



A bill to be entitled

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

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

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

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

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

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

(a) "Animal fighting" means fighting between roosters or other birds or between dogs, bears, or other animals.

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



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

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

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

38 (b) Owning, possessing, or selling equipment for use in
 39 any activity described in paragraph (a); ~~any other animal.~~

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

44 ~~(d)(e)~~ Promoting, staging, advertising, or charging any
 45 admission fee to a fight or baiting between two or more
 46 animals;

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

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

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



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60 (g)~~(a)~~ Betting or wagering any money or other valuable
61 consideration on the fighting or baiting of animals; or
62 (h)~~(b)~~ Attending the fighting or baiting of animals.

63
64 Notwithstanding any provision of this subsection to the
65 contrary, possession of the animal alone does not constitute a
66 violation of this section.

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

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

83 (6) If a veterinarian finds that an animal kept or used in
84 violation of this section is suffering from an injury or a
85 disease severe enough that it is not possible to humanely house
86 and care for the animal pending completion of a hearing held
87 under s. 828.073(2), final disposition of the criminal charges,
88 or court-ordered forfeiture, the veterinarian may euthanize the
89 animal as specified in s. 828.058. A veterinarian licensed to



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90 practice in this state shall be held harmless from criminal or
91 civil liability for any decisions made or services rendered
92 under this subsection.

93 (7) If an animal can be housed in a humane manner, the
94 provisions of s. 828.073 shall apply. For the purpose of a
95 hearing provided pursuant to s. 828.073(2), any animal baited,
96 bred, trained, transported, sold, owned, possessed, or used for
97 the purpose of animal fighting or baiting shall be considered
98 mistreated.

99 (8) In addition to other penalties prescribed by law, the
100 court may issue an order prohibiting a person who is convicted
101 of a violation of this section from owning, possessing, keeping,
102 harboring, or having custody or control over any animals within
103 the species that are the subject of the conviction, or any
104 animals kept for the purpose of fighting or baiting, for a
105 period of time determined by the court.

106 (9)(6) This section ~~The provisions of subsection (3) and~~
107 ~~paragraph (4)(b) shall not apply to:~~

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

112 (b) Any person using animals to pursue or take wildlife or
113 to participate in any hunting regulated or subject to being
114 regulated by the rules and regulations of the Fish and Wildlife
115 Conservation Commission.

116 (c) Any person using animals to work livestock for
117 agricultural purposes.

118 (d) Any person violating s. 828.121.



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119 (e) Any person using dogs ~~animals~~ to hunt wild hogs or to
 120 retrieve domestic hogs pursuant to customary hunting or
 121 agricultural practices.

122 ~~(10)(7) Nothing in~~ This section shall not ~~be construed to~~
 123 prohibit, impede, or otherwise interfere with recognized animal
 124 husbandry and training techniques or practices not otherwise
 125 specifically prohibited by law.

126 Section 2. Section 933.02, Florida Statutes, is amended to
 127 read:

128 933.02 Grounds for issuance of search warrant.--Upon
 129 proper affidavits being made, a search warrant may be issued
 130 under the provisions of this chapter upon any of the following
 131 grounds:

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

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

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

136 (b) In connection with gambling, gambling implements and
 137 appliances, or

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

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

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

143 (a) In violation of any of the laws prohibiting the
 144 manufacture, sale, and transportation of intoxicating liquors,
 145 or

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

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



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

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

152 (5) When the laws in relation to cruelty to animals, as
 153 provided in chapter 828, have been or are violated in any
 154 particular building or place, ~~but no search shall be made in~~
 155 ~~such building or place after sunset, unless specially authorized~~
 156 ~~by the officer issuing the warrant upon satisfactory cause~~
 157 ~~shown; in which case such property may be taken on the warrant~~
 158 ~~so issued from any house or place in which it is concealed, or~~
 159 ~~from any vehicle, aircraft, or watercraft in which it may be~~
 160 ~~found, or from the possession of any person by whom it shall~~
 161 ~~have been used in the commission of any offense or from any~~
 162 ~~person in whose possession it may be.~~

163
 164 ~~The provisions of~~ This section ~~shall apply~~ also applies to any
 165 papers or documents used as a means of or in aid of the
 166 commission of any offense against the laws of the state.

167 Section 3. Section 933.18, Florida Statutes, is amended to
 168 read:

169 933.18 When warrant may be issued for search of private
 170 dwelling.--No search warrant shall issue under this chapter or
 171 under any other law of this state to search any private dwelling
 172 occupied as such unless:

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

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

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

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



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

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

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

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

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

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

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

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

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

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208 If, during a search pursuant to a warrant issued under this
209 section, a child is discovered and appears to be in imminent
210 danger, the law enforcement officer conducting such search may
211 remove the child from the private dwelling and take the child
212 into protective custody pursuant to chapter 39. The term
213 "private dwelling" shall be construed to include the room or
214 rooms used and occupied, not transiently but solely as a
215 residence, in an apartment house, hotel, boardinghouse, or
216 lodginghouse. No warrant shall be issued for the search of any
217 private dwelling under any of the conditions hereinabove
218 mentioned except on sworn proof by affidavit of some creditable
219 witness that he or she has reason to believe that one of said
220 conditions exists, which affidavit shall set forth the facts on
221 which such reason for belief is based.

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