

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 329 Animals Confined in Unattended Motor Vehicles

SPONSOR(S): Judiciary Committee; Criminal Justice Subcommittee; Cortes, B.

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 200

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	9 Y, 4 N, As CS	Keegan	White
2) Judiciary Committee	17 Y, 0 N, As CS	Keegan	Havlicak

SUMMARY ANALYSIS

Over the past several years, there have been a number of reported tragedies involving children and animals left to die in unattended vehicles. Studies have shown that the temperature in an unattended vehicle can rise sharply, even when the weather is relatively cool. In fact, temperatures have been measured at deadly levels within five minutes of closing the doors of a vehicle.

The bill makes it a first degree misdemeanor for any person to intentionally, knowingly, or recklessly confine an animal in an unattended motor vehicle under specified conditions that endanger the health or well-being of the animal.

The bill provides that the criminal prohibition does not prohibit the transportation of specified animals in motor vehicles designed to transport such animals for agricultural, sporting, or working purposes.

The bill may have an economic impact on local governments because the bill creates a new first degree misdemeanor, and thereby may increase the need for jail beds.

The bill is effective October 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

Over the past several years, there have been a number of reported tragedies involving children and animals left to die in unattended vehicles. Data shows that the temperature in an unattended vehicle can rise sharply, even when the weather is relatively cool.¹ In a study conducted when the outdoor temperature was ninety degrees Fahrenheit or more, 75 percent of the internal temperature rise occurred in an unattended vehicle within *five minutes* of closing the vehicle doors, and the temperature rise was maximized (between 124-153 degrees Fahrenheit) within fifteen minutes.² In a study conducted when the outside air temperature was seventy-two degrees Fahrenheit, the internal vehicle temperature reached 117 degrees Fahrenheit within sixty minutes, with 80 percent of that temperature rise occurring within the first thirty minutes of shutting the vehicle doors.³

There are nineteen states throughout the nation that prohibit leaving an animal unattended and confined in a vehicle under circumstances that pose a risk to the animal's welfare.⁴ Florida law generally prohibits behavior that is cruel to animals;⁵ however, there is no prohibition against leaving an animal unattended and confined in a motor vehicle, even under dangerous conditions.

Animal Cruelty

Section 828.12, F.S., prohibits cruelty to animals. It is a first degree misdemeanor for a person to unnecessarily overload, overdrive, torment, deprive of necessary sustenance or shelter, or unnecessarily mutilate or kill any animal, or cause the same to be done, or carry in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner. It is a third degree felony to intentionally commit an act to any animal, or fail to act, if the person owning or having custody or control of the animal, in a manner that results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done.

Endangering the health or well-being of an animal is not prohibited under current law unless the act also causes the harms specifically prohibited under the animal cruelty statute.

Effect of the Bill

The bill makes it a first degree misdemeanor for any person to intentionally, knowingly, or recklessly confine an animal in an unattended motor vehicle under conditions that endanger the health or well-being of the animal due to:

- Heat;
- Cold;
- Lack of adequate ventilation;
- Lack of food or water; or
- Other circumstances that could reasonably be expected to cause suffering, physical injury, or death of the animal.

¹ Jan Null, *Heatstroke Deaths of Children in Vehicles*, DEPARTMENT OF METEOROLOGY & CLIMATE SCIENCE, SAN JOSE STATE UNIVERSITY, <http://noheatstroke.org/> (last visited November 6, 2015); Catherine McLaren et al., *Heat Stress from Enclosed Vehicles: Moderate Ambient Temperatures Cause Significant Temperature Rise in Enclosed Vehicles*, 116 PEDIATRICS 109, 109 (2005).

² McLaren, *supra* note 1, at 109.

³ McLaren, *supra* note 1, at 111.

⁴ ARIZ. REV. STAT. ANN. §13-2910(A)(7); CAL. PENAL CODE §597.7; DEL. CODE ANN. tit. 11, §1325; ILL. COMP. STAT. 70/7.1; ME. REV. STAT. §4019; MD. CODE ANN. TRANSP. §21-1004.1; MINN. STAT. ANN. §346.57; NEV. REV. STAT. §574.195; N.H. REV. STAT. ANN. §644:8-aa; N.J. STAT. ANN. §4:22-26; N.Y. AGRIC. & MKTS. LAW §353-d; N.C. GEN. STAT. §14-363.3; N.D. CENT. CODE §36-21.2-12; R.I. GEN. LAWS §4-1-3.2; S.D. CODIFIED LAWS §40-1-36; TENN. CODE ANN. §29-34-209; VT. STAT. ANN. tit. 13, §386; WASH. REV. CODE §16.52.340; and W. VA. CODE §61-8-19.

⁵ s. 828.12, F.S.

The bill specifies that the criminal prohibition does not prohibit the transportation of horses, cattle, pigs, sheep, poultry, or other agricultural animals, or hunting, working, sporting, or conformation show dogs, in motor vehicles designed to transport such animals for agricultural, sporting, or working purposes.

B. SECTION DIRECTORY:

Section 1. Citing the act as the "Protecting Animal Welfare and Safety Act" or "P.A.W.S. Act."

Section 2. Creating s. 828.075, F.S., relating to animals confined in unattended motor vehicles.

Section 3. Providing that the bill is effective October 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill creates a new first degree misdemeanor, and thereby may increase the need for jail beds.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of article VII, section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 17, 2016, the Criminal Justice Subcommittee adopted two amendments and reported the bill favorable as a committee substitute. Together, the amendments:

- Clarify the definition of “authorized individual”;
- Clarify prohibited circumstances for an animal to be left unattended;
- Remove unnecessary language precluding prosecution for criminal acts; and
- Change the effective date from July 1, 2016 to October 1, 2016.

On February 4, 2016, the Judiciary Committee adopted one amendment and reported the bill favorable as a committee substitute. The amendment:

- Removes provisions authorizing a person to enter a vehicle to rescue an animal in specified circumstances, and requiring specific actions of a person who rescues such an animal.
- Specifies that the bill does not prohibit the transportation of agricultural animals or hunting, working, sporting, or conformation show dogs, in motor vehicles designed to transport such animals for agricultural, sporting, or working purposes.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.