

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1911 (PCB PS 03-11) Animal Fighting or Baiting
SPONSOR(S): Public Safety & Crime Prevention
TIED BILLS: **IDEN./SIM. BILLS:** SB 2350

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Public Safety & Crime Prevention</u>	<u>18 Y, 0 N</u>	<u>Whittier</u>	<u>De La Paz</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 1911 significantly amends s. 828.122, F.S., the Animal Fighting Act. The bill includes the following:

- Defines “animal fighting” as “a fight between roosters or other birds; between dogs, bears, or any other animals.”
- Expands list of actions so that the following are all third degree felonies:
 - (a) Baiting, breeding, training, transporting, selling, owning, possessing, or using any wild or domestic animal for the purpose of animal fighting or baiting;
 - (b) Owning, possessing, or selling equipment for use in animal fighting;
 - (c) Owning, leasing, managing operating, or having control of any property (changed from facility) kept or used for any activity described in paragraph (a) or (b);
 - (d) Promoting, staging, advertising, or charging any admission fee to a fight or baiting between two or more animals;
 - (e) Performing any service or act to facilitate animal fighting or baiting, such as providing security, refereeing, or handling or transporting animals or being a stakeholder of any money wagered on animal fighting or baiting;
 - (f) Removing or facilitating the removal of any animal impounded under this section;
 - (g) Betting or wagering any money or other valuable consideration on animal fighting or baiting (changed from first degree misdemeanor to third degree felony); or
 - (h) Attending the fighting or baiting of animals (changed from first degree misdemeanor to third degree felony).
- Authorizes the court to order the seizure of any animals and equipment used in committing the violation and to order the animal to be impounded in a location other than an animal shelter, if one is unavailable.
- Allows a veterinarian to euthanize an animal used for fighting if it is suffering from an injury or disease severe enough that is not possible to humanely house and care for the animal, and provides that the veterinarian is to be held harmless from criminal or civil liability.
- Authorizes the court to prohibit a violator from owning, possessing, keeping, harboring, or having custody or control over any animals for a period of time that is to be determined by the court.

The bill also removes language restricting law enforcement from searching after sunset, and inserts broader language to allow a search when the laws in relation to cruelty to animals, as provided in chapter 828, have been or are violated.

The Criminal Justice Estimating Conference has determined that the bill will have an insignificant fiscal impact on the state.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1911.ps.doc
DATE: April 14, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

B. EFFECT OF PROPOSED CHANGES:

Currently, Florida’s law enforcement has been confronted with the problem of underground dog and cock fighting. According to the Humane Society of the United States,

Dogfighting is a...‘contest’ in which two dogs – specifically bred, conditioned, and trained to fight – are placed in a pit (generally a small arena enclosed by plywood walls) to fight each other, for the spectators’ gambling and entertainment. Fights average nearly an hour in length and often last more than two hours. Dogfights end when one of the dogs is no longer willing or able to continue...The injuries inflicted and sustained by dogs participating in dogfights are frequently severe, even fatal... [and the d]ogs used in these events often die of blood loss, shock, dehydration, exhaustion, or infection...¹

Cockfighting is a...sport in which two or more specially bred birds, known as gamecocks, are placed in an enclosure to fight, for the primary purposes of gambling and entertainment. A cockfight usually results in the death of one of the birds; sometimes it ends in the death of both. Common injuries include punctured lungs, broken bones, and pierced eyes...because the birds’ legs are usually fitted with razor sharp steel blades or with gaffs, which resemble three-inch-long curved ice picks.²

In November 2002, a Daytona Beach animal control officer claimed to hear reports of dog fighting as often as once a week.³ On January, 20, 2003, NBC2 News (FL) reported more than 60 people in Hendry County were arrested for allegedly being part of an illegal cockfighting ring. Deputies estimated that even more (between 25 and 30 percent) of the attendees escaped. Drugs, equipment, such as razors and spurs, and approximately 60 roosters were seized.⁴

All fifty states prohibit dog fighting and only two states (New Mexico and Louisiana) allow cockfighting. In Florida, dog and cock fighting are felonies [See s. 828.122, F.S.]. This includes baiting, or using any animal for the purpose of fighting; knowingly owning, managing, or operating a facility for the purpose of fighting animals; or promoting, staging, advertising, or charging an admission fee to an animal fight; however, attending or betting or wagering on animal fighting is currently a first degree misdemeanor. Roosters can be bred, raised and trained in Florida for the purpose of cockfighting in other states and countries where cockfighting is legal.

¹ *The Final Round, Dogfighting Questions and Answers*, Humane Society of the United States.

² *The Final Round, Cockfighting Questions and Answers*, Humane Society of the United States.

³ “Police break up dogfight, arrest 4, seize pit bulls,” *Daytona Beach News-Journal*, November 8, 2002.

⁴ “60 busted for illegal cockfighting,” NBC2 News (FL), January 20, 2003.

HB 1911 significantly amends s. 828.122, F.S., the Animal Fighting Act. Section 1 of the bill does the following:

- Expands list of actions that are a third degree felony, to include:
 - (a) Baiting, breeding, training, transporting, selling, owning, possessing, or using any wild or domestic animal for the purpose of animal fighting or baiting;
 - (b) Owning, possessing, or selling equipment for use in animal fighting;
 - (c) Owning, leasing, managing operating, or having control of any property (changed from facility) kept or used for any activity described in paragraph (a) or (b);
 - (d) Promoting, staging, advertising, or charging any admission fee to a fight or baiting between two or more animals;
 - (e) Performing any service or act to facilitate animal fighting or baiting, such as providing security, refereeing, or handling or transporting animals or being a stakeholder of any money wagered on animal fighting or baiting;
 - (f) Removing or facilitating the removal of any animal impounded under this section;
 - (g) Betting or wagering any money or other valuable consideration on animal fighting or baiting (changed from first degree misdemeanor to third degree felony); or
 - (h) Attending the fighting or baiting of animals (changed from first degree misdemeanor to third degree felony).
- Defines “animal fighting” as “a fight between roosters or other birds; between dogs, bears, or any other animals.”
- Authorizes the court to order the seizure of any animals and equipment used in committing the violation.
- Authorizes the court to order the animal to be impounded in a location other than an animal shelter, if one is unavailable.
- Allows a veterinarian to euthanize an animal used for fighting if it is suffering from an injury or disease severe enough that is not possible to humanely house and care for the animal, and provides that the veterinarian is to be held harmless from criminal or civil liability.
- Authorizes the court to prohibit a violator from owning, possessing, keeping, harboring, or having custody or control over any animals for a period of time that is to be determined by the court.
- Provides that for the purpose of a hearing, any animal baited, bred, trained, transported, sold, owned, possessed, or used for the purpose of animal fighting or baiting is to be considered mistreated.

Statutory law provides exemptions to the section, such as simulated animal fights as part of a motion picture; activities using animals to pursue wildlife that are regulated or subject to being regulated by the Fish and Wildlife Conservation Commission; using animals to work livestock for agricultural purposes; using dogs to hunt wild hogs or to retrieve domestic hogs; or anyone violating s. 828.121, F.S., which addresses simulated or bloodless bullfighting.

Sections 2 and 3 of the bill amend ss. 933.02 and 933.18, F.S., dealing with grounds for issuance of a search warrant and for issuance of a search of a private dwelling, respectively. The bill removes language restricting law enforcement from searching after sunset, and inserts broader language to allow a search when the laws in relation to cruelty to animals, as provided in chapter 828, have been or are violated.

Federal legislation was passed (effective in May 2003) prohibiting a person to “knowingly sell, buy, transport, deliver, or receive for purposes of transportation, in interstate or foreign commerce, any dog or other animal for purposes of having the dog or other animal participate in an animal fighting venture.”⁵ According to the Delegation of Game Bird Breeders, a constitutional challenge will be filed on this legislation in April 2003.

Opponents of the legislation believe that implementation of the law will prevent game bird breeders from owning, breeding, transporting, and selling game birds that are used for purposes other than game cock fighting. According to the Delegation of Game Bird Breeders, these purposes may include showing the birds at fairs and exhibitions, selling the feathers for fishing lures, and providing the birds to Asian markets, where the birds are considered a delicacy.

C. SECTION DIRECTORY:

Section 1: Amends s. 828.122, F.S., relating to the Animal Fighting Act.

Section 2: Amends s. 933.02, F.S., relating to grounds for issuance of a search warrant.

Section 3: Amends s. 933.18, F.S., relating to issuance of a search warrant for a private dwelling.

Section 4: Provides an effective date.

II. 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: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals who own, possess, breed, train, transport, sell, or otherwise deal in animals for the purpose of fighting or baiting are prohibited from doing business in the state.

D. FISCAL COMMENTS:

The Criminal Justice Estimating Conference has determined that this bill will have an insignificant fiscal impact on the state.

⁵ United States Code Annotated, Title 7, Chapter 54, Section 2156.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: N/A

2. Other: N/A

B. RULE-MAKING AUTHORITY: N/A

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.