

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 1044

INTRODUCER: Senator Pizzo and others

SUBJECT: Animal Cruelty

DATE: January 27, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wagoner</u>	<u>Jones</u>	<u>CJ</u>	Favorable
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Pre-meeting
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1044 creates “Allie’s Law” to require the reporting of suspected or known cruelty to dogs and cats. A licensed veterinarian who knows, or has reasonable cause to suspect, that a dog or cat showing visible signs of animal cruelty has been or is being subjected to animal cruelty by its owner or under its owner’s care must report such knowledge or suspicion to a law enforcement or animal control agency for investigation. A veterinary technician or an employee or volunteer of an animal treatment provider, facility, or shelter who knows or has reason to suspect that a dog or cat has been or is being subjected to animal cruelty must report that information to a veterinarian.

The bill provides that a veterinarian, a veterinary technician, or an employee or volunteer of a treatment provider, facility, or shelter shall be held harmless from either criminal or civil liability for reporting suspected cruelty. Additionally, the bill provides that any such animal treatment provider, facility, or shelter is immune from all civil liability reporting the suspected cruelty and for cooperating with any related investigation of cruelty to animals.

The bill prohibits a veterinary technician or any employee or volunteer of a veterinary practice, treatment provider, facility, or shelter to knowingly alter or destroy an existing medical record for the purpose of concealing or attempting to conceal cruelty to a dog or cat. An initial violation would be a first degree misdemeanor but a second or subsequent violation would constitute a third degree felony.

The failure to report suspected animal cruelty to the proper authorities is grounds for disciplinary action against an applicant for a veterinary license or a veterinarian by the Board of Veterinary Medicine.

The bill may have a positive fiscal impact on law enforcement agencies. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2020.

II. Present Situation:

Animal Cruelty; Generally

Section 828.12(1), F.S., provides that a person commits animal cruelty if he or she unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner. Animal cruelty is a first degree misdemeanor, punishable by up to one year in jail or a fine of up to \$5,000, or both.¹

Identification of animal abuse may play a crucial role in the intervention against other forms of violence in society.² Ample research demonstrates a link between animal abuse in a household and domestic violence and child abuse.³ Therefore, through the identification of animal cruelty, veterinarians are uniquely positioned to bring attention to other forms of interpersonal violence.⁴

Confidentiality of Veterinary Medical Information

Chapter 474, F.S., addresses veterinary medical practice and contains a confidentiality provision that prohibits a veterinarian from discussing a patient's medical condition with anyone except the client and other limited entities.⁵ However, in any criminal action or situation where a veterinarian suspects a criminal violation, a veterinarian may report such violation to a law enforcement officer, an animal control officer, or an appointed animal protection agent without notice to the client.⁶ The report may not include written medical records except upon issuance of a court order.⁷

Further, s. 828.12(4), F.S., provides that a licensed veterinarian shall be held harmless from either criminal or civil liability for any decisions made or services rendered for his or her part in an investigation of cruelty to animals. Therefore, a veterinarian acting under s. 828.12, F.S., is immune from a lawsuit for his or her part in an investigation of cruelty to animals.

¹ A first degree misdemeanor is punishable by up to one year in jail and a fine of up to \$1,000, or any higher amount specifically authorized by statute. Section 775.082, F.S.

² Stefany Monsalve, Fernando Ferreira and Rita Garcia, "The connection between animal abuse and interpersonal violence: A review from the veterinary perspective," p. 34, *Research in Veterinary Science*, (Oct. 1, 2017) <https://www.ncbi.nlm.nih.gov/pubmed/28279899>

³ *Id.*

⁴ See also, Elizabeth DeViney, Jeffrey Dickert and Randall Lockwood, "The Care of Pets Within Child Abusing Families," *Animal Studies Repository*, 1983.

https://animalstudiesrepository.org/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1014&context=acwp_away This article provides a survey of families which reported child abuse and animal abuse. This survey found that a majority of these pet owners (60 percent of dog owners and 66 percent of cat owners) utilized veterinary services (p. 325). This survey also found that 88 percent of families with reported child abuse and household pets also reported animal abuse (p. 327).

⁵ Section 474.2165(4), F.S.

⁶ Section 474.2165(4)(d), F.S.

⁷ *Id.*

Board of Veterinary Medicine; Discipline

Section 474.204, F.S., creates within the Department of Business and Professional Regulation the Board of Veterinary Medicine (“Board”), tasked with ensuring that every veterinarian practicing in this state meets minimum requirements for safe practice. The Board is responsible for disciplining applicants for veterinary licenses and veterinarians found guilty of misconduct as provided in s. 474.214(1), F.S.⁸

Pertaining to record keeping, s. 474.214(1)(d), F.S., provides that making or filing a report or record which the veterinary licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing, is grounds for disciplinary action by the Board. Such reports or records shall include only those which are signed in the capacity of a licensed veterinarian.⁹ Also, s. 474.214(1)(ee), F.S., provides that failure to keep contemporaneously written medical records as required by rule of the Board is grounds for discipline.^{10,11}

Further, s. 474.213, F.S., provides acts by veterinarians which constitute third degree felonies.¹² Such acts include the misuse or misrepresentation of a veterinary license. Additionally, this section prohibits a person from knowingly concealing information relative to violations of ch. 474, F.S.¹³ In addition to criminal charges, violations of this section also provide grounds for disciplinary action by the Board.¹⁴

III. Effect of Proposed Changes:

The bill creates “Allie’s Law” after Allie, a 4-year-old Boston Terrier, whose obvious signs of abuse during veterinary visits went long unreported until she was surrendered and rescued.¹⁵

The bill defines the term “treatment provider” to include any animal care facility, animal hospital, private veterinary practice, animal shelter, veterinary school, specialized veterinary hospital or any place dogs or cats are seen for any kind of treatment.

⁸ Section 474.214, F.S.

⁹ The usual action of the Board is to impose a penalty of one year suspension followed by one year probation and an administrative fine from \$3,000 to \$5,000 per count or violation. For a second or subsequent offense, the usual action of the Board is to impose a penalty of a two year suspension follow by a two year probation and an administrative fine of \$5,000 to revocation. Chapter 61G18-30.001, F.A.C.

¹⁰ The usual action of the Board is to issue a reprimand and up to one year probation, and an administrative fine of up to \$2,000. Chapter 61G18-30.001, F.A.C.

¹¹ Chapter 61G18-18.002, F.A.C., provides for the maintenance of veterinary medical records. This rule requires that medical records be created as treatment is provided or within 24 hours from the time of treatment and contain specified information, including medical history, results of physical examination, and any present illness or injury.

¹² A third degree felony is punishable by up to five years imprisonment and a fine of up to \$5,000. Sections 775.082(3)(e) and 775.083(1)(c), F.S.

¹³ Section 474.213(1)(g), F.S.

¹⁴ Chapter 61G18-30.001, F.A.C. For a violation of s. 474.213(1)(g), F.S., the usual action of the Board is to impose a penalty of six months’ probation and an administrative fine of \$1,000. For a second or subsequent offense, the usual action of the Board is to impose a penalty of up to one year probation and an administrative fine of \$3,000.

¹⁵ “Allie’s Law,” available at <https://allieslaw.org/>

Currently, the reporting of suspected animal cruelty is within the discretion of veterinarians. The bill provides that a veterinarian licensed to practice in the state who knows, or has reasonable cause to suspect, that a dog or cat showing visible signs of cruelty, as prohibited under s. 828.12(1), F.S., has been or is being subjected to animal cruelty by its owner or under its owner's care shall report such knowledge or suspicion within 48 hours after obtaining such knowledge or suspicion to a local law enforcement or animal control agency for investigation.

The bill also provides that a veterinary technician or an employee or volunteer of an animal treatment provider, facility, or shelter who during the normal course of care of a dog or cat knows or has reason to suspect that a dog or cat showing visible signs of cruelty, as prohibited under s. 828.12(1), F.S., has been or is being subjected to animal cruelty by its owner or under its owner's care shall report within 24 hours to a veterinarian such knowledge or suspicion, who shall, if the cooperation of the owner or caretaker is obtained, attempt to examine the dog or cat within 24 hours after notification of suspected cruelty. If the owner or caretaker refuses to permit a veterinarian to examine a dog or cat that has been reported to a veterinarian under this subsection as possibly subjected to animal cruelty, or the veterinarian is otherwise unable to examine the animal, then the veterinarian shall report the suspected cruelty to a local law enforcement or animal control agency for investigation.

The bill provides that a veterinarian, a veterinary technician, or an employee or volunteer of a treatment provider, facility, or shelter practicing in this state shall be held harmless from either criminal or civil liability for any decisions made to report suspected cruelty. Any such animal treatment provider, facility, or shelter is immune from all civil liability for any decisions made to report suspected cruelty and its cooperation with any related investigation of cruelty to animals.

The bill prohibits a veterinary technician or any employee or volunteer of a veterinary practice, treatment provider, facility, or shelter to knowingly alter or destroy an existing medical record for the purpose of concealing or attempting to conceal cruelty to a dog or cat. Such violation would constitute a first degree misdemeanor.¹⁶ A second or subsequent violation would constitute a third degree felony.¹⁷

The bill provides that failure to report suspected animal cruelty to the proper authorities is an act that constitutes grounds for which disciplinary actions may be taken against an applicant for a veterinary license or veterinarian by the Board of Veterinary Medicine.

The bill is effective July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁶ A first degree misdemeanor is punishable by up to a year imprisonment and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

¹⁷ A third degree felony is punishable by up to five years imprisonment and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be a positive, i.e., increased, fiscal impact for law enforcement agencies to investigate and charge a veterinarian, veterinary technician or any employee or volunteer of a veterinary practice, treatment provider, facility, or shelter with a criminal offense for knowingly altering veterinarian medical records to conceal the abuse of a dog or cat.¹⁸

VI. Technical Deficiencies:

The bill amends s. 474.214(1), F.S., to provide that a failure to report suspected “animal cruelty” to the proper authorities is grounds for disciplinary action. Perhaps this should be amended to limit the scope of suspected animal cruelty to dogs and cats, because those are the only animals to which the substance of the bill applies.

VII. Related Issues:

None.

¹⁸ Department of Agriculture and Consumer Services, *2020 Agency Analysis for SB 1044*, <http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=25416&yr=2020>.

VIII. Statutes Affected:

This bill substantially amends section 474.214 of the Florida Statutes.

This bill creates section 828.124 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
