

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:

Section 828.12, F.S., prohibits cruelty to animals as follows:

1. A person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates or kills any animal, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner, commits a first degree misdemeanor. *HB 1637 makes this offense a third degree felony.*
2. A person who intentionally commits an act to any animal which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, commits a third degree felony¹. *HB 1637 makes this offense a second degree felony.*
 - a. A person who commits this animal cruelty offense, where the finder of fact determines that the violation includes the knowing and intentional torture or torment of an animal that injures, mutilates or kills the animal must be ordered to pay a \$2,500 fine and undergo psychological counseling or complete an anger management treatment program. This provision was added to section 828.12, F.S. during the 2002 session.² *HB 1637 increases the mandatory fine under this provision to \$5,000 and requires the offender to serve a minimum mandatory period of incarceration of 6 months.*
 - b. A person who is convicted of a second or subsequent felony animal cruelty offense is required to pay a minimum mandatory fine of \$5,000 and serve a minimum mandatory period of incarceration of 6 months. This provision was also added during the 2002 session. *HB 1637 increases the mandatory minimum period of incarceration to 10 months.*³

¹ This provision has been interpreted by the Florida Supreme Court to be a “general intent” crime rather than a “specific intent” crime. *Reynolds v. State*, 842 So.2d 46 (Fla. 2002). The court determined that the statute requires proof that the defendant intentionally committed the act that resulted in the death, pain or suffering of the animal but does not require proof that the offender acted “with the mental intent to inflict a cruel death or unnecessary suffering”.

² See, 2002-51, Laws of Florida.

³ The section also provides that a person who intentionally trips, fells, ropes or lassos the legs of a horse by an means for the purpose of entertainment or sport commits a third degree felony. The offense is not committed when the tripping if done for certain specified purposes.

C. SECTION DIRECTORY:

Section 1. Amends s. 828.12, F.S.; increasing criminal penalties for certain acts of cruelty to animals.

Section 2. Amends s. 921.0022, F.S.; making corresponding changes to offense severity ranking chart of Criminal Punishment Code.

Section 3. Provides effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Criminal Justice Impact Conference has not met to consider the prison bed impact of this bill on the Department of Corrections. The bill increases the severity of one type of animal cruelty offense from a first degree misdemeanor to a third degree felony and increases the severity of another animal cruelty offense from a third degree felony to a second degree felony. The bill does not rank the third degree felony offense in the offense severity ranking chart of the Criminal Punishment Code. Traditionally, the conference has determined that a third degree felony that is not ranked in the offense severity ranking chart of the Criminal Punishment Code, and therefore would result in a lowest permissible sentence of any non-state prison sanction, will have an insignificant prison bed impact.

The second degree felony offense is re-ranked by the bill in level four of the offense severity ranking chart of the Criminal Punishment Code and therefore the permissible sentence for this offense will range from any non-state prison sanction up to a fifteen year maximum sentence. It appears unlikely that this will have a significant prison bed impact on the Department of Corrections.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

A term of incarceration of one year or less is served in county jail. The provisions of the bill which create and increase mandatory minimum terms of incarceration, may result in offenders being sentenced to 6 or 10 months incarceration where they would have otherwise served less or no time in jail and therefore have some impact on the county jail population.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill increases the amount of fine that must be imposed for an animal cruelty offense under certain circumstances.

D. FISCAL COMMENTS:

See above.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES