the date of the order.

23 (c) Upon the court's judgment that the owner of the
24 animal is unable or unfit to adequately provide for the
25 animal:

26 1. The court shall order the animal to be sold by the
27 sheriff at public auction, and shall provide in its order that
28 the current owner shall have no further custody of the animal
29 and that any animal not bid upon shall be remanded to the
30 custody of the Society for the Prevention of Cruelty to
31 Animals, the Humane Society, the county, or any agency or

1 person the judge deems appropriate, to be disposed of as the
2 agency or person sees fit; or
3 2. The court may order the animal destroyed or
4 remanded directly to the custody of the Society for the
5 Prevention of Cruelty to Animals, the Humane Society, the
6 county, or any agency or person the judge deems appropriate,
7 to be disposed of as the agency or person sees fit, upon the
8 testimony of the agent who took custody of the animal, or upon
9 the testimony of other qualified witnesses, that the animal
10 requires destruction or other disposition for humanitarian
11 reasons or is of no commercial value.
12 3. Upon proof of costs incurred by the agent or
13 officer, the court may require that the owner pay for the care
14 of the animal while in the custody of the agent or officer. A
15 separate hearing may be held.
16 4. The court may order that other animals that are in
17 the custody of the owner and that were not seized by the
18 officer or agent be turned over to the officer or agent, if
19 the court determines that the owner is unable or unfit to
20 adequately provide for the animals. The court may enjoin the
21 owner's further possession or custody of other animals.
22 (5) In determining the person's fitness to have
23 custody of an animal under the provisions of this act, the
24 court may consider, among other matters:
25 (a) Testimony from the agent or officer who seized the
26 animal and other witnesses as to the condition of the animal
27 when seized and as to the conditions under which the animal
28 was kept.
29 (b) Testimony and evidence as to the veterinary care
30 provided to the animal.
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1 (c) Testimony and evidence as to the type and amount
2 of care provided to the animal.

3 (d) Expert testimony as to the community standards for
4 proper and reasonable care of the same type of animal.

5 (e) Testimony from any witnesses as to prior treatment
6 or condition of this or other animals in the same custody.

7 (f) The owner's past record of judgments under the
8 provisions of this chapter.

9 (g) Convictions under the statutes prohibiting cruelty
10 to animals.

11 (h) Any other evidence the court considers to be
12 material or relevant.

13 (6) If the evidence indicates a lack of proper and
14 reasonable care of the animal, the burden is on the owner to
15 demonstrate by clear and convincing evidence that he or she is
16 able and fit to have custody of and provide adequately for the
17 animal.

18 (7) In any case in which an animal is offered for
19 auction under the provisions of this section, the proceeds
20 shall be:

21 (a) Applied, first, to the cost of the sale.

22 (b) Applied, secondly, to the care and provision for
23 the animal by the officer or agent of any county or of any
24 society or association for the prevention of cruelty to
25 animals taking charge.

26 (c) Applied, thirdly, to the payment of the owner for
27 the sale of the animal.

28 (d) Paid over to the court if the owner is not known.

29 (8) Any person authorized to enforce the provisions of
30 this section who knows, or has reasonable cause to suspect,
31 that a child is or has been a victim of abuse, abandonment,

1 neglect, or domestic violence shall immediately report such
2 knowledge or suspicion to the Department of Children and
3 Family Services as provided in s. 39.201. The training course
4 required for county-employed animal control officers and
5 municipal-employed animal control officers, pursuant to s.
6 828.27(4), shall include training in the detection of child
7 abuse, neglect, and abandonment.

8 Section 5. This act shall take effect October 1, 2002.

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10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
11 COMMITTEE SUBSTITUTE FOR
12 Senate Bill 282

13 Committee Substitute for Senate Bill 282 is different from
14 Senate Bill 282 in that it:

- 15 1. Deletes a penalty for persons who knowingly and
16 willfully fail to report known or suspected abuse,
neglect, cruelty, or abandonment of an animal, and
- 17 2. Amends a section catch line to reflect amendments to s.
18 828.073, F.S.