

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
 30 control are not the exclusive means of enforcing
 31 animal control laws; providing an effective date.
 32

33 Be It Enacted by the Legislature of the State of Florida:
 34

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

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

105 impounded, of the amount due by reason of the impounding, and
 106 that unless the livestock is redeemed within a timeframe to be
 107 established by the impounder, a period of at least 3 days, the
 108 livestock will be offered for adoption or disposed of humanely;
 109 or

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

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

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

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

129 588.20 Report of sale and disposition of proceeds.—

130 (1) The sheriff, upon making a sale or ~~other~~ disposal

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

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

138 588.23 Right of owner.—The owner of any impounded
 139 livestock has ~~shall have~~ the right at any time before the
 140 disposition ~~sale~~ thereof to redeem the livestock ~~same~~ by paying
 141 to the sheriff or designated impounder all impounding expenses,
 142 including fees, keeping charges, advertising, or other costs
 143 incurred therewith which sum shall be deposited by the sheriff
 144 or designated impounder with the clerk of the circuit court who
 145 shall pay all fees and costs as allowed in s. 588.18. If ~~In the~~
 146 ~~event~~ there is a dispute as to the amount of such costs and
 147 expenses, the owner may give bond with sufficient sureties to be
 148 approved by the sheriff or designated impounder, in an amount to
 149 be determined by the sheriff or designated impounder, but not
 150 exceeding the fair cash value of such livestock, conditioned to
 151 pay such costs and damages; thereafter, within 10 days, the
 152 owner shall institute suit in equity to have the damage
 153 adjudicated by a court of equity or referred to a jury if
 154 requested by either party to such suit.

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

157 828.03 Agents of counties, municipalities, societies,
 158 etc., may prosecute violators.-

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

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

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

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

182 (1) The purpose of this section is to provide a means by

183 which a neglected or mistreated animal can be:

184 (a) Removed from its present custody, or

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

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

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

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

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

206
 207 and shall file a petition seeking relief under this section in
 208 the county court of the county in which the animal is found

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

225 (3) The officer or agent of any county, any municipality
226 with animal control officers certified pursuant to s. 828.27, or
227 ~~of~~ any society or association for the prevention of cruelty to
228 animals taking charge of any animal pursuant to the provisions
229 of this section shall have written notice served, at least 3
230 days before the hearing scheduled under subsection (2), upon the
231 owner of the animal, if he or she is known and is residing in
232 the county where the animal was taken, in conformance with the
233 provisions of chapter 48 relating to service of process. The
234 sheriff of the county may ~~shall~~ not charge a fee for service of

235 such notice.

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

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

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

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

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

256 1. The court may:

257 a. Order that the current owner have no further custody of
 258 the animal and that the animal be sold by the sheriff at public
 259 auction ~~or, that the current owner have no further custody of~~
 260 ~~the animal, and that any animal not bid upon be remanded to the~~

261 custody of the Society for the Prevention of Cruelty to Animals,
 262 the Humane Society, the county, the municipality with animal
 263 control officers certified pursuant to s. 828.27, or any agency
 264 or person the judge deems appropriate, to be disposed of as the
 265 agency or person sees fit; or

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

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

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

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

286 (a) Testimony from the agent or officer who seized the

287 animal and other witnesses as to the condition of the animal
 288 when seized and as to the conditions under which the animal was
 289 kept.

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

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

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

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

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

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

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

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

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

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

312 (b) Applied, secondly, to the care and provision for the

313 animal by the officer or agent of any county, any municipality
 314 with animal control officers certified pursuant to s. 828.27, or
 315 ~~of~~ any society or association for the prevention of cruelty to
 316 animals taking charge.

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

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

320 Section 7. Subsection (4) of section 828.27, Florida
 321 Statutes, is amended, and subsection (8) is added to that
 322 section, to read:

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

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

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

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

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

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

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

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