

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 272

INTRODUCER: Senator Bradley

SUBJECT: Appointment of Courtroom Animal Advocates

DATE: January 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collazo	Cibula	JU	Pre-meeting
2.			CJ	
3.			RC	

I. Summary:

SB 272 establishes a courtroom animal advocate program in this state. In any prosecution or other court proceeding under certain statutes intended to protect animals, upon its own initiative or upon the request of a party or counsel for a party, the court may order that an animal advocate be appointed to represent the interests of justice.

Similar to a guardian ad litem who safeguards the interests of a child in court proceedings, a courtroom animal advocate serves solely at the discretion of a judge, mostly in cases involving the prosecution of animal abusers. The bill provides that an advocate appointed by the court may monitor the case; gather relevant information; attend hearings; and present information or recommendations to the court relating to the interests of justice, so long as they are based solely upon the duties authorized in the bill.

Service as an animal advocate is voluntary and limited under the bill to attorneys and certified emeritus lawyers having knowledge of animal issues and the legal system, or law students who are certified legal interns and have an interest in animal issues and the legal system. Animal advocates must also undergo training; a list of qualified advocates must be maintained by the Animal Law Section of The Florida Bar.

The bill states that it does not apply to entities accredited through a nationally or internationally recognized zoo or aquarium accreditation organization.

The bill takes effect on July 1, 2024.

II. Present Situation:

Courtroom Animal Advocacy

Connecticut established the first courtroom animal advocacy program in 2016.¹ However, the concept can be traced back to the illegal dogfighting and animal cruelty case against former NFL quarterback Michael Vick in 2007.²

Vick was sentenced to 23 months in federal prison, and served 21 months,³ for criminal conspiracy resulting from felonious dogfighting.⁴ Additionally, the trial judge ordered Vick to pay \$928,073 in restitution for “past, present and long-term care of all the dogs,” and allocated \$5,000 for dogs deemed likely to be adopted, and \$18,275 for each of the dogs going into longer-term or lifetime sanctuary care.⁵

It became apparent during the trial that certain animal rights groups disagreed over what should be done with the abused, high-risk fighting dogs involved in the Vick case. Some animal rights groups advocated euthanizing rescued fighting dogs, whereas other groups advocated rehabilitation.⁶

Specifically, People for the Ethical Treatment of Animals (PETA) argued that the dogs trained for fighting should be euthanized because they were unsafe and unserviceable, and that the Vick money would have been better spent spaying and neutering, as well as providing for more suitable and less well-known adoption candidates. On the other hand, Best Friends Animal Society (Best Friends) argued that the fighting dogs had already been forced to live difficult lives and should not be euthanized.⁷

The court agreed with Best Friends and appointed Rebecca J. Huss, a professor at the Valparaiso University School of Law, as a guardian/special master and tasked her with making independent recommendations to the court for the disposition of each seized dog after considering their well-being.⁸ Under her supervision, 25 of the 47 surviving dogs were classified as sanctuary dogs and placed with seven different shelters. Best Friends received the other 22 dogs, including one that was assessed as being highly adoptable.⁹

¹ Animal Legal Defense Fund, *Courtroom Animal Advocate Programs (CAAP)*, <https://aldf.org/article/courtroom-animal-advocate-programs-caap/> (last visited Jan. 11, 2024).

² See Jim Ash, *Measure Would Provide for ‘Courtroom Animal Advocates’*, FLORIDA BAR NEWS, Mar. 8, 2023, <https://www.floridabar.org/the-florida-bar-news/measure-would-provide-for-courtroom-animal-advocates/> (citing the Animal Legal Defense Fund).

³ *Id.*

⁴ William C. Rhoden, *Vick Case Exposes Rift Among Animal-Rights Advocates*, THE NEW YORK TIMES, Mar. 12, 2008, <https://www.nytimes.com/2008/03/12/sports/football/12rhoden.html>.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Animal Legal Defense Fund, *Courtroom Animal Advocate Programs (CAAP)*, <https://aldf.org/article/courtroom-animal-advocate-programs-caap/> (last visited Jan. 11, 2024).

⁹ William C. Rhoden, *Vick Case Exposes Rift Among Animal-Rights Advocates*, THE NEW YORK TIMES, Mar. 12, 2008, <https://www.nytimes.com/2008/03/12/sports/football/12rhoden.html>.

Animal Protection Laws

Several statutes offer protection to service animals; police, fire, search and rescue canines and police horses; and animals generally.

Harm to Service Animals

A person who, with reckless disregard, injures or kills a service animal commits a misdemeanor of the first degree,¹⁰ punishable by a term of imprisonment not exceeding one year¹¹ and a \$1,000 fine.¹² A person who intentionally injures or kills a service animal commits a felony of the third degree,¹³ punishable by a term of imprisonment not exceeding five years¹⁴ and a \$5,000 fine.¹⁵

A person convicted of a violation of the statute protecting service animals, in addition to any other penalty, must make full restitution for all damages that arise out of or are related to the offense, including incidental and consequential damages incurred by the service animal's user.¹⁶ Restitution includes:

- The value of the service animal.
- Replacement and training or retraining expenses for the service animal and the user.
- Veterinary and other medical and boarding expenses for the service animal.
- Medical expenses for the user.
- Lost wages or income incurred by the user during any period that the user is without the services of the service animal.¹⁷

Police, Fire, Search and Rescue Canines and Police Horses

Any person who intentionally and knowingly, without lawful cause or justification, causes great bodily harm, permanent disability, or death to, or uses a deadly weapon upon, a police canine, a fire canine, a search and rescue (SAR) canine, or police horse commits a felony of the second degree,¹⁸ punishable by a term of imprisonment not exceeding 15 years¹⁹ and a \$10,000 fine.²⁰

Any person who actually and intentionally maliciously touches, strikes, or causes bodily harm to a police canine, a fire canine, a SAR canine, or police horse commits a misdemeanor of the first degree,²¹ punishable by a term of imprisonment not exceeding one year²² and a \$1,000 fine.²³

¹⁰ Section 413.081(2), F.S.

¹¹ Section 775.082(4)(a), F.S.

¹² Section 775.083(1)(d), F.S.

¹³ Section 413.081(3), F.S.

¹⁴ Section 775.082(3)(e), F.S.

¹⁵ Section 775.083(1)(c), F.S.

¹⁶ Section 413.081(4)(a), F.S.

¹⁷ Section 413.081(4)(b), F.S.

¹⁸ Section 843.19(2), F.S.

¹⁹ Section 775.082(3)(d), F.S.

²⁰ Section 775.083(1)(b), F.S.

²¹ Section 843.19(3), F.S.

²² Section 775.082(4)(a), F.S.

²³ Section 775.083(1)(d), F.S.

Any person who intentionally or knowingly maliciously harasses, teases, interferes with, or attempts to interfere with a police canine, fire canine, SAR canine, or police horse while the animal is in the performance of its duties commits a misdemeanor of the second degree,²⁴ punishable by a term of imprisonment not exceeding 60 days²⁵ and a \$500 fine.²⁶

A person convicted of an offense must make restitution for injuries caused to the police canine, fire canine, SAR canine, or police horse and must pay the replacement cost of the animal if, as a result of the offense, the animal can no longer perform its duties.²⁷

Animal Cruelty

A person who 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, commits animal cruelty, a misdemeanor of the first degree, punishable by a term of imprisonment not exceeding one year²⁸ or by a fine of not more than \$5,000, or both.²⁹

A person who 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, commits aggravated animal cruelty, a felony of the third degree, punishable by a term of imprisonment not exceeding five years³⁰ or by a fine of not more than \$10,000, or both.³¹ Additionally:

- A person convicted of a violation of this provision, where the finder of fact determines that the violation includes the knowing and intentional torture or torment of an animal that injures, mutilates, or kills the animal, must be ordered to pay a minimum mandatory fine of \$2,500 and undergo psychological counseling or complete an anger management treatment program.³²
- A person convicted of a second or subsequent violation of this provision must be required to pay a minimum mandatory fine of \$5,000 and serve a minimum mandatory period of incarceration of 6 months. In addition, the person may be released only upon expiration of sentence, is not eligible for parole, controlled release, or any form of early release, and must serve 100 percent of the court-imposed sentence. Any plea of nolo contendere must be considered a conviction for purposes of the statute.³³

²⁴ Section 843.19(4), F.S.

²⁵ Section 775.082(4)(b), F.S.

²⁶ Section 775.083(1)(e), F.S.

²⁷ Section 843.19(5), F.S.

²⁸ Section 775.082(4)(a), F.S.

²⁹ Section 828.12(1), F.S.

³⁰ Section 775.082(3)(e), F.S.

³¹ Section 828.12(2), F.S.

³² Section 828.12(2)(a), F.S.

³³ Section 828.12(2)(b), F.S.

Animal Fighting Act

Under the Animal Fighting Act,³⁴ any person who knowingly commits any of the following acts commits a felony of the third degree, punishable by a term of imprisonment not exceeding five years³⁵ and a \$5,000 fine,³⁶ as provided by the habitual offender statute.³⁷

- Baiting, breeding, training, transporting, selling, owning, possessing, or using any wild or domestic animal for the purpose of animal fighting or baiting.³⁸
- Owning, possessing, or selling equipment for use in any activity described in the prior bullet.³⁹
- Owning, leasing, managing, operating, or having control of any property kept or used for any activity described in the first bullet.⁴⁰
- Promoting, staging, advertising, or charging any admission fee to a fight or baiting between two or more animals.⁴¹
- Performing any service or act to facilitate animal fighting or baiting, including, but not limited to, providing security, refereeing, or handling or transporting animals or being a stakeholder of any money wagered on animal fighting or baiting.⁴²
- Removing or facilitating the removal of any animal impounded under the act from an agency where the animal is impounded or from a location designated by the court pursuant to statute without the prior authorization of the court.⁴³
- Betting or wagering any money or other valuable consideration on the fighting or baiting of animals.⁴⁴
- Attending the fighting or baiting of animals.⁴⁵

III. Effect of Proposed Changes:

The bill creates s. 828.035, F.S., establishing a courtroom animal advocate program in Florida.

The bill provides that in any prosecution or other court proceeding under the service animal protection statutes;⁴⁶ the police, fire, search and rescue canines and police horse protection statutes;⁴⁷ or the animal cruelty statute⁴⁸ or in any criminal proceeding regarding the welfare or custody of a cat or dog, the court may order, upon its own initiative or upon the request of a party or counsel for a party, that a separate advocate be appointed to represent the interests of justice.

If a court orders that an advocate be appointed to represent the interests of justice, the court must

³⁴ Section 828.122, F.S.

³⁵ Section 775.082(3)(e), F.S.

³⁶ Section 775.083(1)(c), F.S.

³⁷ See generally s. 775.084, F.S. (providing for enhanced penalties for habitual offenders).

³⁸ Section 828.122(3)(a), F.S.

³⁹ Section 828.122(3)(b), F.S.

⁴⁰ Section 828.122(3)(c), F.S.

⁴¹ Section 828.122(3)(d), F.S.

⁴² Section 828.122(3)(e), F.S.

⁴³ Section 828.122(3)(f), F.S.

⁴⁴ Section 828.122(3)(g), F.S.

⁴⁵ Section 828.122(3)(h), F.S.

⁴⁶ Section 413.081, F.S.

⁴⁷ Section 843.19, F.S.

⁴⁸ Chapter 828, F.S.

appoint an advocate who meets the requirements of the bill. A decision by the court denying a request to appoint a separate advocate to represent the interests of justice is not subject to appeal.

The bill provides that an advocate appointed by the court pursuant to the bill may do all of the following:

- Monitor the case.
- Consult any individual who has information that could aid the judge or the finder of fact and review records relating to the condition of the cat or dog and the defendant's actions, including, but not limited to, records from animal control officers, veterinarians, and police officers.
- Attend hearings.
- Present information or recommendations to the court pertinent to determinations that relate to the interests of justice, provided that such information and recommendations are based solely upon the duties authorized pursuant to the bill.

The bill provides that in order to serve, on a voluntary basis, as an advocate under the bill, an individual must be:

- An attorney or a certified emeritus lawyer under rules of The Florida Bar who has knowledge of animal issues and the legal system; or
- A law school student who has an interest in animal issues and the legal system and who is certified by the Florida Supreme Court as a certified legal intern in this state.

Advocates are required to be trained to understand their roles and responsibilities under the bill. A list of qualified advocates must be maintained by the Animal Law Section of The Florida Bar.

The bill states that it “does not apply to an entity that is accredited through a nationally or internationally recognized zoo or aquarium accreditation organization.” The effect of this provision, however, is not clear.

The bill takes effect on July 1, 2024.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Because the potential appointment of an animal advocate is discretionary with the judge, and in any case such services will be offered on a volunteer basis by attorneys, certified emeritus lawyers, or law students, the bill will result in no new costs to the court system. Moreover, to the extent that animal advocates will gather information in criminal cases that a prosecutor might have otherwise had to gather in connection with the case, the court system may save costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

If the intent of the bill is to permit the appointment of animal advocates only in proceedings involving the welfare or custody of cats and dogs, the sponsor may wish to consider restructuring the first sentence of proposed s. 828.035(1), F.S., to make that restriction clearer. Additionally, if the intent of the bill is to permit entities that are accredited through a nationally or internationally recognized zoo or aquarium accreditation organization to be eligible for appointment as animal advocates even if they do not otherwise qualify under the bill's provisions, the sponsor may wish to consider revising s. 828.035(4), F.S., to make this exception to the animal advocate qualification requirements explicit.

VIII. Statutes Affected:

This bill creates section 828.035 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.
