

CHAPTER 2015-18

Committee Substitute for Committee Substitute for Senate Bill No. 420

An act relating to animal control; amending s. 588.17, F.S.; providing a procedure for adopting or humanely disposing of impounded stray livestock, except cattle, as an alternative to sale or auction; amending s. 588.18, F.S.; requiring a county animal control center to establish fees and be responsible for damages caused while impounding livestock; amending s. 588.23, F.S.; conforming provisions to changes made by the act; amending s. 828.073, F.S.; conforming provisions to changes made by this act; authorizing certain municipal animal control officers to take custody of an animal found neglected or cruelly treated or to order the owner of such an animal to provide certain care at the owner's expense; authorizing county courts to remand animals to the custody of certain municipalities; authorizing the allocation of auction proceeds to certain animal control officers; amending s. 828.27, F.S.; deleting obsolete provisions; clarifying that certain provisions relating to local animal control are not the exclusive means of enforcing animal control laws; providing an effective date.

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

Section 1. Subsection (4) is added to section 588.17, Florida Statutes, to read:

588.17 Disposition of impounded livestock.—

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

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

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

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

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

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

588.23 Right of owner.—The owner of any impounded livestock ~~has~~ shall have the right at any time before the disposition sale thereof to redeem the livestock ~~same~~ by paying to the sheriff or the county animal control center all impounding expenses, including fees, keeping charges, advertising, or other costs incurred therewith which sum shall be deposited by the sheriff or the county animal control center with the clerk of the circuit court who shall pay all fees and costs as allowed in s. 588.18. ~~If In the event~~ there is a dispute as to the amount of such costs and expenses, the owner may give bond with sufficient sureties to be approved by the sheriff or the county animal control center, in an amount to be determined by the sheriff or the county animal control center, but not exceeding the fair cash value of such livestock, conditioned to pay such costs and damages; thereafter, within 10 days, the owner shall institute suit in equity to have the damage adjudicated by a court of equity or referred to a jury if requested by either party to such suit.

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

828.073 Animals found in distress; ~~when agent may take charge; hearing; disposition; sale.~~—

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

(a) Removed from its present custody, or

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

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

(2) Any law enforcement officer, any animal control officer certified pursuant to s. 828.27, or any agent of any county or of any society or association for the prevention of cruelty to animals appointed under ~~the provisions of~~ s. 828.03 may:

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

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

and shall file a petition seeking relief under this section in the county court of the county in which the animal is found within 10 days after the animal is seized or an order to provide care is issued. The court shall schedule and commence a hearing on the petition within 30 days after the petition is filed to determine whether the owner, if known, is able to adequately provide adequately for the animal and is fit to have custody of the animal. The hearing shall be concluded and the court order entered thereon within 60 days after the date the hearing is commenced. The timeframes set forth in this subsection are not jurisdictional. However, if a failure to meet such timeframes is attributable to the officer or agent, the owner is not required to pay the officer or agent for care of the animal during any period of delay caused by the officer or agent. A fee may not be charged for filing the petition. This subsection does not require court action for the taking ~~into~~ custody and properly disposing ~~making proper disposition~~ of stray or abandoned animals as lawfully performed by animal control agents.

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

(4)(a) The law enforcement officer, the animal control officer certified pursuant to s. 828.27, or the agent of any county or of any society or association for the prevention of cruelty to animals taking custody charge of an animal pursuant to ~~as provided for in~~ this section shall provide for the animal until either:

- 1. The owner is adjudged by the court to be able to adequately provide adequately for, and have custody of, the animal, in which case the animal shall be returned to the owner upon payment by the owner for the care and provision for the animal while in the agent’s or officer’s custody; or
- 2. The animal is turned over to the officer or agent pursuant to ~~as provided in~~ paragraph (c) and humanely disposed of ~~a humane disposition of~~ the animal is made.

(b) If the court determines that the owner is able to provide adequately for, and have custody of, the animal, the order shall provide that the animal

in the possession of the officer or agent be claimed and removed by the owner within 7 days after the date of the order.

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

1. The court may:

a. Order that the current owner have no further custody of the animal and that the animal be sold by the sheriff at public auction ~~or, that the current owner have no further custody of the animal, and that any animal not bid upon~~ be remanded to the custody of the Society for the Prevention of Cruelty to Animals, the Humane Society, the county, the municipality with animal control officers certified pursuant to s. 828.27, or any agency or person the judge deems appropriate; to be disposed of as the agency or person sees fit; or

b. Order that the animal be destroyed or remanded directly to the custody of the Society for the Prevention of Cruelty to Animals, the Humane Society, the county, the municipality with animal control officers certified pursuant to s. 828.27, or any agency or person the judge deems appropriate; to be disposed of as the agency or person sees fit.

2. The court, upon proof of costs incurred by the officer or agent, may require that the owner pay for the care of the animal while in the custody of the officer or agent. A separate hearing may be held.

3. The court may order that other animals that are in the custody of the owner and that were not seized by the officer or agent be turned over to the officer or agent; if the court determines that the owner is unable or unfit to adequately provide for the animals. The court may enjoin the owner's further possession or custody of other animals.

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

(a) Testimony from the agent or officer who seized the animal and other witnesses as to the condition of the animal when seized and as to the conditions under which the animal was kept.

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

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

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

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

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

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

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

(6) If the evidence indicates a lack of proper and reasonable care of the animal, the burden is on the owner to demonstrate by clear and convincing evidence that he or she is able and fit to have custody of and adequately provide ~~adequately~~ for the animal.

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

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

(b) Applied, secondly, to the care of and provision for the animal by the law enforcement officer, the animal control officer certified pursuant to s. 828.27, or the agent of any county or of any society or association for the prevention of cruelty to animals taking custody charge.

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

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

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

828.27 Local animal control or cruelty ordinances; penalty.—

(4)(a)1. County-employed animal control officers must shall, and municipally employed animal control officers may, successfully complete a 40-hour minimum standards training course. Such course must shall include, but is not limited to, training for: animal cruelty investigations, search and seizure, animal handling, courtroom demeanor, and civil citations. The course curriculum must be approved by the Florida Animal Control Association. An animal control officer who successfully completes such course shall be issued a certificate indicating that he or she has received a passing grade.

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

3. In order to maintain valid certification, every 2 years each certified ~~county-employed~~ animal control officer must shall complete 4 hours of

postcertification continuing education training. Such training may include, but is not limited to, training for: animal cruelty investigations, search and seizure, animal handling, courtroom demeanor, and civil citations.

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

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

(8) This section is an additional, supplemental, and alternative means of enforcing county or municipal codes or ordinances. This section does not prohibit a county or municipality from enforcing its codes or ordinances by any other means, including, but not limited to, the procedures provided in chapter 162.

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

Approved by the Governor May 14, 2015.

Filed in Office Secretary of State May 14, 2015.