

By the Committee on Community Affairs; and Senator Grimsley

578-02389-15

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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 stray livestock, except cattle,
5 as an alternative to sale or auction; amending s.
6 588.18, F.S.; requiring a county animal control center
7 to establish fees and be responsible for damages
8 caused while impounding livestock; amending s. 588.23,
9 F.S.; conforming provisions to changes made by the
10 act; amending s. 828.073, F.S.; authorizing certain
11 municipalities to take custody of an animal found
12 neglected or cruelly treated or to order the owner of
13 such an animal to provide certain care at the owner's
14 expense; authorizing county courts to remand animals
15 to the custody of certain municipalities; authorizing
16 the allocation of auction proceeds to certain
17 municipalities; conforming provisions to changes made
18 by the act; amending s. 828.27, F.S.; deleting
19 obsolete provisions; clarifying that certain
20 provisions relating to local animal control are not
21 the exclusive means of enforcing animal control laws;
22 providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsection (4) is added to section 588.17,
27 Florida Statutes, to read:

28 588.17 Disposition of impounded livestock.—

29 (4) Notwithstanding the requirements of subsections (1)-

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30 (3), the sheriff or the county animal control center may offer
31 for adoption or humanely dispose of stray livestock, excluding
32 cattle. If the livestock is to be offered for adoption or
33 humanely disposed of, the sheriff or the county animal control
34 center shall:

35 (a) Provide written notice to the owner, if known, advising
36 the owner of the location where the livestock is impounded and
37 of the amount due by reason of the impounding, and that unless
38 the livestock is redeemed within a timeframe to be established
39 by the sheriff or the county animal control center, which shall
40 be a period of at least 3 business days, the livestock will be
41 offered for adoption or humanely disposed of; or

42 (b) If the owner is unknown or cannot be located, obtain
43 service upon the owner by publishing a notice on the sheriff's
44 or the county animal control center's website. If the livestock
45 is not redeemed within a timeframe to be established by the
46 authorized agency, which shall be a period of at least 3
47 business days, the livestock will be offered for adoption or
48 humanely disposed of.

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

51 588.18 Livestock at large; fees.—The fees allowed for
52 impounding, serving notice, care and feeding, advertising, and
53 disposing of impounded animals shall be determined by the
54 sheriff or the county animal control center of each county.
55 Damages done by the sheriff or the county animal control center,
56 ~~sheriff's designees, or any other law enforcement officer~~ in
57 pursuit, ~~or~~ in the capture, handling, or care of the livestock
58 are the sole responsibility of the sheriff or the county animal

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59 control center ~~other law enforcement agency~~.

60 Section 3. Section 588.23, Florida Statutes, is amended to
61 read:

62 588.23 Right of owner.—The owner of any impounded livestock
63 has ~~shall have~~ the right at any time before the disposition sale
64 thereof to redeem the livestock ~~same~~ by paying to the sheriff or
65 the county animal control center all impounding expenses,
66 including fees, keeping charges, advertising, or other costs
67 incurred therewith which sum shall be deposited by the sheriff
68 or the county animal control center with the clerk of the
69 circuit court who shall pay all fees and costs as allowed in s.
70 588.18. If ~~In the event~~ there is a dispute as to the amount of
71 such costs and expenses, the owner may give bond with sufficient
72 sureties to be approved by the sheriff or the county animal
73 control center, in an amount to be determined by the sheriff or
74 the county animal control center, but not exceeding the fair
75 cash value of such livestock, conditioned to pay such costs and
76 damages; thereafter, within 10 days, the owner shall institute
77 suit in equity to have the damage adjudicated by a court of
78 equity or referred to a jury if requested by either party to
79 such suit.

80 Section 4. Paragraph (b) of subsection (1), subsections (2)
81 and (3), paragraphs (a) and (c) of subsection (4), and
82 subsections (5) and (7) of section 828.073, Florida Statutes,
83 are amended to read:

84 828.073 Animals found in distress; when agent may take
85 charge; hearing; disposition; sale.—

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

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88 (b) Made the subject of an order to provide care, issued to
89 its owner by the county court, any law enforcement officer, ~~or~~
90 ~~any agent of the county,~~ a municipality with animal control
91 officers certified pursuant to s. 828.27, or a ~~of any~~ society or
92 association for the prevention of cruelty to animals appointed
93 under s. 828.03,

94
95 and given protection and an appropriate and humane disposition
96 made.

97 (2) A ~~Any~~ law enforcement officer, a ~~or any agent of any~~
98 county, a municipality with animal control officers certified
99 pursuant to s. 828.27, or ~~of~~ any society or association for the
100 prevention of cruelty to animals appointed under the provisions
101 of s. 828.03 may:

102 (a) Lawfully take custody of any animal found neglected or
103 cruelly treated by removing the animal from its present
104 location, or

105 (b) Order the owner of any animal found neglected or
106 cruelly treated to provide certain care to the animal at the
107 owner's expense without removal of the animal from its present
108 location,

109
110 and shall file a petition seeking relief under this section in
111 the county court of the county in which the animal is found
112 within 10 days after the animal is seized or an order to provide
113 care is issued. The court shall schedule and commence a hearing
114 on the petition within 30 days after the petition is filed to
115 determine whether the owner, if known, is able to provide
116 adequately for the animal and is fit to have custody of the

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117 animal. The hearing shall be concluded and the court order
118 entered thereon within 60 days after the date the hearing is
119 commenced. The timeframes set forth in this subsection are not
120 jurisdictional. However, if a failure to meet such timeframes is
121 attributable to the officer or agent, the owner is not required
122 to pay the officer or agent for care of the animal during any
123 period of delay caused by the officer or agent. A fee may not be
124 charged for filing the petition. This subsection does not
125 require court action for the taking into custody and making
126 proper disposition of stray or abandoned animals as lawfully
127 performed by animal control agents.

128 (3) Any ~~The officer or agent of any~~ county, any
129 municipality with animal control officers certified pursuant to
130 s. 828.27, or ~~of~~ any society or association for the prevention
131 of cruelty to animals taking charge of any animal pursuant to
132 the provisions of this section shall have written notice served,
133 at least 3 days before the hearing scheduled under subsection
134 (2), upon the owner of the animal, if he or she is known and is
135 residing in the county where the animal was taken, in
136 conformance with the provisions of chapter 48 relating to
137 service of process. The sheriff of the county may ~~shall~~ not
138 charge a fee for service of such notice.

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

144 1. The owner is adjudged by the court to be able to provide
145 adequately for, and have custody of, the animal, in which case

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146 the animal shall be returned to the owner upon payment by the
147 owner for the care and provision for the animal while in the
148 agent's or officer's custody; or

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

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

154 1. The court may:

155 a. Order that the current owner have no further custody of
156 the animal and that the animal be sold by the sheriff at public
157 auction ~~or, that the current owner have no further custody of~~
158 ~~the animal, and that any animal not bid upon be~~ remanded to the
159 custody of the Society for the Prevention of Cruelty to Animals,
160 the Humane Society, the county, the municipality with animal
161 control officers certified pursuant to s. 828.27, or any agency
162 or person the judge deems appropriate, to be disposed of as the
163 agency or person sees fit; or

164 b. Order that the animal be destroyed or remanded directly
165 to the custody of the Society for the Prevention of Cruelty to
166 Animals, the Humane Society, the county, the municipality with
167 animal control officers certified pursuant to s. 828.27, or any
168 agency or person the judge deems appropriate, to be disposed of
169 as the agency or person sees fit.

170 2. The court, upon proof of costs incurred by the officer
171 or agent, may require that the owner pay for the care of the
172 animal while in the custody of the officer or agent. A separate
173 hearing may be held.

174 3. The court may order that other animals that are in the

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175 custody of the owner and that were not seized by the officer or
176 agent be turned over to the officer or agent, if the court
177 determines that the owner is unable or unfit to adequately
178 provide for the animals. The court may enjoin the owner's
179 further possession or custody of other animals.

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

183 (a) Testimony from the agent or officer who seized the
184 animal and other witnesses as to the condition of the animal
185 when seized and as to the conditions under which the animal was
186 kept.

187 (b) Testimony and evidence as to the veterinary care
188 provided to the animal.

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

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

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

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

197 (g) Convictions pursuant to ~~under~~ the statutes prohibiting
198 cruelty to animals.

199 (h) Other ~~Any other~~ evidence the court considers to be
200 material or relevant.

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

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

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204 (b) Applied, secondly, to the care of and provision for the
205 animal by ~~the officer or agent of any county, any municipality~~
206 with animal control officers certified pursuant to s. 828.27, or
207 ~~of~~ any society or association for the prevention of cruelty to
208 animals taking charge.

209 (c) Applied, thirdly, to the payment of the owner for the
210 sale of the animal.

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

212 Section 5. Subsection (4) of section 828.27, Florida
213 Statutes, is amended, and subsection (8) is added to that
214 section, to read:

215 828.27 Local animal control or cruelty ordinances;
216 penalty.—

217 (4) (a) 1. County-employed animal control officers must
218 ~~shall~~, and municipally employed animal control officers may,
219 successfully complete a 40-hour minimum standards training
220 course. Such course must ~~shall~~ include, but is not limited to,
221 training for: animal cruelty investigations, search and seizure,
222 animal handling, courtroom demeanor, and civil citations. The
223 course curriculum must be approved by the Florida Animal Control
224 Association. An animal control officer who successfully
225 completes such course shall be issued a certificate indicating
226 that he or she has received a passing grade.

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

231 3. In order to maintain valid certification, every 2 years
232 each certified ~~county-employed~~ animal control officer must ~~shall~~

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233 complete 4 hours of postcertification continuing education
234 training. Such training may include, but is not limited to,
235 training for: animal cruelty investigations, search and seizure,
236 animal handling, courtroom demeanor, and civil citations.

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

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

247 (8) This section is an additional, supplemental, and
248 alternative means of enforcing county or municipal codes or
249 ordinances. This section does not prohibit a county or
250 municipality from enforcing its codes or ordinances by any other
251 means, including, but not limited to, the procedures provided in
252 chapter 162.

253 Section 6. This act shall take effect July 1, 2015.