

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

25
26 Be It Enacted by the Legislature of the State of Florida:

27
 28 Section 1. Section 588.17, Florida Statutes, is amended to
 29 read:

30 588.17 Disposition of impounded livestock.—

31 (1) Upon the impounding of any livestock by the sheriff or
 32 his or her deputies or designees, or any other law enforcement
 33 officers of the county, the county animal control center, or
 34 state highway patrol officers, the sheriff shall ~~forthwith~~ serve
 35 written notice upon the owner, advising the such owner of the
 36 location or place where the livestock is being held and
 37 impounded, of the amount due by reason of the such impounding,
 38 and that unless the such livestock is ~~be~~ redeemed within 3 days
 39 after the date of the notice, from date thereof that the
 40 livestock will ~~same~~ shall be offered for sale.

41 (2) ~~If In the event~~ the owner of the such livestock is
 42 unknown or cannot be found, service upon the owner shall be
 43 obtained by ~~once~~ publishing a notice once in a newspaper of
 44 general circulation in the county where the livestock is
 45 impounded, excluding ~~(Sundays and holidays excluded)~~. If there
 46 is ~~be~~ no such newspaper, ~~then by posting of the notice shall be~~
 47 posted at the courthouse door and at two other conspicuous
 48 places in the ~~within said~~ county.

49 Such notice shall be in substantially the following form:

50

51 "TO WHOM IT MAY CONCERN:

52 YOU ARE HEREBY NOTIFIED THAT THE FOLLOWING DESCRIBED

79 | CONCERN')... YOU ARE HEREBY NOTIFIED THAT I WILL OFFER FOR SALE
 80 | AND SELL AT PUBLIC SALE TO THE HIGHEST AND BEST BIDDER FOR CASH
 81 | THE FOLLOWING DESCRIBED LIVESTOCK ... (GIVING FULL AND ACCURATE
 82 | DESCRIPTION OF EACH HEAD OF LIVESTOCK)... AT O'CLOCK,
 83 | M. (THE HOUR OF SALE WILL ~~TO~~ BE BETWEEN 11 A.M. AND 2 P.M.
 84 | EASTERN STANDARD TIME) ON THE DAY OF AT THE FOLLOWING
 85 | PLACE (WHICH PLACE SHALL BE WHERE THE LIVESTOCK IS
 86 | IMPOUNDED OR AT THE PLACE PROVIDED BY THE COUNTY COMMISSIONERS
 87 | FOR THE TAKING UP AND KEEPING OF SUCH LIVESTOCK) TO SATISFY A
 88 | CLAIM IN THE SUM OF FOR FEES, EXPENSES FOR FEEDING AND
 89 | CARE, AND OTHER RELATED COSTS ~~HEREOF~~.
 90 | ... (DATE) (SHERIFF) ...
 91 | OF COUNTY, FLORIDA"
 92 |

93 | (4) Notwithstanding subsections (1)-(3), the sheriff or
 94 | the county animal control center may offer for adoption or
 95 | humanely dispose of stray livestock, excluding cattle. If the
 96 | livestock is to be offered for adoption or humanely disposed of,
 97 | the sheriff or the county animal control center shall:

98 | (a) Provide written notice to the owner, if known,
 99 | advising the owner of the location where the livestock is
 100 | impounded, of the amount due by reason of the impounding, and
 101 | that unless the livestock is redeemed within a timeframe to be
 102 | established by the sheriff or the county animal control center,
 103 | which shall be a period of at least 3 business days, the
 104 | livestock will be offered for adoption or humanely disposed of;

105 or

106 (b) If the owner is unknown or cannot be located, obtain
 107 service upon the owner by publishing a notice on the sheriff's
 108 or the county animal control center's website. If the livestock
 109 is not redeemed within a timeframe to be established by the
 110 authorized agency, which shall be a period of at least 3
 111 business days, the livestock will be offered for adoption or
 112 humanely disposed of.

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

115 588.18 Livestock at large; fees.—The fees allowed for
 116 impounding, serving notice, care and feeding, advertising, and
 117 disposing of impounded animals shall be determined by the
 118 sheriff or the county animal control center of each county.
 119 Damages caused ~~done~~ by the sheriff or the county animal control
 120 center, ~~sheriff's designees, or any other law enforcement~~
 121 ~~officer~~ in pursuit, or in the capture, handling, or care of the
 122 livestock are the sole responsibility of the sheriff or the
 123 county animal control center ~~other law enforcement agency.~~

124 Section 3. Section 588.23, Florida Statutes, is amended to
 125 read:

126 588.23 Right of owner.—The owner of any impounded
 127 livestock has ~~shall have~~ the right at any time before the
 128 disposition ~~sale~~ thereof to redeem the livestock ~~same~~ by paying
 129 to the sheriff or the county animal control center all
 130 impounding expenses, including fees, keeping charges,

131 advertising, or other costs incurred therewith, which sum shall
 132 be deposited by the sheriff or the county animal control center
 133 with the clerk of the circuit court who shall pay all fees and
 134 costs as allowed in s. 588.18. ~~If In the event~~ there is a
 135 dispute as to the amount of such costs and expenses, the owner
 136 may give bond with sufficient sureties to be approved by the
 137 sheriff or the county animal control center, in an amount to be
 138 determined by the sheriff or the county animal control center,
 139 but not exceeding the fair cash value of such livestock,
 140 conditioned to pay such costs and damages; thereafter, within 10
 141 days, the owner shall institute suit in equity to have the
 142 damage adjudicated by a court of equity or referred to a jury if
 143 requested by either party to such suit.

144 Section 4. Section 828.073, Florida Statutes, is amended
 145 to read:

146 828.073 Animals found in distress; when entities ~~agent~~ may
 147 take custody ~~charge~~; hearing; disposition; sale.-

148 (1) The purpose of this section is to provide a means by
 149 which a neglected or mistreated animal may ~~can~~ be:

150 (a) Removed from its present custody, or

151 (b) Made the subject of an order to provide care, issued
 152 to its owner by a ~~the~~ county court, a ~~any~~ law enforcement
 153 officer, a ~~or any agent of the county, a municipality with~~
 154 animal control officers certified pursuant to s. 828.27, a ~~or of~~
 155 any society or an association for the prevention of cruelty to
 156 animals, or an agent appointed under s. 828.03,

157
158 and protected ~~given protection~~ and disposed of appropriately and
159 humanely ~~an appropriate and humane disposition made.~~

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

165 (a) Lawfully take custody of any animal found neglected or
166 cruelly treated by removing the animal from its present
167 location, or

168 (b) Order the owner of any animal found neglected or
169 cruelly treated to provide certain care to the animal at the
170 owner's expense without removal of the animal from its present
171 location,

172
173 and shall file a petition seeking relief under this section in
174 the county court of the county in which the animal is found
175 within 10 days after the animal is seized or an order to provide
176 care is issued. The court shall schedule and commence a hearing
177 on the petition within 30 days after the petition is filed to
178 determine whether the owner, if known, is able to adequately
179 ~~adequately~~ provide ~~adequately~~ for the animal and is fit to have custody of
180 the animal. The hearing shall be concluded and the court order
181 entered thereon within 60 days after the date the hearing is
182 commenced. The timeframes set forth in this subsection are not

183 jurisdictional. However, if a failure to meet such timeframes is
 184 attributable to the officer, county, municipality, society or
 185 association, or agent, the owner is not required to pay the
 186 officer, county, municipality, society or association, or agent
 187 for care of the animal during any period of delay caused by the
 188 officer, county, municipality, society or association, or agent.
 189 A fee may not be charged for filing the petition. This
 190 subsection does not require court action for ~~the taking into~~
 191 custody and properly disposing ~~making proper disposition~~ of
 192 stray or abandoned animals as lawfully performed by animal
 193 control agents.

194 (3) A law enforcement ~~The officer, a or agent of any~~
 195 county, a municipality with animal control officers certified
 196 pursuant to s. 828.27, a or of any society or an association for
 197 the prevention of cruelty to animals, or an agent appointed
 198 under s. 828.03 taking custody ~~charge~~ of an ~~any~~ animal pursuant
 199 to ~~the provisions of~~ this section shall have written notice
 200 served, at least 3 days before the hearing scheduled under
 201 subsection (2), upon the owner of the animal, if he or she is
 202 known and is residing in the county where the animal was taken,
 203 in accordance ~~conformance~~ with ~~the provisions of~~ chapter 48
 204 relating to service of process. The sheriff of the county may
 205 ~~shall~~ not charge a fee for service of such notice.

206 (4) (a) A law enforcement ~~The officer, a or agent of any~~
 207 county, a municipality with animal control officers certified
 208 pursuant to s. 828.27, a or of any society or an association for

209 the prevention of cruelty to animals, or an agent appointed
 210 under s. 828.03 taking custody ~~charge~~ of an animal pursuant to
 211 ~~as provided for in~~ this section shall provide for the animal
 212 until either:

213 1. The owner is adjudged by the court to be able to
 214 adequately provide ~~adequately~~ for, and have custody of, the
 215 animal, in which case the animal shall be returned to the owner
 216 upon payment by the owner for the care and provision for the
 217 animal while in the ~~agent's or officer's~~ custody of the officer,
 218 county, municipality, society or association, or agent; or

219 2. The animal is turned over to the officer, county,
 220 municipality, society or association, or agent pursuant to ~~as~~
 221 ~~provided in~~ paragraph (c) and humanely disposed of a humane
 222 ~~disposition of the animal is made.~~

223 (b) If the court determines that the owner is able to
 224 provide adequately for, and have custody of, the animal, the
 225 order shall provide that the animal in the possession of the
 226 officer, county, municipality, society or association, or agent
 227 be claimed and removed by the owner within 7 days after the date
 228 of the order.

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

231 1. The court may:

232 a. Order that the current owner have no further custody of
 233 the animal and that the animal be sold by the sheriff at public
 234 auction or, ~~that the current owner have no further custody of~~

235 ~~the animal, and that any animal not bid upon be~~ remanded to the
236 custody of the Society for the Prevention of Cruelty to Animals,
237 the Humane Society, the county, the municipality with animal
238 control officers certified pursuant to s. 828.27, the agent
239 appointed under s. 828.03, or any agency or person the judge
240 deems appropriate, to be disposed of as the agency or person
241 sees fit; or

242 b. Order that the animal be destroyed or remanded directly
243 to the custody of the Society for the Prevention of Cruelty to
244 Animals, the Humane Society, the county, the municipality with
245 animal control officers certified pursuant to s. 828.27, the
246 agent appointed under s. 828.03, or any agency or person the
247 judge deems appropriate, to be disposed of as the agency or
248 person sees fit.

249 2. The court, upon proof of costs incurred by the officer,
250 county, municipality, society or association, or agent, may
251 require that the owner pay for the care of the animal while in
252 the custody of the officer, county, municipality, society or
253 association, or agent. A separate hearing may be held.

254 3. The court may order that other animals that are in the
255 custody of the owner and that were not seized by the officer,
256 county, municipality, society or association, or agent be turned
257 over to the officer, county, municipality, society or
258 association, or agent, if the court determines that the owner is
259 unable or unfit to adequately provide for the animals. The court
260 may enjoin the owner's further possession or custody of other

261 animals.

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

265 (a) Testimony from the law enforcement officer, the
 266 county, the municipality with animal control officers certified
 267 pursuant to s. 828.27, the society or association for the
 268 prevention of cruelty to animals, or the agent appointed under
 269 s. 828.03 ~~or officer~~ who seized the animal and other witnesses
 270 as to the condition of the animal when seized and as to the
 271 conditions under which the animal was kept.

272 (b) Testimony and evidence as to the veterinary care
 273 provided to the animal.

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

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

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

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

282 (g) Convictions pursuant to applicable ~~under the~~ statutes
 283 prohibiting cruelty to animals.

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

286 (6) If the evidence indicates a lack of proper and

287 reasonable care of the animal, the burden is on the owner to
 288 demonstrate by clear and convincing evidence that he or she is
 289 able and fit to have custody of and adequately provide
 290 ~~adequately~~ for the animal.

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

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

294 (b) Applied, secondly, to the care of and provision for
 295 the animal by the ~~officer or agent of any county,~~ the
 296 municipality with animal control officers certified pursuant to
 297 s. 828.27, the or of any society or association for the
 298 prevention of cruelty to animals, or the agent appointed under
 299 s. 828.03 taking custody charge.

300 (c) Applied, thirdly, to the payment of the owner for the
 301 sale of the animal.

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

303 Section 5. Subsection (4) of section 828.27, Florida
 304 Statutes, is amended, and subsection (8) is added to that
 305 section, to read:

306 828.27 Local animal control or cruelty ordinances;
 307 penalty.—

308 (4) (a) 1. County-employed animal control officers must
 309 ~~shall~~, and municipally employed animal control officers may,
 310 successfully complete a 40-hour minimum standards training
 311 course. Such course must ~~shall~~ include, but is not limited to,
 312 training for: animal cruelty investigations, search and seizure,

313 animal handling, courtroom demeanor, and civil citations. The
 314 course curriculum must be approved by the Florida Animal Control
 315 Association. An animal control officer who successfully
 316 completes such course shall be issued a certificate indicating
 317 that he or she has received a passing grade.

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

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

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

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

338 (8) This section is an additional, supplemental, and

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339 alternative means of enforcing county or municipal codes or
340 ordinances. This section does not prohibit a county or
341 municipality from enforcing its codes or ordinances by any other
342 means, including, but not limited to, the procedures provided in
343 chapter 162.

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