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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2015	.	
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The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 80 - 211

and insert:

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:



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11 (a) Removed from its present custody, or
12 (b) Made the subject of an order to provide care, issued to
13 its owner by the county court, any law enforcement officer, any
14 animal control officer certified pursuant to s. 828.27, or any
15 agent of any ~~the~~ county or of any society or association for the
16 prevention of cruelty to animals appointed under s. 828.03,
17
18 and protected ~~given protection~~ and disposed of appropriately and
19 humanely ~~an appropriate and humane disposition made.~~
20 (2) Any law enforcement officer, any animal control officer
21 certified pursuant to s. 828.27, or any agent of any county or
22 of any society or association for the prevention of cruelty to
23 animals appointed under ~~the provisions of~~ s. 828.03 may:
24 (a) Lawfully take custody of any animal found neglected or
25 cruelly treated by removing the animal from its present
26 location, or
27 (b) Order the owner of any animal found neglected or
28 cruelly treated to provide certain care to the animal at the
29 owner's expense without removal of the animal from its present
30 location,
31
32 and shall file a petition seeking relief under this section in
33 the county court of the county in which the animal is found
34 within 10 days after the animal is seized or an order to provide
35 care is issued. The court shall schedule and commence a hearing
36 on the petition within 30 days after the petition is filed to
37 determine whether the owner, if known, is able to adequately
38 ~~adequately~~ provide for the animal and is fit to have custody of
39 the animal. The hearing shall be concluded and the court order



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40 entered thereon within 60 days after the date the hearing is
41 commenced. The timeframes set forth in this subsection are not
42 jurisdictional. However, if a failure to meet such timeframes is
43 attributable to the officer or agent, the owner is not required
44 to pay the officer or agent for care of the animal during any
45 period of delay caused by the officer or agent. A fee may not be
46 charged for filing the petition. This subsection does not
47 require court action for ~~the taking into~~ custody and properly
48 disposing ~~making proper disposition~~ of stray or abandoned
49 animals as lawfully performed by animal control agents.

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

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

67 1. The owner is adjudged by the court to be able to
68 adequately provide adequately for, and have custody of, the



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69 animal, in which case the animal shall be returned to the owner
70 upon payment by the owner for the care and provision for the
71 animal while in the agent's or officer's custody; or

72 2. The animal is turned over to the officer or agent
73 pursuant to as provided in paragraph (c) and humanely disposed
74 of a humane disposition of the animal is made.

75 (b) If the court determines that the owner is able to
76 provide adequately for, and have custody of, the animal, the
77 order shall provide that the animal in the possession of the
78 officer or agent be claimed and removed by the owner within 7
79 days after the date of the order.

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

82 1. The court may:

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

145
146 ===== T I T L E A M E N D M E N T =====

147 And the title is amended as follows:

148 Delete lines 10 - 18

149 and insert:

150 act; amending s. 828.073, F.S.; conforming provisions;
151 authorizing certain municipal animal control officers
152 to take custody of an animal found neglected or
153 cruelly treated or to order the owner of such an
154 animal to provide certain care at the owner's expense;
155 authorizing county courts to remand animals to the



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156 custody of certain municipalities; authorizing the
157 allocation of auction proceeds to certain animal
158 control officers; amending s. 828.27, F.S.; deleting