

House Bill No. 1911

An act relating to animal fighting or baiting; amending s. 828.122, F.S.; defining the term “animal fighting”; revising the elements of the crime of animal fighting or baiting; prohibiting certain acts associated with animal fighting or baiting; providing for the seizure, impoundment, and euthanasia of animals under certain conditions; providing penalties; amending ss. 933.02 and 933.18, F.S.; revising provisions relating to the issuance of search warrants and grounds therefor when laws in relation to cruelty to animals have been or are being violated; providing an effective date.

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

Section 1. Section 828.122, Florida Statutes, is amended to read:

828.122 Fighting or baiting animals; offenses; penalties.—

(1) This act may be cited as “The Animal Fighting Act.”

(2) As used in this section, the term:

(a) “Animal fighting” means fighting between roosters or other birds or between dogs, bears, or other animals.

~~(b)~~(a) “Baiting” means to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals. In addition, “baiting” means the use of live animals in the training of racing greyhounds.

~~(c)~~(b) “Person” means every natural person, firm, copartnership, association, or corporation.

(3) Any person who knowingly commits any of the following acts commits ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Baiting, breeding, training, transporting, selling, owning, possessing, or using any wild or domestic animal for the purpose of animal fighting or baiting;

(b) Owning, possessing, or selling equipment for use in any activity described in paragraph (a); any other animal.

~~(c)~~(b) ~~Knowingly~~ Owning, leasing, managing, or operating, or having control of any property facility kept or used for any activity described in paragraph (a) or paragraph (b); the purpose of fighting or baiting any animal.

~~(d)~~(e) Promoting, staging, advertising, or charging any admission fee to a fight or baiting between two or more animals;:-

(e) 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;

(f) Removing or facilitating the removal of any animal impounded under this section from an agency where the animal is impounded or from a location designated by the court under subsection (4), subsection (5), or subsection (7), without the prior authorization of the court;

~~(4) Any person who willfully commits any of the following acts is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:~~

~~(g)(a) Betting or wagering any money or other valuable consideration on the fighting or baiting of animals; or~~

~~(h)(b) Attending the fighting or baiting of animals.~~

Notwithstanding any provision of this subsection to the contrary, possession of the animal alone does not constitute a violation of this section.

~~(4)(5) If a court finds probable cause to believe that a violation of this section or s. 828.12 has occurred, the court shall order the seizure of any animals and equipment used in committing the violation. Whenever an indictment is returned or an information is filed charging a violation of s. 828.12 or of this section and, in the case of an information, a magistrate finds probable cause that a violation has occurred, the court shall order the animals seized and shall provide for appropriate and humane care or disposition of the animals. This subsection is not provision shall not be construed as a limitation on the power to seize animals as evidence at the time of arrest.~~

(5) If an animal shelter or other location is unavailable, a court may order the animal to be impounded on the property of its owner or possessor and shall order such person to provide all necessary care for the animal and to allow regular inspections of the animal by a person designated by the court.

(6) If a veterinarian finds that an animal kept or used in violation of this section is suffering from an injury or a disease severe enough that it is not possible to humanely house and care for the animal pending completion of a hearing held under s. 828.073(2), final disposition of the criminal charges, or court-ordered forfeiture, the veterinarian may euthanize the animal as specified in s. 828.058. A veterinarian licensed to practice in this state shall be held harmless from criminal or civil liability for any decisions made or services rendered under this subsection.

(7) If an animal can be housed in a humane manner, the provisions of s. 828.073 shall apply. For the purpose of a hearing provided pursuant to s. 828.073(2), any animal baited, bred, trained, transported, sold, owned, possessed, or used for the purpose of animal fighting or baiting shall be considered mistreated.

(8) In addition to other penalties prescribed by law, the court may issue an order prohibiting a person who is convicted of a violation of this section from owning, possessing, keeping, harboring, or having custody or control over any animals within the species that are the subject of the conviction, or any animals kept for the purpose of fighting or baiting, for a period of time determined by the court.

~~(9)(6) This section~~ The provisions of subsection (3) and paragraph (4)(b) shall not apply to:

(a) Any person simulating a fight for the purpose of using the simulated fight as part of a motion picture which will be used on television or in a motion picture, provided s. 828.12 is not violated.

(b) Any person using animals to pursue or take wildlife or to participate in any hunting regulated or subject to being regulated by the rules and regulations of the Fish and Wildlife Conservation Commission.

(c) Any person using animals to work livestock for agricultural purposes.

(d) Any person violating s. 828.121.

(e) Any person using dogs ~~animals~~ to hunt wild hogs or to retrieve domestic hogs pursuant to customary hunting or agricultural practices.

~~(10)(7) Nothing in~~ This section shall not be construed to prohibit, impede, or otherwise interfere with recognized animal husbandry and training techniques or practices not otherwise specifically prohibited by law.

Section 2. Section 933.02, Florida Statutes, is amended to read:

933.02 Grounds for issuance of search warrant.—Upon proper affidavits being made, a search warrant may be issued under the provisions of this chapter upon any of the following grounds:

(1) When the property shall have been stolen or embezzled in violation of law;

(2) When any property shall have been used:

(a) As a means to commit any crime,

(b) In connection with gambling, gambling implements and appliances, or

(c) In violation of s. 847.011 or other laws in reference to obscene prints and literature;

(3) When any property constitutes evidence relevant to proving that a felony has been committed;

(4) When any property is being held or possessed:

(a) In violation of any of the laws prohibiting the manufacture, sale, and transportation of intoxicating liquors, or

- (b) In violation of the fish and game laws, or
- (c) In violation of the laws relative to food and drug, or
- (d) In violation of a quarantine for citrus canker pursuant to s. 581.184, or
- (e) Which may be inspected, treated, seized, or destroyed pursuant to s. 581.184; or

(5) When the laws in relation to cruelty to animals, as provided in chapter 828, have been or are violated in any particular building or place, ~~but no search shall be made in such building or place after sunset, unless specially authorized by the officer issuing the warrant upon satisfactory cause shown; in which case such property may be taken on the warrant so issued from any house or place in which it is concealed, or from any vehicle, aircraft, or watercraft in which it may be found, or from the possession of any person by whom it shall have been used in the commission of any offense or from any person in whose possession it may be.~~

~~The provisions of This section shall apply~~ also applies to any papers or documents used as a means of or in aid of the commission of any offense against the laws of the state.

Section 3. Section 933.18, Florida Statutes, is amended to read:

933.18 When warrant may be issued for search of private dwelling.—No search warrant shall issue under this chapter or under any other law of this state to search any private dwelling occupied as such unless:

- (1) It is being used for the unlawful sale, possession, or manufacture of intoxicating liquor;
- (2) Stolen or embezzled property is contained therein;
- (3) It is being used to carry on gambling;
- (4) It is being used to perpetrate frauds and swindles;
- (5) The law relating to narcotics or drug abuse is being violated therein;
- (6) A weapon, instrumentality, or means by which a felony has been committed, or evidence relevant to proving said felony has been committed, is contained therein;
- (7) One or more of the following misdemeanor child abuse offenses is being committed there:
 - (a) Interference with custody, in violation of s. 787.03.
 - (b) Commission of an unnatural and lascivious act with a child, in violation of s. 800.02.
 - (c) Exposure of sexual organs to a child, in violation of s. 800.03.

(8) It is in part used for some business purpose such as a store, shop, saloon, restaurant, hotel, or boardinghouse, or lodginghouse;

(9) It is being used for the unlawful sale, possession, or purchase of wildlife, saltwater products, or freshwater fish being unlawfully kept therein; or

(10) The laws in relation to cruelty to animals, as provided in chapter 828, have been or are being violated therein, ~~except that no search pursuant to such a warrant shall be made in any private dwelling after sunset and before sunrise unless specially authorized by the judge issuing the warrant, upon a showing of probable cause. Property relating to the violation of such laws may be taken on a warrant so issued from any private dwelling in which it is concealed or from the possession of any person therein by whom it shall have been used in the commission of such offense or from any person therein in whose possession it may be.~~

If, during a search pursuant to a warrant issued under this section, a child is discovered and appears to be in imminent danger, the law enforcement officer conducting such search may remove the child from the private dwelling and take the child into protective custody pursuant to chapter 39. The term "private dwelling" shall be construed to include the room or rooms used and occupied, not transiently but solely as a residence, in an apartment house, hotel, boardinghouse, or lodginghouse. No warrant shall be issued for the search of any private dwelling under any of the conditions hereinabove mentioned except on sworn proof by affidavit of some creditable witness that he or she has reason to believe that one of said conditions exists, which affidavit shall set forth the facts on which such reason for belief is based.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor June 24, 2003.

Filed in Office Secretary of State June 24, 2003.