

By Senator Klein

30-699A-03

1                                   A bill to be entitled  
2           An act relating to animal fighting or baiting;  
3           amending s. 828.122, F.S., the "Animal Fighting  
4           Act"; defining the term "animal fighting";  
5           revising the elements of the crime of animal  
6           fighting or baiting; prohibiting certain acts  
7           associated with animal fighting or baiting;  
8           providing for the seizure, impoundment, and  
9           euthanasia of animals under certain conditions;  
10          providing penalties; amending ss. 933.02,  
11          933.18, F.S.; amending provisions relating to  
12          search warrants; providing an effective date.

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

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

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

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

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

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

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

31

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

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

7           (a) Baiting, breeding, training, transporting,  
8 selling, owning, possessing, or using any wild or domestic  
9 animal for the purpose of animal fighting or baiting; any  
10 ~~other animal.~~

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

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

17           ~~(d)(c)~~ Promoting, staging, advertising, or charging  
18 any admission fee to a fight or baiting between two or more  
19 animals;—

20           (e) Performing any service or act to facilitate animal  
21 fighting or baiting, including, but not limited to, providing  
22 security, refereeing, or handling or transporting animals or  
23 being a stakeholder of any money wagered on animal fighting or  
24 baiting;

25           (f) Removing or facilitating the removal of any animal  
26 impounded under this section from an agency where the animals  
27 are impounded or location designated by the court under  
28 subsection (4), subsection (5), or subsection (7), without the  
29 prior authorization of the court;

30  
31

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

4           ~~(g)(a)~~ Betting or wagering any money or other valuable  
5 consideration on the fighting or baiting of animals; or

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

7           ~~(4)(5)~~ If a court finds probable cause to believe that  
8 a violation of this section or s. 828.12 has occurred, the  
9 court shall order the seizure of any animals and equipment  
10 used in committing the violation ~~Whenever an indictment is~~  
11 ~~returned or an information is filed charging a violation of s.~~  
12 ~~828.12 or of this section and, in the case of an information,~~  
13 ~~a magistrate finds probable cause that a violation has~~  
14 ~~occurred, the court shall order the animals seized and shall~~  
15 ~~provide for appropriate and humane care or disposition of the~~  
16 ~~animals. This subsection is not~~ provision shall not be  
17 ~~construed as a limitation on the power to seize animals as~~  
18 ~~evidence at the time of arrest.~~

19           ~~(5)~~ If an animal shelter or other location is  
20 unavailable, a court may order the animal to be impounded on  
21 the property of its owner or possessor and shall order such  
22 person to provide all necessary care for the animal and to  
23 allow regular inspections of the animal by a person designated  
24 by the court.

25           ~~(6)~~ If a veterinarian finds that an animal kept or  
26 used in violation of this section is suffering from an injury  
27 or a disease severe enough that it is not possible to humanely  
28 house and care for the animal pending completion of a hearing  
29 held under subsection (4), final disposition of the criminal  
30 charges, or court-ordered forfeiture, the veterinarian may  
31  euthanize the animal as specified in s. 828.058. A

1 veterinarian licensed to practice in this state shall be held  
2 harmless from criminal or civil liability for any decisions  
3 made or services rendered under this subsection.

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

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

12 (9)(6) This section does ~~The provisions of subsection~~  
13 ~~(3) and paragraph (4)(b) shall not apply to:~~

14 (a) Any person simulating a fight for the purpose of  
15 using the simulated fight as part of a motion picture which  
16 will be used on television or in a motion picture, provided s.  
17 828.12 is not violated.

18 (b) Any person using animals to pursue or take  
19 wildlife or to participate in any hunting regulated or subject  
20 to being regulated by the rules and regulations of the Fish  
21 and Wildlife Conservation Commission.

22 (c) Any person using animals to work livestock for  
23 agricultural purposes.

24 (d) Any person violating s. 828.121.

25 (e) Any person using dogs ~~animals~~ to hunt wild hogs or  
26 to retrieve domestic hogs pursuant to customary hunting or  
27 agricultural practices.

28 ~~(10)(7) Nothing in This section does not shall be~~  
29 ~~construed to prohibit, impede, or otherwise interfere with~~  
30 ~~recognized animal husbandry and training techniques or~~  
31 ~~practices not otherwise specifically prohibited by law.~~

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

3           933.02 Grounds for issuance of search warrant.--Upon  
4 proper affidavits being made, a search warrant may be issued  
5 under the provisions of this chapter upon any of the following  
6 grounds:

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

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

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

11           (b) In connection with gambling, gambling implements  
12 and appliances, or

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

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

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

18           (a) In violation of any of the laws prohibiting the  
19 manufacture, sale, and transportation of intoxicating liquors,  
20 or

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

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

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

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

28           (5) When the laws in relation to cruelty to animals,  
29 as provided in chapter 828, have been or are violated in any  
30 particular building or place, ~~but no search shall be made in~~  
31 ~~such building or place after sunset, unless specially~~

1 ~~authorized by the officer issuing the warrant upon~~  
2 ~~satisfactory cause shown; in which case such property may be~~  
3 ~~taken on the warrant so issued from any house or place in~~  
4 ~~which it is concealed, or from any vehicle, aircraft, or~~  
5 ~~watercraft in which it may be found, or from the possession of~~  
6 ~~any person by whom it shall have been used in the commission~~  
7 ~~of any offense or from any person in whose possession it may~~  
8 ~~be.~~

9  
10 This section also applies ~~The provisions of this section shall~~  
11 ~~apply also~~ to any papers or documents used as a means of or in  
12 aid of the commission of any offense against the laws of the  
13 state.

14 Section 3. Section 933.18, Florida Statutes, is  
15 amended to read:

16 933.18 When warrant may be issued for search of  
17 private dwelling.--No search warrant shall issue under this  
18 chapter or under any other law of this state to search any  
19 private dwelling occupied as such unless:

- 20 (1) It is being used for the unlawful sale,  
21 possession, or manufacture of intoxicating liquor;  
22 (2) Stolen or embezzled property is contained therein;  
23 (3) It is being used to carry on gambling;  
24 (4) It is being used to perpetrate frauds and  
25 swindles;  
26 (5) The law relating to narcotics or drug abuse is  
27 being violated therein;  
28 (6) A weapon, instrumentality, or means by which a  
29 felony has been committed, or evidence relevant to proving  
30 said felony has been committed, is contained therein;

31

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

3           (a) Interference with custody, in violation of s.  
4 787.03.

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

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

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

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

15           (10) The laws in relation to cruelty to animals, as  
16 provided in chapter 828, have been or are being violated  
17 ~~therein, except that no search pursuant to such a warrant~~  
18 ~~shall be made in any private dwelling after sunset and before~~  
19 ~~sunrise unless specially authorized by the judge issuing the~~  
20 ~~warrant, upon a showing of probable cause. Property relating~~  
21 ~~to the violation of such laws may be taken on a warrant so~~  
22 ~~issued from any private dwelling in which it is concealed or~~  
23 ~~from the possession of any person therein by whom it shall~~  
24 ~~have been used in the commission of such offense or from any~~  
25 ~~person therein in whose possession it may be.~~

26  
27 If, during a search pursuant to a warrant issued under this  
28 section, a child is discovered and appears to be in imminent  
29 danger, the law enforcement officer conducting such search may  
30 remove the child from the private dwelling and take the child  
31 into protective custody pursuant to chapter 39. The term

1 "private dwelling" shall be construed to include the room or  
2 rooms used and occupied, not transiently but solely as a  
3 residence, in an apartment house, hotel, boardinghouse, or  
4 lodginghouse. No warrant shall be issued for the search of  
5 any private dwelling under any of the conditions hereinabove  
6 mentioned except on sworn proof by affidavit of some  
7 creditable witness that he or she has reason to believe that  
8 one of said conditions exists, which affidavit shall set forth  
9 the facts on which such reason for belief is based.

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

12 \*\*\*\*\*

13  
14 SENATE SUMMARY

15 Amends provisions relating to animal fighting or baiting.  
16 Defines the term "animal fighting." Revises the elements  
17 of the crime of animal fighting or baiting. Prohibits  
18 certain acts associated with animal fighting or baiting.  
19 Provides for the seizure, impoundment, and euthanasia of  
20 animals under certain conditions. Provides penalties.  
21 Amends provisions relating to search warrants issued in  
22 connection with violations involving cruelty to animals.  
23  
24  
25  
26  
27  
28  
29  
30  
31