



HB 1429

2003

1 A bill to be entitled

2 An act relating to animal fighting or baiting; amending s.
3 828.122, F.S., the "Animal Fighting Act"; defining the
4 term "animal fighting"; revising the elements of the crime
5 of animal fighting or baiting; prohibiting certain acts
6 associated with animal fighting or baiting; providing for
7 the seizure, impoundment, and euthanasia of animals under
8 certain conditions; providing penalties; amending ss.
9 933.02, 933.18, F.S.; revising provisions relating to the
10 issuance of search warrants and grounds therefor when laws
11 in relation to cruelty to animals have been or are being
12 violated; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Section 828.122, Florida Statutes, is amended
17 to read:

18 828.122 Fighting or baiting animals; offenses;
19 penalties.--

20 (1) This act may be cited as "The Animal Fighting Act."

21 (2) As used in this section, the term:

22 (a) "Animal fighting" means a fight between roosters or
23 other birds; between dogs, bears, or any other animals; or
24 between animals and human beings.

25 (b)(a) "Baiting" means to attack with violence, to
26 provoke, or to harass an animal with one or more animals for the
27 purpose of training an animal for, or to cause an animal to
28 engage in, fights with or among other animals. In addition,
29 "baiting" means the use of live animals in the training of
30 racing greyhounds.



HB 1429

2003

31 ~~(c)(b)~~ "Person" means every natural person, firm,
 32 copartnership, association, or corporation.

33 (3) Any person who knowingly commits any of the following
 34 acts commits ~~is guilty of~~ a felony of the third degree,
 35 punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

36 (a) Baiting, breeding, training, transporting, selling,
 37 owning, possessing, or using any wild or domestic animal for the
 38 purpose of animal fighting or baiting; ~~any other animal.~~

39 (b) Owning, possessing, or selling equipment for use in
 40 any activity described in paragraph (a);

41 ~~(c)(b)~~ Knowingly Owning, leasing, managing, or operating,
 42 or having control of any property facility kept or used for any
 43 activity described in paragraph (a) or paragraph (b); the
 44 ~~purpose of fighting or baiting any animal.~~

45 ~~(d)(e)~~ Promoting, staging, advertising, or charging any
 46 admission fee to a fight or baiting between two or more animals
 47 or between an animal and a human being;:-

48 (e) Performing any service or act to facilitate animal
 49 fighting or baiting, including, but not limited to, providing
 50 security, refereeing, or handling or transporting animals or
 51 being a stakeholder of any money wagered on animal fighting or
 52 baiting;

53 (f) Removing or facilitating the removal of any animal
 54 impounded under this section from an agency where the animals
 55 are impounded or location designated by the court under
 56 subsection (4), subsection (5), or subsection (7), without the
 57 prior authorization of the court;

58 ~~(4) Any person who willfully commits any of the following~~
 59 ~~acts is guilty of a misdemeanor of the first degree, punishable~~
 60 ~~as provided in s. 775.082 or s. 775.083:-~~



HB 1429

2003

61 (g)(a) Betting or wagering any money or other valuable
62 consideration on the fighting or baiting of animals; or

63 (h)(b) Attending the fighting or baiting of animals.

64 (4)(5) If a court finds probable cause to believe that a
65 violation of this section or s. 828.12 has occurred, the court
66 shall order the seizure of any animals and equipment used in
67 committing the violation ~~Whenever an indictment is returned or~~
68 ~~an information is filed charging a violation of s. 828.12 or of~~
69 ~~this section and, in the case of an information, a magistrate~~
70 ~~finds probable cause that a violation has occurred, the court~~
71 ~~shall order the animals seized and shall provide for appropriate~~
72 ~~and humane care or disposition of the animals. This subsection~~
73 is not ~~provision shall not be construed as a limitation on the~~
74 ~~power to seize animals as evidence at the time of arrest.~~

75 (5) If an animal shelter or other location is unavailable,
76 a court may order the animal to be impounded on the property of
77 its owner or possessor and shall order such person to provide
78 all necessary care for the animal and to allow regular
79 inspections of the animal by a person designated by the court.

80 (6) If a veterinarian finds that an animal kept or used in
81 violation of this section is suffering from an injury or a
82 disease severe enough that it is not possible to humanely house
83 and care for the animal pending completion of a hearing held
84 under subsection (4), final disposition of the criminal charges,
85 or court-ordered forfeiture, the veterinarian may euthanize the
86 animal as specified in s. 828.058. A veterinarian licensed to
87 practice in this state shall be held harmless from criminal or
88 civil liability for any decisions made or services rendered
89 under this subsection.



HB 1429

2003

90 (7) If an animal can be housed in a humane manner until a
91 hearing is held under subsection (4), s. 828.073 applies.

92 (8) In addition to other penalties prescribed by law, the
93 court may issue an order prohibiting a person who is convicted
94 of a violation of this section from owning, possessing, keeping,
95 harboring, or having custody or control over any animals for a
96 period of time determined by the court.

97 (9)(6) This section does ~~The provisions of subsection (3)~~
98 ~~and paragraph (4)(b) shall not apply to:~~

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

103 (b) Any person using animals to pursue or take wildlife or
104 to participate in any hunting regulated or subject to being
105 regulated by the rules and regulations of the Fish and Wildlife
106 Conservation Commission.

107 (c) Any person using animals to work livestock for
108 agricultural purposes.

109 (d) Any person violating s. 828.121.

110 (e) Any person using dogs ~~animals~~ to hunt wild hogs or to
111 retrieve domestic hogs pursuant to customary hunting or
112 agricultural practices.

113 ~~(10)(7) Nothing in~~ This section does not shall be
114 ~~construed to~~ prohibit, impede, or otherwise interfere with
115 recognized animal husbandry and training techniques or practices
116 not otherwise specifically prohibited by law.

117 Section 2. Section 933.02, Florida Statutes, is amended to
118 read:



HB 1429

2003

119 933.02 Grounds for issuance of search warrant.--Upon
120 proper affidavits being made, a search warrant may be issued
121 under the provisions of this chapter upon any of the following
122 grounds:

123 (1) When the property shall have been stolen or embezzled
124 in violation of law;

125 (2) When any property shall have been used:

126 (a) As a means to commit any crime,

127 (b) In connection with gambling, gambling implements and
128 appliances, or

129 (c) In violation of s. 847.011 or other laws in reference
130 to obscene prints and literature;

131 (3) When any property constitutes evidence relevant to
132 proving that a felony has been committed;

133 (4) When any property is being held or possessed:

134 (a) In violation of any of the laws prohibiting the
135 manufacture, sale, and transportation of intoxicating liquors,
136 or

137 (b) In violation of the fish and game laws, or

138 (c) In violation of the laws relative to food and drug, or

139 (d) In violation of a quarantine for citrus canker
140 pursuant to s. 581.184, or

141 (e) Which may be inspected, treated, seized, or destroyed
142 pursuant to s. 581.184; or

143 (5) When the laws in relation to cruelty to animals, as
144 provided in chapter 828, have been or are violated in any
145 particular building or place, ~~but no search shall be made in~~
146 ~~such building or place after sunset, unless specially authorized~~
147 ~~by the officer issuing the warrant upon satisfactory cause~~
148 ~~shown; in which case such property may be taken on the warrant~~



HB 1429

2003

149 ~~so issued from any house or place in which it is concealed, or~~
 150 ~~from any vehicle, aircraft, or watercraft in which it may be~~
 151 ~~found, or from the possession of any person by whom it shall~~
 152 ~~have been used in the commission of any offense or from any~~
 153 ~~person in whose possession it may be.~~

154
 155 This section also applies ~~The provisions of this section shall~~
 156 ~~apply also~~ to any papers or documents used as a means of or in
 157 aid of the commission of any offense against the laws of the
 158 state.

159 Section 3. Section 933.18, Florida Statutes, is amended to
 160 read:

161 933.18 When warrant may be issued for search of private
 162 dwelling.--No search warrant shall issue under this chapter or
 163 under any other law of this state to search any private dwelling
 164 occupied as such unless:

165 (1) It is being used for the unlawful sale, possession, or
 166 manufacture of intoxicating liquor;

167 (2) Stolen or embezzled property is contained therein;

168 (3) It is being used to carry on gambling;

169 (4) It is being used to perpetrate frauds and swindles;

170 (5) The law relating to narcotics or drug abuse is being
 171 violated therein;

172 (6) A weapon, instrumentality, or means by which a felony
 173 has been committed, or evidence relevant to proving said felony
 174 has been committed, is contained therein;

175 (7) One or more of the following misdemeanor child abuse
 176 offenses is being committed there:

177 (a) Interference with custody, in violation of s. 787.03.



HB 1429

2003

178 (b) Commission of an unnatural and lascivious act with a
 179 child, in violation of s. 800.02.

180 (c) Exposure of sexual organs to a child, in violation of
 181 s. 800.03.

182 (8) It is in part used for some business purpose such as a
 183 store, shop, saloon, restaurant, hotel, ~~or~~ boardinghouse, or
 184 lodginghouse;

185 (9) It is being used for the unlawful sale, possession, or
 186 purchase of wildlife, saltwater products, or freshwater fish
 187 being unlawfully kept therein; or

188 (10) The laws in relation to cruelty to animals, as
 189 provided in chapter 828, have been or are being violated
 190 ~~therein, except that no search pursuant to such a warrant shall~~
 191 ~~be made in any private dwelling after sunset and before sunrise~~
 192 ~~unless specially authorized by the judge issuing the warrant,~~
 193 ~~upon a showing of probable cause. Property relating to the~~
 194 ~~violation of such laws may be taken on a warrant so issued from~~
 195 ~~any private dwelling in which it is concealed or from the~~
 196 ~~possession of any person therein by whom it shall have been used~~
 197 ~~in the commission of such offense or from any person therein in~~
 198 ~~whose possession it may be.~~

199
 200 If, during a search pursuant to a warrant issued under this
 201 section, a child is discovered and appears to be in imminent
 202 danger, the law enforcement officer conducting such search may
 203 remove the child from the private dwelling and take the child
 204 into protective custody pursuant to chapter 39. The term
 205 "private dwelling" shall be construed to include the room or
 206 rooms used and occupied, not transiently but solely as a
 207 residence, in an apartment house, hotel, boardinghouse, or



HB 1429

2003

208 lodginghouse. No warrant shall be issued for the search of any
209 private dwelling under any of the conditions hereinabove
210 mentioned except on sworn proof by affidavit of some creditable
211 witness that he or she has reason to believe that one of said
212 conditions exists, which affidavit shall set forth the facts on
213 which such reason for belief is based.

214 Section 4. This act shall take effect upon becoming a law.