

By the Council for Competitive Commerce and
 Representatives Kottkamp, Harrell, Murman, Melvin, Negron,
 Pickens, Paul, Betancourt, Green, Needelman, Cantens, Heyman,
 Gannon, Crow, Davis and Gottlieb

1 A bill to be entitled
 2 An act relating to cruelty to animals; amending
 3 s. 828.12, F.S.; providing that any person
 4 convicted of specified acts which constitute
 5 cruelty to an animal, where the finder of fact
 6 determines that the violation includes the
 7 knowing and intentional torture or torment of
 8 an animal, shall be ordered to undergo
 9 psychological counseling or anger management
 10 treatment; providing a minimum mandatory fine;
 11 providing penalties for second or subsequent
 12 violations; reenacting ss. 550.2415(6)(d),
 13 828.122(5) and (6)(a), 828.17, 828.24(3),
 14 828.26(3), 828.29(14), 943.051(3)(b)11.,
 15 985.212(1)(b)11., and 921.0022(3)(c), F.S., to
 16 incorporate the amendment to s. 828.12, F.S.,
 17 in references thereto; providing an effective
 18 date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Section 828.12, Florida Statutes, is
 23 amended to read:

24 828.12 Cruelty to animals.--

25 (1) A person who unnecessarily overloads, overdrives,
 26 torments, deprives of necessary sustenance or shelter, or
 27 unnecessarily mutilates, or kills any animal, or causes the
 28 same to be done, or carries in or upon any vehicle, or
 29 otherwise, any animal in a cruel or inhumane manner, is guilty
 30 of a misdemeanor of the first degree, punishable as provided
 31 in s. 775.082 or by a fine of not more than \$5,000, or both.

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

7 (a) A person convicted of a violation of this
8 subsection, where the finder of fact determines that the
9 violation includes the knowing and intentional torture or
10 torment of an animal that injures, mutilates, or kills the
11 animal, shall be ordered to pay a minimum mandatory fine of
12 \$2,500 and undergo psychological counseling or complete an
13 anger management treatment program.

14 (b) Any person convicted of a second or subsequent
15 violation of this subsection shall be required to pay a
16 minimum mandatory fine of \$5,000 and serve a minimum mandatory
17 period of incarceration of 6 months. In addition, the person
18 shall be released only upon expiration of sentence, shall not
19 be eligible for parole, control release, or any form of early
20 release, and must serve 100 percent of the court-imposed
21 sentence. Any plea of nolo contendere shall be considered a
22 conviction for purposes of this subsection.

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

29 (4) A person who intentionally trips, fells, ropes, or
30 lassos the legs of a horse by any means for the purpose of
31 entertainment or sport shall be guilty of a third degree

1 felony, punishable as provided in s. 775.082, s. 775.083, or
2 s. 775.084. As used in this subsection, "trip" means any act
3 that consists of the use of any wire, pole, stick, rope, or
4 other apparatus to cause a horse to fall or lose its balance,
5 and "horse" means any animal of any registered breed of the
6 genus Equus, or any recognized hybrid thereof. The provisions
7 of this subsection shall not apply when tripping is used:

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

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

12 (c) For the purpose of administering veterinary care
13 to the horse.

14 Section 2. For the purpose of incorporating the
15 amendment to section 828.12, Florida Statutes, in references
16 thereto, the sections or subdivisions of Florida Statutes set
17 forth below are reenacted to read:

18 550.2415 Racing of animals under certain conditions
19 prohibited; penalties; exceptions.--

20 (6)

21 (d) A conviction of cruelty to animals pursuant to s.
22 828.12 involving a racing animal constitutes a violation of
23 this chapter.

24 828.122 Fighting or baiting animals; offenses;
25 penalties.--

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

1 This provision shall not be construed as a limitation on the
2 power to seize animals as evidence at the time of arrest.
3 (6) The provisions of subsection (3) and paragraph
4 (4)(b) shall not apply to:
5 (a) Any person simulating a fight for the purpose of
6 using the simulated fight as part of a motion picture which
7 will be used on television or in a motion picture, provided s.
8 828.12 is not violated.
9 828.17 Officer to arrest without warrant.--Any sheriff
10 or any other peace officer of the state, or any police officer
11 of any city or town of the state, shall arrest without warrant
12 any person found violating any of the provisions of ss.
13 828.04, 828.08, 828.12, and 828.13-828.16, and the officer
14 making the arrest shall hold the offender until a warrant can
15 be procured, and he or she shall use proper diligence to
16 procure such warrant.
17 828.24 Prohibited acts; exemption.--
18 (3) Nothing in this section precludes the enforcement
19 of s. 828.12 relating to cruelty to animals.
20 828.26 Penalties.--
21 (3) Nothing in this section precludes the enforcement
22 of s. 828.12, relating to cruelty to animals.
23 828.29 Dogs and cats transported or offered for sale;
24 health requirements; consumer guarantee.--
25 (14) The state attorney may bring an action to enjoin
26 any violator of this section or s. 828.12 or s. 828.13 from
27 being a pet dealer.
28 943.051 Criminal justice information; collection and
29 storage; fingerprinting.--
30 (3)
31

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

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

5 985.212 Fingerprinting and photographing.--

6 (1)

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

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

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

1 produced in the court whenever directed by the court. Any
2 photograph taken pursuant to this section may be shown by a
3 law enforcement officer to any victim or witness of a crime
4 for the purpose of identifying the person who committed such
5 crime.

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

8 (3) OFFENSE SEVERITY RANKING CHART

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| Florida Statute | Felony Degree | Description |
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| | | (c) LEVEL 3 |
| 316.1935(2) | 3rd | Fleeing or attempting to elude law enforcement officer in marked patrol vehicle with siren and lights activated. |
| 319.30(4) | 3rd | Possession by junkyard of motor vehicle with identification number plate removed. |
| 319.33(1)(a) | 3rd | Alter or forge any certificate of title to a motor vehicle or mobile home. |
| 319.33(1)(c) | 3rd | Procure or pass title on stolen vehicle. |
| 319.33(4) | 3rd | With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or 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 | 817.234(8)&(9) | 3rd | Unlawful solicitation of persons |
| 7 | | | involved in motor vehicle |
| 8 | | | accidents. |
| 9 | 817.234(11)(a) | 3rd | Insurance fraud; property value |
| 10 | | | less than \$20,000. |
| 11 | 817.505(4) | 3rd | Patient brokering. |
| 12 | 828.12(2) | 3rd | Tortures any animal with intent |
| 13 | | | to inflict intense pain, serious |
| 14 | | | physical injury, or death. |
| 15 | 831.28(2)(a) | 3rd | Counterfeiting a payment |
| 16 | | | instrument with intent to defraud |
| 17 | | | or possessing a counterfeit |
| 18 | | | payment instrument. |
| 19 | 831.29 | 2nd | Possession of instruments for |
| 20 | | | counterfeiting drivers' licenses |
| 21 | | | or identification cards. |
| 22 | 838.021(3)(b) | 3rd | Threatens unlawful harm to public |
| 23 | | | servant. |
| 24 | 843.19 | 3rd | Injure, disable, or kill police |
| 25 | | | dog or horse. |
| 26 | 870.01(2) | 3rd | Riot; inciting or encouraging. |
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| 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. |
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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 3. This act shall take effect upon becoming a
11 law.
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