

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2350

SPONSOR: Agriculture Committee and Senator Klein

SUBJECT: Animal Fighting

DATE: April 22, 2003 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Poole	AG	Fav/CS
2.			CJ	
3.				
4.				
5.				
6.				

## I. Summary:

The bill defines “animal fighting” and causes actions prohibited by the Animal Fighting Act (Act) to be third degree felonies if they are committed *knowingly*. It clarifies that possession of an animal alone is not a violation and it expands prohibited acts to include:

- breeding, training, transporting, selling, owning, or possessing animals or equipment for the purpose of animal fighting or baiting;
- leasing or controlling property used for animal fighting;
- facilitating acts such as providing security, refereeing, handling or transporting animals, or being a stakeholder;
- removing or helping to remove an animal that has been impounded.

The bill raises the offense of betting on or attending animal fights from a first degree misdemeanor to a third degree felony.

The bill gives the court authority, upon a finding of probable cause that the Act was violated, to order seizure of animals and equipment and to have the animals impounded at a shelter or other location. It also authorizes a veterinarian to euthanize, without being subject to civil or criminal liability, an animal used in violation of the Act if it is not possible to humanely care for the animal in accordance with the law pertaining to handling animals found in distress.

The bill gives the court authority, if a person has a prior conviction under the Act, to prohibit a person from owning or dealing in any manner with an animal for a discretionary period of time. The exception contained in the Act for the use of dogs to hunt or retrieve hogs is revised so that the exception applies only if customary hunting or agricultural practices are followed.

The bill removes language restricting law enforcement from searching buildings or private dwellings after sunset and provides that a search warrant can be issued for a violation of Florida's animal cruelty laws.

This bill substantially amends sections 828.122, 933.02, and 933.18 of the Florida Statutes.

## **II. Present Situation:**

While staging, attending, or betting on an animal fight is unlawful in Florida, search warrants based upon violations of Florida's animal cruelty laws cannot be served after sunset.

All fifty states prohibit dog fighting and all but two states (New Mexico and Louisiana) prohibit cock fighting. Presently, birds can be bred, raised, and trained in Florida and transported to another state where cock fighting is legal. A provision in the federal Animal Welfare Act that allows fighting game birds to be transported to states where cock fighting is legal will be closed when the 2002 Farm Bill becomes effective on May 13, 2003, thereby making it a federal crime to transport animals to be used in animal fighting ventures in interstate or foreign commerce.

Animal rights activists advocate increasing restrictions to the extent of even outlawing possession of fighting birds. This position has raised concerns by some that this will result in game birds not being able to be used for legitimate purposes such as showing at fairs and exhibitions, making fishing lures, selling to Asian markets as a delicacy, and continuing a family heritage.

## **III. Effect of Proposed Changes:**

**Section 1.** Amends s. 828.122, F.S. as follows: Defines "Animal fighting" as a fight between roosters or other birds or between dogs, bears, or any other animals. Clarifies that certain acts must be committed knowingly to be a third degree felony. Makes clear that possession of an animal alone is not a violation and expands and adds types of conduct which can result in a charge of a third degree felony to include:

- Breeding, training, transporting, selling, owning, or possessing, in addition to baiting, a wild or domestic animal for the purpose of animal fighting or baiting.
- Owning, possessing, or selling equipment used for animal fighting or baiting.
- Leasing or controlling property used for animal fighting or baiting.
- Performing services or acts that facilitate animal fighting or baiting such as providing security, refereeing, handling or transporting animals, or being a stakeholder.
- Removing or assisting in the removal, without court approval, of an animal impounded or removal from a location designated by the court.
- Raises from first degree misdemeanor to a third degree felony the acts of betting on or attending the fighting or baiting of animals.

Authorizes the court to order the seizure of animals and equipment upon a finding of probable cause that they were used in the commission of a violation of this section or the cruelty to animals section (s. 828.12, F.S.). This replaces court action based upon an indictment or information. Sets out procedures a court may follow to order an animal impounded in place if an animal shelter or other location is not available. Authorizes a veterinarian to euthanize an animal without being subject to civil or criminal liability in instances where an animal used in violation

of this section is suffering from an injury or disease making it impossible to humanely care for the animal pending the outcome of criminal charges. Provides that the provisions pertaining to handling of animals found in distress (s. 828.073, F.S.) are to be followed if the animal can be housed in a humane manner until a hearing is held. Authorizes the court to prohibit a person convicted of violating this section from owning or having any sort of power over an animal for a discretionary period of time. Revises the exception for the use of dogs to hunt wild hogs or retrieve domestic hogs making it applicable only if customary hunting or agricultural practices are followed.

**Section 2.** Amends s. 933.02, F.S., relating to warrants to search a particular building or place, by removing the conditions that had to be followed in order for searches to be made after sunset and providing that search warrants can be issued for violations of the animal cruelty laws contained in chapter 828, F.S.

**Section 3.** Amends s. 933.18, F.S., relating to warrants to search a private dwelling, by removing the conditions that had to be followed in order for searches to be made after sunset and before sunrise, and providing that search warrants can be issued for violations of the animal cruelty laws contained in chapter 828, F.S.

**Section 4.** Provides that this act shall take effect upon becoming a law.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Individuals would be prohibited from participating in any business activity in the state in which animals would be used for the purpose of fighting or baiting.

C. Government Sector Impact:

The Criminal Justice Estimating Conference has determined that the fiscal impact bill of this bill will be insignificant.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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