

By Senator Grimsley

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1 A bill to be entitled
2 An act relating to animal control; amending s. 588.17,
3 F.S.; providing a procedure for adopting or humanely
4 disposing of impounded livestock as an alternative to
5 sale or auction; amending s. 588.18, F.S.; requiring a
6 designated impounder to establish fees and to be
7 responsible for damages caused while impounding
8 livestock; amending s. 588.20, F.S.; clarifying that
9 the requirements for reporting a sale or disposition
10 apply only if the impounded livestock is offered for
11 sale; amending s. 588.23, F.S.; conforming provisions
12 to changes made by this act; amending s. 828.03, F.S.;
13 authorizing specified municipalities to appoint agents
14 for the purpose of investigating violations of certain
15 laws; amending s. 828.073, F.S.; conforming provisions
16 to changes made by the act; authorizing agents
17 appointed by specified municipalities to take charge
18 of certain animals; authorizing certain municipalities
19 to take custody of an animal found neglected or
20 cruelly treated or to order the owner of such an
21 animal to provide certain care at the owner's expense;
22 authorizing county courts to remand animals to the
23 custody of certain municipalities; authorizing courts
24 to require the owner of an animal to pay for the care
25 of the animal while in the care of an officer's
26 designee; authorizing the allocation of auction
27 proceeds to certain municipalities; amending s.
28 828.27, F.S.; deleting obsolete provisions; clarifying
29 that certain provisions relating to local animal

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30 control are not the exclusive means of enforcing
31 animal control laws; providing an effective date.

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

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35 Section 1. Section 588.17, Florida Statutes, is amended to
36 read:

37 588.17 Disposition of impounded livestock.-

38 ~~(1) Upon the impounding of any Livestock impounded pursuant~~
39 ~~to this chapter shall be disposed of by sale or auction,~~
40 ~~adoption, or humane disposition. by the sheriff or his or her~~
41 ~~deputies or designees, or any other law enforcement officers of~~
42 ~~the county, the county animal control center, or state highway~~
43 ~~patrol officers,~~

44 (1) If the livestock is to be offered for sale, the sheriff
45 shall ~~forthwith~~ serve written notice upon the owner, advising
46 the such owner of the location or place where the livestock is
47 being held and impounded, of the amount due by reason of the
48 ~~such~~ impounding, and that unless the such livestock is ~~be~~
49 redeemed within 3 days from date thereof ~~that~~ the livestock will
50 ~~same~~ shall be offered for sale.

51 ~~(a)(2) If in the event~~ the owner of the such livestock is
52 unknown or cannot be found, service upon the owner shall be
53 obtained by once publishing a notice in a newspaper of general
54 circulation where the livestock is impounded (Sundays and
55 holidays excluded). If there is ~~be~~ no such newspaper, ~~then by~~
56 ~~posting of~~ the notice shall be posted at the courthouse door and
57 at two other conspicuous places within the said county.

58 Such notice shall be in substantially the following form:

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"TO WHOM IT MAY CONCERN:

YOU ARE HEREBY NOTIFIED THAT THE FOLLOWING DESCRIBED LIVESTOCK ... (GIVING FULL AND ACCURATE DESCRIPTION OF SAME, INCLUDING MARKS AND BRANDS)... IS NOW IMPOUNDED AT ... (GIVING LOCATION WHERE LIVESTOCK IS IMPOUNDED)... AND THE AMOUNT DUE BY REASON OF SUCH IMPOUNDING IS DOLLARS. THE ABOVE DESCRIBED LIVESTOCK WILL, UNLESS REDEEMED WITHIN 3 DAYS FROM DATE HEREOF, BE OFFERED FOR SALE AT PUBLIC AUCTION TO THE HIGHEST AND BEST BIDDER FOR CASH.

... (DATE) ...

... (SHERIFF) ...

OF COUNTY, FLORIDA"

(b) (3) Unless the ~~impounded~~ livestock is redeemed within 3 days after from ~~date of~~ notice, the sheriff shall ~~forthwith~~ give notice of sale, thereof which shall be held at least ~~not less than~~ 5 days but not ~~nor~~ more than 10 days (excluding Sundays and holidays) after from the first publication of the notice of sale. The ~~Said~~ notice of sale shall be published in a newspaper of general circulation in the ~~said~~ county (excluding Sundays and holidays) and by posting a copy of the ~~such~~ notice at the courthouse door. If there is ~~be~~ no such newspaper, the ~~then by~~ posting such copy shall be posted at the courthouse door and at two other conspicuous places in the ~~said~~ county.

Such notice of sale shall be in substantially the following form:

"... (NAME OF OWNER, IF KNOWN, OTHERWISE 'TO WHOM IT MAY CONCERN')... YOU ARE HEREBY NOTIFIED THAT I WILL OFFER FOR SALE

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88 AND SELL AT PUBLIC SALE TO THE HIGHEST AND BEST BIDDER FOR CASH
 89 THE FOLLOWING DESCRIBED LIVESTOCK ... (GIVING FULL AND ACCURATE
 90 DESCRIPTION OF EACH HEAD OF LIVESTOCK) ... AT O'CLOCK,
 91 M. (THE HOUR OF SALE TO BE BETWEEN 11 A.M. AND 2 P.M. EASTERN
 92 STANDARD TIME) ON THE DAY OF AT THE FOLLOWING PLACE
 93 (WHICH PLACE SHALL BE WHERE THE LIVESTOCK IS IMPOUNDED OR
 94 AT THE PLACE PROVIDED BY THE COUNTY COMMISSIONERS FOR THE TAKING
 95 UP AND KEEPING OF SUCH LIVESTOCK) TO SATISFY A CLAIM IN THE SUM
 96 OF FOR FEES, EXPENSES FOR FEEDING AND CARE AND COSTS
 97 HEREOF.

98 ... (DATE) ... (SHERIFF) ...
 99 OF COUNTY, FLORIDA"

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(2) If the livestock is to be offered for adoption or
 humanely disposed of, the designated impounder shall:

(a) Provide written notice to the owner, if known, advising
 the owner of the location where the livestock is impounded, of
 the amount due by reason of the impounding, and that unless the
 livestock is redeemed within a timeframe to be established by
 the impounder, a period of at least 3 days, the livestock will
 be offered for adoption or disposed of humanely; or

(b) If the owner is unknown or cannot be located, obtain
 service upon the owner by publishing a notice on the impounder's
 website. If the livestock is not redeemed within a timeframe to
 be established by the impounder, a period of at least 3 days,
 the livestock will be offered for adoption or disposed of
 humanely.

Section 2. Section 588.18, Florida Statutes, is amended to
 read:

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117 588.18 Livestock at large; fees.—The fees allowed for
118 impounding, serving notice, care and feeding, advertising, and
119 disposing of impounded animals shall be determined by the
120 sheriff of each county or the designated impounder. Damages done
121 by the sheriff, sheriff's designees, or any other law
122 enforcement officer or designated impounder in pursuit, or in
123 the capture, handling, or care of the livestock are the sole
124 responsibility of the sheriff, ~~or other~~ law enforcement agency,
125 or designated impounder.

126 Section 3. Subsection (1) of section 588.20, Florida
127 Statutes, is amended to read:

128 588.20 Report of sale and disposition of proceeds.—

129 (1) The sheriff, upon making a sale or ~~other~~ disposal
130 pursuant to s. 588.19 as herein provided, shall forthwith make a
131 written return thereof to the clerk of the circuit court of such
132 county, with a full and accurate description of the livestock
133 sold or disposed of by her or him, to whom, and the sale price
134 thereof, which report shall be filed by said clerk.

135 Section 4. Section 588.23, Florida Statutes, is amended to
136 read:

137 588.23 Right of owner.—The owner of any impounded livestock
138 ~~has shall have~~ the right at any time before the disposition sale
139 thereof to redeem the livestock same by paying to the sheriff or
140 designated impounder all impounding expenses, including fees,
141 keeping charges, advertising, or other costs incurred therewith
142 which sum shall be deposited by the sheriff or designated
143 impounder with the clerk of the circuit court who shall pay all
144 fees and costs as allowed in s. 588.18. ~~If In the event~~ there is
145 a dispute as to the amount of such costs and expenses, the owner

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146 may give bond with sufficient sureties to be approved by the
147 sheriff or designated impounder, in an amount to be determined
148 by the sheriff or designated impounder, but not exceeding the
149 fair cash value of such livestock, conditioned to pay such costs
150 and damages; thereafter, within 10 days, the owner shall
151 institute suit in equity to have the damage adjudicated by a
152 court of equity or referred to a jury if requested by either
153 party to such suit.

154 Section 5. Section 828.03, Florida Statutes, is amended to
155 read:

156 828.03 Agents of counties, municipalities, societies, etc.,
157 may prosecute violators.—

158 (1) Any county, any municipality with animal control
159 officers certified pursuant to s. 828.27, or any society or
160 association for the prevention of cruelty to children or
161 animals, organized under the laws of this state, may appoint
162 agents for the purpose of investigating violations of ~~any of the~~
163 ~~provisions of~~ this chapter or any other law of the state for the
164 purpose of protecting children and animals or preventing any act
165 of cruelty thereto.

166 (2) All appointments of such agents by such society
167 ~~societies~~ or association ~~corporations~~ must have the approval of
168 the mayor of the municipality ~~city~~ in which the society or
169 association exists, and if the society or association exists or
170 works outside a municipality ~~of any city~~, the appointment must
171 be approved by the county court judge or the judge of the
172 circuit court for the county, and the mayor or judge shall keep
173 a record of such appointment. The approval of the appointment of
174 any agent by a county for either the incorporated or

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175 unincorporated areas of such county shall be by the county
176 commission.

177 Section 6. Section 828.073, Florida Statutes, is amended to
178 read:

179 828.073 Animals found in distress; when agent may take
180 charge; hearing; disposition; sale.—

181 (1) The purpose of this section is to provide a means by
182 which a neglected or mistreated animal can be:

183 (a) Removed from its present custody, or

184 (b) Made the subject of an order to provide care, issued to
185 its owner by the county court, any law enforcement officer, ~~or~~
186 any agent of the county, any agent of a municipality with animal
187 control officers certified pursuant to s. 828.27, or any agent
188 of a ~~any~~ society or association for the prevention of cruelty to
189 animals appointed under s. 828.03,

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191 and given protection and an appropriate and humane disposition
192 can be made.

193 (2) A ~~Any~~ law enforcement officer, an ~~or any~~ agent of any
194 county, any agent of a municipality with animal control officers
195 certified pursuant to s. 828.27, or an agent of any society or
196 association for the prevention of cruelty to animals appointed
197 under the provisions of s. 828.03 may:

198 (a) Lawfully take custody of any animal found neglected or
199 cruelly treated by removing the animal from its present
200 location, or

201 (b) Order the owner of any animal found neglected or
202 cruelly treated to provide certain care to the animal at the
203 owner's expense without removal of the animal from its present

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204 location,

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206 and shall file a petition seeking relief under this section in
207 the county court of the county in which the animal is found
208 within 10 days after the animal is seized or an order to provide
209 care is issued. The court shall schedule and commence a hearing
210 on the petition within 30 days after the petition is filed to
211 determine whether the owner, if known, is able to provide
212 adequately for the animal and is fit to have custody of the
213 animal. The hearing shall be concluded and the court order
214 entered thereon within 60 days after the date the hearing is
215 commenced. The timeframes set forth in this subsection are not
216 jurisdictional. However, if a failure to meet such timeframes is
217 attributable to the officer or agent, the owner is not required
218 to pay the officer or agent for care of the animal during any
219 period of delay caused by the officer or agent. A fee may not be
220 charged for filing the petition. This subsection does not
221 require court action for the taking into custody and making
222 proper disposition of stray or abandoned animals as lawfully
223 performed by animal control agents.

224 (3) The officer or agent of any county, any municipality
225 with animal control officers certified pursuant to s. 828.27, or
226 ~~of~~ any society or association for the prevention of cruelty to
227 animals taking charge of any animal pursuant to the provisions
228 of this section shall have written notice served, at least 3
229 days before the hearing scheduled under subsection (2), upon the
230 owner of the animal, if he or she is known and is residing in
231 the county where the animal was taken, in conformance with the
232 provisions of chapter 48 relating to service of process. The

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233 sheriff of the county may ~~shall~~ not charge a fee for service of
234 such notice.

235 (4) (a) The officer or agent of any county, any municipality
236 with animal control officers certified pursuant to s. 828.27, or
237 ~~of~~ any society or association for the prevention of cruelty to
238 animals taking charge of an animal as provided for in this
239 section shall provide for the animal until either:

240 1. The owner is adjudged by the court to be able to provide
241 adequately for, and have custody of, the animal, in which case
242 the animal shall be returned to the owner upon payment by the
243 owner for the care and provision for the animal while in the
244 agent's or officer's custody; or

245 2. The animal is turned over to the officer or agent as
246 provided in paragraph (c) and a humane disposition of the animal
247 is made.

248 (b) If the court determines that the owner is able to
249 provide adequately for, and have custody of, the animal, the
250 order shall provide that the animal in the possession of the
251 officer or agent be claimed and removed by the owner within 7
252 days after the date of the order.

253 (c) Upon the court's judgment that the owner of the animal
254 is unable or unfit to adequately provide for the animal:

255 1. The court may:

256 a. Order that the current owner have no further custody of
257 the animal and that the animal be sold by the sheriff at public
258 auction or, ~~that the current owner have no further custody of~~
259 ~~the animal, and that any animal not bid upon be~~ remanded to the
260 custody of the Society for the Prevention of Cruelty to Animals,
261 the Humane Society, the county, the municipality with animal

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262 control officers certified pursuant to s. 828.27, or any agency
263 or person the judge deems appropriate, to be disposed of as the
264 agency or person sees fit; or

265 b. Order that the animal be destroyed or remanded directly
266 to the custody of the Society for the Prevention of Cruelty to
267 Animals, the Humane Society, the county, the municipality with
268 animal control officers certified pursuant to s. 828.27, or any
269 agency or person the judge deems appropriate, to be disposed of
270 as the agency or person sees fit.

271 2. The court, upon proof of costs incurred by the officer,
272 the officer's designee, or the agent, may require that the owner
273 pay for the care of the animal while in the custody of the
274 officer, the officer's designee, or the agent. A separate
275 hearing may be held.

276 3. The court may order that other animals that are in the
277 custody of the owner and that were not seized by the officer or
278 agent be turned over to the officer or agent, if the court
279 determines that the owner is unable or unfit to adequately
280 provide for the animals. The court may enjoin the owner's
281 further possession or custody of other animals.

282 (5) In determining the person's fitness to have custody of
283 an animal ~~under the provisions of this act,~~ the court may
284 consider, among other matters:

285 (a) Testimony from the agent or officer who seized the
286 animal and other witnesses as to the condition of the animal
287 when seized and as to the conditions under which the animal was
288 kept.

289 (b) Testimony and evidence as to the veterinary care
290 provided to the animal.

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291 (c) Testimony and evidence as to the type and amount of
292 care provided to the animal.

293 (d) Expert testimony as to the community standards for
294 proper and reasonable care of the same type of animal.

295 (e) Testimony from any witnesses as to prior treatment or
296 condition of this or other animals in the same custody.

297 (f) The owner's past record of judgments pursuant to ~~under~~
298 ~~the provisions of~~ this chapter.

299 (g) Convictions pursuant to ~~under~~ the statutes prohibiting
300 cruelty to animals.

301 (h) ~~Any~~ Other evidence the court considers to be material
302 or relevant.

303 (6) If the evidence indicates a lack of proper and
304 reasonable care of the animal, the burden is on the owner to
305 demonstrate by clear and convincing evidence that he or she is
306 able and fit to have custody of and provide adequately for the
307 animal.

308 (7) In any case in which an animal is offered for auction
309 ~~under the provisions of~~ this section, the proceeds shall be:

310 (a) Applied, first, to the cost of the sale.

311 (b) Applied, secondly, to the care and provision for the
312 animal by the officer or agent of any county, any municipality
313 with animal control officers certified pursuant to s. 828.27, or
314 ~~of~~ any society or association for the prevention of cruelty to
315 animals taking charge.

316 (c) Applied, thirdly, to the payment of the owner for the
317 sale of the animal.

318 (d) Paid over to the court if the owner is not known.

319 Section 7. Subsection (4) of section 828.27, Florida

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320 Statutes, is amended, and subsection (8) is added to that
321 section, to read:

322 828.27 Local animal control or cruelty ordinances;
323 penalty.—

324 (4) (a) 1. County-employed animal control officers must
325 ~~shall~~, and municipally employed animal control officers may,
326 successfully complete a 40-hour minimum standards training
327 course. Such course must ~~shall~~ include, but is not limited to,
328 training for: animal cruelty investigations, search and seizure,
329 animal handling, courtroom demeanor, and civil citations. The
330 course curriculum must be approved by the Florida Animal Control
331 Association. An animal control officer who successfully
332 completes such course shall be issued a certificate indicating
333 that he or she has received a passing grade.

334 2. Any animal control officer who is authorized before
335 ~~prior to~~ January 1, 1990, by a county or municipality to issue
336 citations is not required to complete the minimum standards
337 training course.

338 3. In order to maintain valid certification, every 2 years
339 each certified ~~county-employed~~ animal control officer must ~~shall~~
340 complete 4 hours of postcertification continuing education
341 training. Such training may include, but is not limited to,
342 training for: animal cruelty investigations, search and seizure,
343 animal handling, courtroom demeanor, and civil citations.

344 (b) ~~1.~~ The governing body of a county or municipality may
345 impose and collect a surcharge of up to \$5 upon each civil
346 penalty imposed for violation of an ordinance relating to animal
347 control or cruelty. The proceeds from such surcharges shall be
348 used to pay the costs of training for animal control officers.

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349 ~~2. In addition to the uses set forth in subparagraph 1., a~~
350 ~~county, as defined in s. 125.011, may use the proceeds specified~~
351 ~~in that subparagraph and any carryover or fund balance from such~~
352 ~~proceeds for animal shelter operating expenses. This~~
353 ~~subparagraph expires July 1, 2014.~~

354 (8) This section is an additional, supplemental, and
355 alternative means of enforcing county or municipal codes or
356 ordinances. This section does not prohibit a county or
357 municipality from enforcing its codes or ordinances by any other
358 means, including, but not limited to, the procedures provided in
359 chapter 162.

360 Section 8. This act shall take effect July 1, 2015.