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**HOUSE OF REPRESENTATIVES
COMMITTEE ON
AGRICULTURE & CONSUMER AFFAIRS
ANALYSIS**

BILL #: HB 77

RELATING TO: Family Violence/Cross-Reporting

SPONSOR(S): Representative(s) Rich & others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE & CONSUMER AFFAIRS (CCC) YEAS 3 NAYS 6
 - (2) CRIME PREVENTION, CORRECTIONS & SAFETY (CHC)
 - (3) FISCAL POLICY & RESOURCES (FRC)
 - (4) COUNCIL FOR COMPETITIVE COMMERCE
 - (5)
-

I. SUMMARY:

This bill amends s. 39.201, F.S. adding animal control officers to the list of reporters of known and suspected child abuse required to give their names to the Department of Children and Families' central abuse hotline. Presently, any person who knows or suspects child abuse is occurring is required to report their suspicions. However, only physicians, other health professionals, school teachers, social workers, law enforcement officers and judges are required to give their names to the hotline.

This bill also requires child abuse investigators to report known or suspected animal abuse or abandonment to the local animal control agent or other agent. Penalties are imposed for failure of child abuse investigators, in the course of their job, to report suspected animal abuse. Cross training in both animal and child abuse detection is included.

The bill has an effective date of October 1, 2002.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This act creates a criminal offense for failing to report a known or suspected abuse, neglect, cruelty, or abandonment of an animal by a person required to report animal abuse, including child abuse investigators.

B. PRESENT SITUATION:

Definitions:

Abuse is defined in s. 39.01(2), F.S., as "any willful act or threatened act that results in any physical, mental, or sexual injury or harm that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Abuse of a child includes acts or omissions."

Neglect, as defined in s. 39.01(45), F.S., "occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired."

Abandoned is defined in s. 39.01(1), F.S., as "a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations."

Animal control officer is defined in s. 828.27(1)(b), F.S. as "any person employed or appointed by a county or municipality who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations as provided in this section. An animal control officer is not authorized to bear arms or make arrests; however, such officer may carry a device to chemically subdue and tranquilize an animal, provided that such officer has successfully completed a minimum of 16 hours of training in marksmanship, equipment handling, safety and animal care, and can demonstrate proficiency in chemical immobilization of animals in accordance with guidelines prescribed in the Chemical Immobilization Operational Guide of the American Humane Association."

Abandon, referring to animals, is defined in s. 828.13(1)(a), F.S., as “to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.”

Cruelty is defined in s. 828.27(1)(d), F.S., as “any act of neglect, torture, or torment that causes unjustifiable pain or suffering of an animal.”

Who must report known or suspected cases of Child Abuse

Under current law, **any person** who knows or suspects a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child’s welfare is required to report that suspicion to the Department of Children and Families’ central abuse hotline. In addition, a separate delineated list in s. 39.201, F.S., denotes the particular persons required to give their name to the hotline.

Penalties for Failing to Report Child Abuse

According to s. 39.205, F.S., a person who is required to report known or suspected child abuse, abandonment, or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S. A first-degree misdemeanor is punishable by up to one year of imprisonment or a \$1,000 fine. Only one known case of failure to report child abuse has been prosecuted. See *Barber v. State*, 592 So.2nd 330 (Fla. 2d DCA 1992).

The Link between Behind Abuse and Animal Cruelty

Since the 1970’s agencies such as the Federal Bureau of Investigation and the Humane Society of the United States (HSUS) have conducted research on the connection between animal abuse and later violence towards humans, finding a strong correlation. The HSUS found that animals are abused in 88% of the families where children are abused. Animal abuse can be an indicator of a deeply disturbed family.

Research indicates:

- Young people who are cruel to animals are more likely to become aggressive toward humans as they develop.
- Violent, imprisoned offenders have usually abused animals during their childhood.
- Children learn cruel behaviors from adults and may reenact them on animals.
- Children may abuse animals to release the aggression they feel toward abusive adults or because of psychological trauma.

Animal Abuse can also provide a gateway into future violence towards humans. The following are examples provided by the American Humane Association and HSUS:

1. “...a child who learns aggression against living creatures is more likely to rape, abuse, and kill other humans as an adult.” (Kellert & Felthous, 1985)
2. “In 88% of families (receiving services from the New Jersey Division of Youth and Family Services) where physical abuse occurred, animals in that home were also abused. In about two-thirds of the cases, the abusive parent had killed or injured the animal to discipline the child” (Deviney, Dickert, & Lockwood, 1983)
3. A study of 28 convicted sexual homicide perpetrators found that prevalence of cruelty of animals was 36% in childhood and 46% in adolescence. (Ressler, Burgess, & Douglas, 1988)

4. Hellman and Blackman noted the frequent association between criminal violence in adulthood and a triad of symptoms: excessive bed-wetting, fire-setting, and animal abuse during childhood...animal abuse is so common among this type of criminal, the FBI's profiles of serial killers include histories of animal abuse.
5. Twelve-year-old Eric Smith strangles his neighbor's cat with a garden hose, which was dismissed as a prank. One year later, he murdered four-year-old Derrick Robie. (Denver Post, Associated Press, 8/15/93)
6. Jeffrey Dahmer impaled frogs and cats and decapitated a dog as a child. As an adult, he killed and dismembered 17 people.
7. Brenda Spencer abused dogs and cats as a little girl by setting their tails on fire. As a grown woman, she fired 40 shots at San Diego school children, killing two and wounding nine.
8. David Berkowitz killed a number of his neighbor's pets as a youth. When he grew up, he became New York City's "Son of Sam" murderer.
9. Ted Bundy witnessed his father's brutality toward animals and he himself tortured animals. He later killed numerous females and brought fear to college campuses in many states after killing 3 women in the Chi Omega sorority house at Florida State University.

Professionals working with families in crisis are becoming increasingly aware of the role that animals can play in the dynamics of violence within abusive families. The intentional harming or killing of pets by adults or children is now recognized as an important indicator of violence in the home. It is reported by advocacy groups to be essential that all those who seek to identify and reduce such violence be alert to this connection. Likewise, it is deemed important for professionals in domestic violence intervention, law-enforcement, child protection, human and veterinary medicine, education and animal care and control get to know their counterparts in other professions and work together to establish strategies for a coordinated response to these needs.

Florida and Other States

Thirty-one states, including Florida, currently have a felony level offense for animal cruelty and several distinguish between misdemeanor neglect and felony cruelty. Some states have also enacted provisions requiring that second offenses of misdemeanor offenses be treated as felony offenses and some require mandatory jail time. Courts in a number of states have the authority to order psychological counseling at the abuser's expense. California, Colorado and Iowa mandate psychological counseling and/or evaluations. Michigan and Nevada require the same, but only of minors. Nine additional states provide courts with the discretion to order such counseling.

At least three states and the District of Columbia have statutes that specifically reference humane society officers as mandated reporters of child abuse and neglect:

- CALIFORNIA provides that any child care custodian, health practitioner, employee of a child protective agency, child visitation monitor, firefighter, animal control officer, or humane society officer who has knowledge of or observes a child, in his or her professional capacity or within the scope of his or her employment, whom he or she knows or reasonably suspects has been the victim of child abuse, shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as

practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident... (Penal Code 11166).

- CONNECTICUT provides that any selectman, town manager, or town, city, or borough welfare department, any probation officer, the Connecticut Humane Society, or the Commissioner of Social Services, the Commissioner of Children and Families or any child-caring institution or agency approved by the Commissioner of Children and Families, a child or his representative or attorney or a foster parent of a child, having information that a child or youth is neglected, uncared-for or dependent, may file a report ...(s. 46b-129).
- DISTRICT OF COLUMBIA provides that the Washington Humane Society is authorized to extend its operations to the protection of children as well as animals from cruelty and abuse. In pursuance thereof the said Society may cause its proper officers or agents to prefer complaints, before any court in the District of Columbia having jurisdiction, for the violation of any law relating to or affecting the protection of children in said District, and by its proper attorney may aid in bringing the facts before such court in any proceeding taken (s. 32-908).
- OHIO provides that when an officer or agent of the Ohio humane society or of a county humane society deems it for the best interest of a child, because of cruelty inflicted upon it or because of its surroundings, that it be removed from the possession and control of the parents or persons having charge of it, such officer or agent may take possession of the child summarily, and upon doing so shall immediately file a complaint in the juvenile court concerning such child...(s.1717.14, Revised Code).

C. EFFECT OF PROPOSED CHANGES:

This bill will add "Animal Control Officer" to the list of persons required to report their name to the Department of Children and Families' central abuse hotline. Already included in this list are physicians, other health professionals, schoolteachers, social workers, law enforcement officers and judges. By reenacting s. 39.205, F.S., this bill is highlighting the penalties already in place for any person required to report child abuse, including animal control officers. Failure to report child abuse is a first-degree misdemeanor, punishable by up to one-year imprisonment or a \$1,000 fine.

This bill also creates a provision requiring anyone who is required to report child abuse AND who encounters known or suspected animal abuse in the course of their job to report the abuse to the proper authorities. Failure to report such abuse is subject to a second-degree misdemeanor, punishable by up to 60 days of imprisonment or a \$500 fine. The bill stipulates the information needed in the report and topics included in required training.

Lastly, this bill requires training for animal control officers to include the detection of child abuse, neglect, and abandonment.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 39.201, F.S. to add “animal control officer or other agent appointed under s. 828.03” to the delineated list of persons required to report their name to the Department of Children and Families’ central abuse hotline when reporting suspected child abuse.

Section 2: Reenacts s. 39.205, F.S., providing that if a required reporter of known or suspected child abuse knowingly and willfully fails to do so, that person is guilty of a first degree misdemeanor. This section is included for cross-reference purposes and to highlight the section to persons unfamiliar with the law.

Section 3: Creates s. 39.208, F.S., requiring child abuse investigators to report known or suspected animal abuse found in the course of their job. Child abuse investigators must report the abuse within 24 hours to the local animal control officer or other agent. Failure to report the abuse is a second-degree misdemeanor.

Section 4: Amends s. 828.073, F.S. to require any authorized person who knows or suspects a child is a victim of abuse, abandonment, neglect, or domestic violence to report it to the Department of Children and Families. Also required is training for animal control officers in the detections of child abuse, neglect, and abandonment.

Section 5: Provides an effective date of October 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Florida Animal Control Association reports that this bill “will further stress a profession which is already understaffed by 50% and cannot meet the current level of demand for animal control services.”

The Department of Children and Family Services reports that requiring animal control officers to report child abuse and neglect will probably result in an increase in the number of calls coming into the hotline as well as an increase in the number of protective investigations initiated. The cost of a child abuse/neglect investigation is approximately \$600 which is a conservative estimate based on a 1997 model. If there were as few as 10 additional investigations a month, the cost would be \$72,000 annually.

All family services counselors are required to report child abuse/neglect and there are over 3,000 of these positions. Assuming that all of those counselors and their supervisors will need to be trained pursuant to the requirements of this bill on the indicators of animal maltreatment, the resulting cost would be \$389,771 (\$344,111 in overtime salary to make up for time spent in training by 3,044 counselors and their supervisors + \$45,660 cost of ½day training @ \$15 per counselor.) If the assumption is that only protective investigators need to be trained, the cost would be \$88,046 in overtime costs and \$13,680 cost of training @ \$15 per investigator, for a total cost of \$101,726.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of municipalities or counties to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The Florida Animal Control Association is opposed to the bill. They have identified the following concerns:

1. Animal Control Officers are already required to report child abuse.

2. Fear it will hinder the ability of Animal Control Officers to accomplish their priority tasks or enforcing laws and ordinances relating to animals.
3. Animal Control Officers would lose their sovereign immunity and failure to report could result in criminal sanctions.
4. Unlike the other professionals listed in s 39.201, F.S., Animal Control Officers do not have sufficient training, interaction with the family, nor contact time to detect anything more than obvious abuse or neglect situations.
5. This is an unfunded mandate requiring the training of thousands of people in the state in the identification and reporting of animal cruelty and child abuse.
6. Training requirements concerning animal cruelty would likely become a responsibility of Animal Services, which would have a negative impact on primary mission objectives and budgets.
7. Animal Control Officers already have on of the most demanding jobs in the public sector.
8. The Florida Animal Control Association strongly supports the need to report child abuse as well as any other types of abuse, but believe it should be done as a matter of principle and policy at the local level.

Groups in support of the bill:

- Family Source of Florida
- Florida Sheriff's Association
- Police Benevolent Association (PBA)
- Humane Society of the United States
- American Humane Association

At the committee's November 27 meeting, the bill initially received a favorable vote (6 yeas, 3 nays); however, later in the meeting a motion was made to reconsider and leave pending the vote by which HB 77 passed. The motion to reconsider was adopted.

On December 3, HB 77 was reconsidered. Following further debate and additional testimony, the bill was defeated by a vote of 3 yeas, 6 nays.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE AND CONSUMER AFFAIRS:

Prepared by:

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