

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: SB 2796
 SPONSOR: Senator Sebesta
 SUBJECT: Animal Cruelty
 DATE: March 18, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable</u>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill eliminates the misdemeanor designation for the offense of cruelty to an animal and increases the criminal penalties for certain acts of animal cruelty. It provides that 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 third degree felony.

In addition, 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, commits a second degree felony. The bill raises the fine for this violation from \$2,500 to \$5,000 and provides a minimum mandatory period of incarceration of 6 months. The bill increases the minimum mandatory period of incarceration for second or subsequent violations from 6 months to 10 months.

This bill amends sections 828.12 and 921.0022 of the Florida Statutes.

II. Present Situation:

A person can be convicted of a misdemeanor of the first degree, punishable by up to one year incarceration or a fine of not more than \$5,000 or both, if he unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter or unnecessarily mutilates, or kills an animal. Deprivation of medical attention or sanitation are not currently specified elements of the crime.

A person can be convicted of a felony of the third degree, punishable by up to five years imprisonment or by a fine of not more than \$10,000 or both, for an intentional act which results

in the cruel death of an animal, or excessive or repeated infliction of unnecessary pain or suffering on an animal. There is a minimum mandatory fine of \$2,500, but no minimum mandatory sentence. It should be noted, however, that the maximum potential fines currently set forth in s. 828.12, F.S., for both misdemeanor and felony animal cruelty offenses, exceed the fines which are normally imposed for misdemeanor and felony violations, as specified in s. 775.083, F.S.

III. Effect of Proposed Changes:

Section 1. Amends s. 828.12, F.S., to increase criminal penalties for certain acts of cruelty to animals. Provides that 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 third degree felony, rather than a misdemeanor of the first degree. Provides that 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, commits a second degree felony, rather than a third degree felony. Increases the minimum mandatory fine from \$2,500 to \$5,000 and requires the offender to serve a minimum mandatory period of incarceration of 6 months. Increases the minimum mandatory term of incarceration for a second or subsequent violation from 6 months to 10 months.

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

Section 3. Provides the 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 who are convicted of violating the cruelty to animals laws are exposed to increased fines.

C. Government Sector Impact:

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 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.

Local Governments

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.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.