

By Representative Kottkamp

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 court  
 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)11., 985.212(1)(b)11., and  
 19          921.0022(3)(c), F.S., to incorporate the  
 20          amendment to s. 828.12, F.S., in references  
 21          thereto; providing 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, where the court determines that the violation  
13 includes the knowing and intentional torture or torment of an  
14 animal that injures, mutilates, or kills the animal, shall, in  
15 addition to the sentence imposed pursuant to this subsection,  
16 be ordered to complete an anger management treatment program.  
17 The person ordered to complete the anger management treatment  
18 program shall pay the cost of the program, unless the person  
19 has been determined by the court to be indigent, in which case  
20 the cost shall be paid by the county.

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

27 (c) Any person convicted of a second or subsequent  
28 violation of this subsection shall be required to pay a  
29 minimum mandatory fine of \$5,000 and serve a minimum mandatory  
30 period of incarceration of 6 months. In addition, the person  
31 shall be released only upon expiration of sentence, shall not

1 be eligible for parole, control release, or any form of early  
2 release, and must serve 100 percent of the court-imposed  
3 sentence. Any plea of nolo contendere shall be considered a  
4 conviction for purposes of this subsection.

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

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

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

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

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

27 Section 2. For the purpose of incorporating the  
28 amendment to section 828.12, Florida Statutes, in references  
29 thereto, the sections or subdivisions of Florida Statutes set  
30 forth below are reenacted to read:

31

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           828.122 Fighting or baiting animals; offenses;  
8 penalties.--

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

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

19           (a) Any person simulating a fight for the purpose of  
20 using the simulated fight as part of a motion picture which  
21 will be used on television or in a motion picture, provided s.  
22 828.12 is not violated.

23           828.17 Officer to arrest without warrant.--Any sheriff  
24 or any other peace officer of the state, or any police officer  
25 of any city or town of the state, shall arrest without warrant  
26 any person found violating any of the provisions of ss.  
27 828.04, 828.08, 828.12, and 828.13-828.16, and the officer  
28 making the arrest shall hold the offender until a warrant can  
29 be procured, and he or she shall use proper diligence to  
30 procure such warrant.

31           828.24 Prohibited acts; exemption.--

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

3           828.26 Penalties.--

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

6           828.29 Dogs and cats transported or offered for sale;  
7 health requirements; consumer guarantee.--

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

11           943.051 Criminal justice information; collection and  
12 storage; fingerprinting.--

13           (3)

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

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

18           985.212 Fingerprinting and photographing.--

19           (1)

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

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

25  
26 A law enforcement agency may fingerprint and photograph a  
27 child taken into custody upon probable cause that such child  
28 has committed any other violation of law, as the agency deems  
29 appropriate. Such fingerprint records and photographs shall be  
30 retained by the law enforcement agency in a separate file, and  
31 these records and all copies thereof must be marked "Juvenile

1 Confidential." These records are not available for public  
2 disclosure and inspection under s. 119.07(1) except as  
3 provided in ss. 943.053 and 985.04(5), but shall be available  
4 to other law enforcement agencies, criminal justice agencies,  
5 state attorneys, the courts, the child, the parents or legal  
6 custodians of the child, their attorneys, and any other person  
7 authorized by the court to have access to such records. In  
8 addition, such records may be submitted to the Department of  
9 Law Enforcement for inclusion in the state criminal history  
10 records and used by criminal justice agencies for criminal  
11 justice purposes. These records may, in the discretion of the  
12 court, be open to inspection by anyone upon a showing of  
13 cause. The fingerprint and photograph records shall be  
14 produced in the court whenever directed by the court. Any  
15 photograph taken pursuant to this section may be shown by a  
16 law enforcement officer to any victim or witness of a crime  
17 for the purpose of identifying the person who committed such  
18 crime.

19 921.0022 Criminal Punishment Code; offense severity  
20 ranking chart.--

21 (3) OFFENSE SEVERITY RANKING CHART

23 Florida	Felony	
24 Statute	Degree	Description
		(c) LEVEL 3
27 316.1935(2)	3rd	Fleeing or attempting to elude 28 law enforcement officer in marked 29 patrol vehicle with siren and 30 lights activated.

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1	319.30(4)	3rd	Possession by junkyard of motor
2			vehicle with identification
3			number plate removed.
4	319.33(1)(a)	3rd	Alter or forge any certificate of
5			title to a motor vehicle or
6			mobile home.
7	319.33(1)(c)	3rd	Procure or pass title on stolen
8			vehicle.
9	319.33(4)	3rd	With intent to defraud, possess,
10			sell, etc., a blank, forged, or
11			unlawfully obtained title or
12			registration.
13	328.05(2)	3rd	Possess, sell, or counterfeit
14			fictitious, stolen, or fraudulent
15			titles or bills of sale of
16			vessels.
17	328.07(4)	3rd	Manufacture, exchange, or possess
18			vessel with counterfeit or wrong
19			ID number.
20	376.302(5)	3rd	Fraud related to reimbursement
21			for cleanup expenses under the
22			Inland Protection Trust Fund.
23	501.001(2)(b)	2nd	Tampers with a consumer product
24			or the container using materially
25			false/misleading information.
26	697.08	3rd	Equity skimming.
27	790.15(3)	3rd	Person directs another to
28			discharge firearm from a vehicle.
29	796.05(1)	3rd	Live on earnings of a prostitute.
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1	806.10(1)	3rd	Maliciously injure, destroy, or
2			interfere with vehicles or
3			equipment used in firefighting.
4	806.10(2)	3rd	Interferes with or assaults
5			firefighter in performance of
6			duty.
7	810.09(2)(c)	3rd	Trespass on property other than
8			structure or conveyance armed
9			with firearm or dangerous weapon.
10	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
11			less than \$10,000.
12	815.04(4)(b)	2nd	Computer offense devised to
13			defraud or obtain property.
14	817.034(4)(a)3.	3rd	Engages in scheme to defraud
15			(Florida Communications Fraud
16			Act), property valued at less
17			than \$20,000.
18	817.233	3rd	Burning to defraud insurer.
19	817.234(8)&(9)	3rd	Unlawful solicitation of persons
20			involved in motor vehicle
21			accidents.
22	817.234(11)(a)	3rd	Insurance fraud; property value
23			less than \$20,000.
24	817.505(4)	3rd	Patient brokering.
25	828.12(2)	3rd	Tortures any animal with intent
26			to inflict intense pain, serious
27			physical injury, or death.
28	831.28(2)(a)	3rd	Counterfeiting a payment
29			instrument with intent to defraud
30			or possessing a counterfeit
31			payment instrument.



1	831.29	2nd	Possession of instruments for
2			counterfeiting drivers' licenses
3			or identification cards.
4	838.021(3)(b)	3rd	Threatens unlawful harm to public
5			servant.
6	843.19	3rd	Injure, disable, or kill police
7			dog or horse.
8	870.01(2)	3rd	Riot; inciting or encouraging.
9	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
10			cannabis (or other s.
11			893.03(1)(c), (2)(c)1., (2)(c)2.,
12			(2)(c)3., (2)(c)5., (2)(c)6.,
13			(2)(c)7., (2)(c)8., (2)(c)9.,
14			(3), or (4) drugs).
15	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
16			893.03(1)(c), (2)(c)1., (2)(c)2.,
17			(2)(c)3., (2)(c)5., (2)(c)6.,
18			(2)(c)7., (2)(c)8., (2)(c)9.,
19			(3), or (4) drugs within 200 feet
20			of university or public park.
21	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
22			893.03(1)(c), (2)(c)1., (2)(c)2.,
23			(2)(c)3., (2)(c)5., (2)(c)6.,
24			(2)(c)7., (2)(c)8., (2)(c)9.,
25			(3), or (4) drugs within 200 feet
26			of public housing facility.
27	893.13(6)(a)	3rd	Possession of any controlled
28			substance other than felony
29			possession of cannabis.
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1	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
2			controlled substance by fraud,
3			forgery, misrepresentation, etc.
4	893.13(7)(a)11.	3rd	Furnish false or fraudulent
5			material information on any
6			document or record required by
7			chapter 893.
8	918.13(1)(a)	3rd	Alter, destroy, or conceal
9			investigation evidence.
10	944.47		
11	(1)(a)1.-2.	3rd	Introduce contraband to
12			correctional facility.
13	944.47(1)(c)	2nd	Possess contraband while upon the
14			grounds of a correctional
15			institution.
16	985.3141	3rd	Escapes from a juvenile facility
17			(secure detention or residential
18			commitment facility).
19	Section 3.		This act shall take effect upon becoming a
20	law.		
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HOUSE SUMMARY

Includes deprivation of medical attention or sanitation among acts that constitute cruelty to an animal for which a first degree misdemeanor penalty is provided.

Provides that any person convicted of specified acts which constitute cruelty to an animal, where the court determines that the violation includes the knowing and intentional torture or torment of an animal, shall, in addition to any other sentence imposed, be ordered to complete an anger management treatment program. Provides that a person convicted for a second or subsequent violation shall be required to pay a minimum mandatory fine of \$5,000 and serve a minimum mandatory period of incarceration of 6 months, shall not be eligible for parole, control release, or any form of early release from incarceration, and must serve 100 percent of the court-imposed sentence.