

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Budget Subcommittee on Criminal and Civil Justice Appropriations

**BILL:** CS/SB 488

**INTRODUCER:** Committee on Community Affairs and Senators Rich and Gaetz

**SUBJECT:** Animal Cruelty or Cruelty Ordinances

**DATE:** January 19, 2012      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	CA	<b>Fav/CS</b>
2.	Harkness	Sadberry	BJA	<b>Favorable</b>
3.			BC	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

CS/SB 488 allows counties or municipalities to increase the surcharge up to \$15 up for each violation of an ordinance relating to animal control or cruelty. The local clerk of the court may retain one dollar of the surcharge. Up to five dollars of the surcharge must be used for the training of animal control officers. Any remaining funds are to be used to subsidize the costs to spay or neuter dogs and cats.

The CS/SB 488 substantially amends s. 828.27, of the Florida Statutes.

**II. Present Situation:**

Section 823.15(1), F.S., states that uncontrolled breeding of dogs and cats in the state results in the production of many more puppies and kittens than are needed to replace pet animals which have died or become lost or to provide pet animals for new owners. This leads to many dogs, cats, puppies, and kittens being unwanted, becoming strays and suffering privation and death, being impounded and destroyed at great expense to the community, and constituting a public nuisance and public health hazard. It is therefore declared to be the public policy of the state that

every feasible means of reducing the production of unneeded and unwanted puppies and kittens be encouraged.

Section 823.15, F.S., requires dogs and cats adopted or sold from animal shelters, including those run by local governments or humane societies, to be spayed or neutered before the animal is released. As an alternative, an animal may be released without spaying or neutering if the adopter/purchaser enters into a written agreement that the animal will be sterilized within a certain time frame. The shelter must charge a deposit, which it may keep if the adopter/purchaser do not provide proof of sterilization.

Counties and municipalities allow animal control officers to issue a written notice/citation to a person when the officer has probable cause to believe that the person has committed a civil infraction of an ordinance. The following are some animal control ordinance citations that might be issued by animal control officers:

- Obstructing enforcement - Refusing to surrender an animal upon lawful demand by the director of animal control or any animal control officer.
- Running at large - It shall be unlawful for any animal to run or remain at large on any public street, road, alley, park, or other public place.
- Public nuisance - Any nuisance complaint shall be investigated by animal control or law enforcement. The owner shall first be given written notification by the county that the animal's behavior constitutes a public nuisance, that the owner is required to make reasonable effort to abate the nuisance within seven calendar days of the written notice of violation, and that subsequent violations may result in the issuance of a citation to the owner for allowing his or her animal to become a nuisance.<sup>1</sup>

Counties and municipalities, which elect to enact an animal control or cruelty ordinance, may include a surcharge of up to \$5 for each civil penalty imposed in addition to any penalties, fees, or court costs. The surcharge is distributed based on the county or municipalities' agreed upon fee schedule and is used to pay for the cost of training animal control officers.<sup>2</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 828.27, F.S., to allow counties or municipalities to collect a surcharge in addition to the penalties imposed by the county or court for the civil violation relating to an animal control or cruelty ordinance from up to \$5 to up to \$15. The CS/SB 488 specifies that one dollar of the surcharge may be retained by the clerk of the court and up to five dollars of the surcharge must be used for the training of animal control officers. Any remaining funds are to be used to subsidize the costs to spay or neuter dogs and cats in the possession of the animal control authority, whose owners have given permission to sterilize. The animal's owner may not be charged more than the cost of sterilization minus the subsidy provided by the surcharge. If the surcharge funds collected to pay the costs of training animal control officers exceed the amount needed to conduct training for the animal control officers, the animal control authority may apply any excess surcharge funds to spay and neuter dogs and cats.

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<sup>1</sup> Leon County, Florida Code of Ordinances, Code of Laws, Chapter 4 Animals, Article II. Animal Control, Division 1., <http://www.leoncountyfl.gov/animal/ordinance.asp>.

<sup>2</sup> Section 828.27, F.S.

**Section 2** sets an effective date of July 1, 2012.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

Counties and municipalities that elect to enact an animal control or cruelty ordinance may include a surcharge of up to \$15 for each civil penalty imposed in addition to any penalties, fees, or court costs. The clerk of the court may retain one dollar of the surcharge and up to the five dollars are to be used to pay the cost of training for animal control officers. The remaining funds from the surcharge are to be used to spay and neuter animals.

B. Private Sector Impact:

If a county or municipality elects to enact an animal control or cruelty ordinance and collects an increased surcharge that designates funds to sterilize cats and dogs, more animals will be sterilized which will decrease the animal population in that locality.

C. Government Sector Impact:

The clerk of the court retains \$1 of the surcharge, which would generate a small but indeterminate amount of trust fund revenue.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Community Affairs Committee on January 12, 2012:**

The CS/SB 488 permits instead of requires counties or municipalities that enact an ordinance relating to animal control or cruelty to impose and collect a surcharge of up to \$15 upon each civil penalty. The CS specifies that the clerk of the court may retain one dollar of the surcharge and up to the next five dollars must be used to pay the cost of training for animal control officers. The remaining funds from the surcharge are to be used to spay and neuter animals.

- B. **Amendments:**

None.