

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 Criminal Justice

BILL: CS/SB 522

INTRODUCER: Criminal Justice Committee and Senator Gruters

SUBJECT: Cruelty to Dogs

DATE: December 11, 2019 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Wagoner | Jones | CJ | Fav/CS |
| 2. | | | JU | |
| 3. | | | RC | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 522 prohibits a person from leaving a dog outside and unattended by use of a restraint during a natural disaster. Such person would be guilty of animal cruelty, a first degree misdemeanor.

The bill may have a positive indeterminate jail bed impact (an increase in jail beds). *See* Section V. Fiscal Impact Statement.

This bill is effective July 1, 2020.

II. Present Situation:

Animal Cruelty; Generally

Section 828.12, F.S., prohibits criminal offenses involving cruelty to animals.

Specifically, 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 and a fine of up to \$5,000.¹

A person commits aggravated animal cruelty if he or she intentionally commits an act to any animal, or a person who owns or has the custody or control of any animal and fails to act, which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done. Aggravated animal cruelty is a third degree felony, punishable by up to five years in jail and a fine of up to \$10,000.²

A person who commits multiple acts of animal cruelty or aggravated animal cruelty against one animal may be charged with a separate offense for each act, or against more than one animal may be charged with a separate offense for each animal such cruelty was committed upon.

In addition, s. 828.13, F.S., provides that animal owners who abandon their animal to suffer injury or malnutrition or abandons any animal in a street, road, or public place without providing for the care, sustenance, protection, and shelter of such animal is guilty of a first degree misdemeanor.

Further, s. 828.27, F.S., provides that the governing body of a county or municipality may enact ordinances relating to animal control or cruelty. Violation of such county ordinance is a civil infraction, with a maximum civil penalty not to exceed \$500. Twenty-three counties have ordinances in place prohibiting a dog from being outside or tethered during periods of extreme weather conditions, such as extreme heat, freezing or near-freezing temperatures, during thunderstorms, lightning storms, tornado watches or warnings, or during tropical storm or hurricane watches or warnings.³

Reporting of Animal Cruelty

A private citizen may report suspected animal cruelty to a law enforcement officer or an animal control officer.

The Veterinary Medical Practice Act contains a confidentiality provision that prohibits a veterinarian from discussing a patient's medical condition with anyone except the client.⁴ 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 under s. 828.03, F.S., without notice to the client.⁵

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. Sections 775.082 and 775.083, F.S.

² A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine, or any higher amount specifically authorized by statute. Sections 775.082 and 775.083.

³ Alachua, Brevard, Broward, Charlotte, Citrus, Clay, Collier, Escambia, Franklin, Gilchrist, Hernando, Hillsborough, Lake, Leon, Manatee, Martin, Miami-Dade, Monroe, Nassau, Palm Beach, St. Lucie, Sarasota, and Wakulla County.

⁴ Section 474.2165(4), F.S.

⁵ *Id.*

Dog Safety during Extreme Weather Conditions

As a dangerous storm approaches, many residents flee to safer areas, and some leave their pets behind. During Hurricane Irma, the Palm Beach County Animal Care and Control director reported that many pets had been left chained to trees and parked cars, as their owner left them behind to “ride out the storm” on their own. At the time of the reporting, 49 dogs and two cats had been rescued by animal control officers.⁶

III. Effect of Proposed Changes:

This bill prohibits a person from leaving a dog outside and unattended by use of a restraint during a natural disaster. Such person would be guilty of animal cruelty, a first degree misdemeanor, punishable by up to one year in jail and a fine of up to \$5,000.⁷

This bill defines “natural disaster” as a situation in which a hurricane, tropical storm, or tornado warning has been issued for a municipality or a county by the National Weather Service, or the municipality or county is under a mandatory or voluntary evacuation order.

This bill defines “restraint” as a chain, a rope, a tether, a leash, a cable, or another device that attaches a dog to a stationary object or trolley system.

This bill is effective July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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.

⁶ See DML NEWS, *Pets Abandoned, Chained on Leashes, as Owners Flee Hurricane Irma*, September 9, 2017, available at <https://dmlnews.com/pets-abandoned-chained-leashes-owners-flee-hurricane-irma/> (last visited November 15, 2019).

⁷ 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. Sections 775.082 and 775.083, F.S.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the jail bed impact, if any, has not yet received the bill. However, the bill may have a positive indeterminate jail bed impact (an increase in jail beds) because the bill creates a new misdemeanor offense.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 828.12 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

CS by Criminal Justice on December 10, 2019:

The committee substitute prohibits a person from leaving a dog outside and unattended by use of a restraint during a natural disaster. Such person would be guilty of animal cruelty, a first degree misdemeanor, punishable by up to one year in jail and a fine of up to \$5,000.

B. Amendments:

None.