

## ANIMAL PROTECTION LAWS OF FLORIDA



## Animal Protection Laws of Florida

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*This chapter contains Florida’s general animal protection and related statutes with an effective date on or before September 1, 2020. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories with the relevant part of each statute italicized.*

*Florida may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.*

## ANIMAL PROTECTION LAWS OF FLORIDA

## FLORIDA

1. <u>DEFINITION OF "ANIMAL"</u>	<p>"[E]very living dumb creature"  FLA. STAT. ANN. § 828.02</p>
2. <u>GENERAL CRUELTY *</u>	<p>Definitions  FLA. STAT. ANN. § 828.02</p> <p>Leaving poison on property not owned by such person  FLA. STAT. ANN. § 828.08  <i>1st degree misdemeanor</i></p> <p>Cruelty to animals  FLA. STAT. ANN. § 828.12(1)  <i>1st degree misdemeanor</i></p> <p>Aggravated animal cruelty  FLA. STAT. ANN. § 828.12(2)  <i>3rd degree felony</i></p> <p>Multiple acts of animal cruelty against an animal may be charged with a separate offense for each act.  FLA. STAT. ANN. § 828.12(3)</p> <p>Tripping horses  FLA. STAT. ANN. § 828.12(5)  <i>3<sup>rd</sup> degree felony, 5 years imprisonment and/or \$10,000 fine</i></p> <p>Killing or maiming registered horses and cattle  FLA. STAT. ANN. § 828.125  <i>2<sup>nd</sup> degree felony</i></p> <p>Confinement/abandonment of animals  FLA. STAT. ANN. § 828.13  <i>1st degree misdemeanor, 1 year imprisonment and/or \$5,000 fine</i></p> <p>Artificial coloring and sale of certain animals  FLA. STAT. ANN. § 828.1615</p>

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	<i>2nd degree misdemeanor</i>
<b>3. <u>EXEMPTIONS</u></b>	<p>Research animals FLA. STAT. ANN. § 828.02</p> <p>Veterinary practice FLA. STAT. ANN. § 828.12(4)</p> <p>Accepted farm animal husbandry practices FLA. STAT. ANN. §§ 828.125, 828.1615(2),(3)</p>
<b>4. <u>FIGHTING &amp; RACKETEERING</u></b>	<p>Engaging in a simulated or bloodless bullfighting exhibition FLA. STAT. ANN. § 828.121 <i>2nd degree misdemeanor</i></p> <p>Various animal fighting activities (including being a spectator at a fight) FLA. STAT. ANN. § 828.122 <i>3rd degree felony</i></p> <p>Animal fighting or baiting is a RICO offense. FLA. STAT. ANN. § 895.02</p> <p>Prohibited activities and defense. FLA. STAT. ANN. § 895.03</p> <p>Criminal penalties and alternative fine. FLA. STAT. ANN. § 895.04</p>
<b>5. <u>SEXUAL ASSAULT</u></b>	<p>Sexual assault of an animal FLA. STAT. ANN. § 828.126 <i>1st degree misdemeanor</i></p>
<b>6. <u>CRUELTY TO WORKING ANIMALS</u></b>	<p>Interfering with a service animal FLA. STAT. ANN. § 413.081 <i>1st offense: 2nd degree misdemeanor</i> <i>Subsequent offenses: 1st degree misdemeanor</i></p> <p>Recklessly injuring or killing a service animal FLA. STAT. ANN. § 413.081 <i>1st degree misdemeanor</i></p>

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	<p>Intentionally killing or injuring a service animal  <a href="#">FLA. STAT. ANN. § 413.081</a>  <i>3<sup>rd</sup> degree felony</i></p> <p>Intentionally killing or injuring a working canine or horse  <a href="#">FLA. STAT. ANN. § 843.19</a>  <i>3<sup>rd</sup> degree felony</i></p>
<p><b><u>7. MAXIMUM PENALTIES &amp; STATUTE OF LIMITATIONS**</u></b></p>	<p><b><i>NOTE:</i></b> Fines for violations of <a href="#">FLA. STAT. ANN. § 828.12</a> and <a href="#">§ 828.13</a> differ from the maximum penalties listed below. Those fines are listed in the <a href="#">General Cruelty</a> section of this document.</p> <p>Unclassified misdemeanors are 2<sup>nd</sup> degree misdemeanors  <a href="#">FLA. STAT. ANN. § 775.081</a></p> <p>2<sup>nd</sup> Degree Misdemeanor  <i>60 days imprisonment and/or \$500 fine</i>  <a href="#">FLA. STAT. ANN. § 775.082(4)(b)</a>  <a href="#">FLA. STAT. ANN. § 775.083(1)(e)</a></p> <p>1<sup>st</sup> Degree Misdemeanor  <i>1 year imprisonment and/or \$1,000 fine</i>  <a href="#">FLA. STAT. ANN. § 775.082(4)(a)</a>  <a href="#">FLA. STAT. ANN. § 775.083(1)(d)</a></p> <p>3<sup>rd</sup> Degree Felony  <i>5 years imprisonment and/or \$5,000 fine</i>  <a href="#">FLA. STAT. ANN. § 775.082(3)(e)</a>  <a href="#">FLA. STAT. ANN. § 775.083(1)(c)</a></p> <p>Statute of Limitations  <i>2<sup>nd</sup> degree misdemeanor: 1 year</i>  <a href="#">Fla. Stat. Ann. § 775.15(2)(d)</a>  <i>1<sup>st</sup> degree misdemeanor: 2 years</i>  <a href="#">Fla. Stat. Ann. § 775.15(2)(c)</a>  <i>Felony: 3 years</i>  <a href="#">Fla. Stat. Ann. § 775.15(2)(b)</a></p>

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<b>8. <u>CROSS ENFORCEMENT &amp; REPORTING</u></b>	<p>Approved agencies for cruelty prevention regarding animals or children may investigate crimes against animals or children.</p> <p>FLA. STAT. ANN. § 828.03</p>
<b>9. <u>VETERINARIAN REPORTING &amp; IMMUNITY</u></b>	<p>Veterinarian may report suspected cruelty without notice to client, unless animal is in commercial food-producing animal operation, then veterinarian must provide notice before reporting</p> <p>FLA. STAT. ANN. § 474.2165(4)(d)</p> <p>Veterinarians are immune from lawsuits for investigations of cruelty.</p> <p>FLA. STAT. ANN. § 828.12(4)</p>
<b>10. <u>LAW ENFORCEMENT POLICIES</u></b>	<p>Appointed agents may investigate violations.</p> <p>FLA. STAT. ANN. § 828.03</p> <p>Sheriffs or peace officers shall arrest, without a warrant, any person found violating animal protection laws.</p> <p>FLA. STAT. ANN. § 828.17</p>
<b>11. <u>SEIZURE</u></b>	<p>Law enforcement officers and appointed humane agents may seize neglected or cruelly treated animals.</p> <p>FLA. STAT. ANN. § 828.073</p> <p>Law enforcement officers and appointed humane agents may order owner to provide certain care without removing neglected or cruelly treated animals from present location.</p> <p>FLA. STAT. ANN. § 828.073(1),(2)</p>
<b>12. <u>COURTROOM ANIMAL ADVOCATE PROGRAM</u></b>	<p>-----</p>
<b>13. <u>PROTECTION ORDERS†</u></b>	<p>-----</p>
<b>14. <u>RESTITUTION †</u></b>	<p>Court may require reimbursement for expenses while animal is in care of officer.</p> <p>FLA. STAT. ANN. § 828.073(4)(c)(2)</p> <p>If animal is sold, proceeds go toward costs of care.</p>

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	FLA. STAT. ANN. § 828.073(7)
<b>15. <u>FORFEITURE &amp; POSSESSION BANS †</u></b>	<p>Court may, after finding owner is unable or unfit to adequately provide for animals, order other animals seized and enjoin owner from further possession or custody of other animals. FLA. STAT. ANN. § 828.073(4)(c)</p> <p>Court has final determination over disposition of the animal. FLA. STAT. ANN. § 828.073 (4),(5),(6)</p> <p>Court may prohibit a person convicted of animal cruelty from owning/possessing an animal for a reasonable time FLA. STAT. ANN. § 828.12(6)</p>
<b>16. <u>COURT-ORDERED TREATMENT †</u></b>	<p>Anyone convicted of a felony animal cruelty offense which includes the knowing and intentional torture or torment of an animal that injures, mutilates, or kills the animal shall be ordered to undergo psychological counseling or complete an anger management treatment program. FLA. STAT. ANN. § 828.12(2)(a)</p>
<b>17. <u>HOT CARS</u></b>	<p>Immunity from civil liability for damage caused from forcibly removing a domestic animal from a vehicle. FLA. STAT. ANN. § 768.139</p>
<b>18. <u>CIVIL NUISANCE ABATEMENT</u></b>	<p>Abatement of nuisances. FLA. STAT. ANN. § 60.05</p> <p>Nuisances and penalties. FLA. STAT. ANN. § 823.01</p> <p>Places declared nuisances that may be abated and enjoined. FLA. STAT. ANN. § 823.05</p>
<b>19. <u>AG-GAG LAWS</u></b>	-----
<b>20. <u>BREED SPECIFIC LEGISLATION</u></b>	<p>A local municipality may place additional restrictions on owners of dangerous dogs, provided that no such regulation is specific to breed. FLA. STAT. ANN. § 767.14</p>

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- \* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
- \*\* Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
- † This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

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## ANIMAL PROTECTION LAWS OF FLORIDA

### 1. DEFINITION OF “ANIMAL”

#### **FLA. STAT. ANN. § 828.02. Definitions.**

*In this chapter, and in every law of the state relating to or in any way affecting animals, the word “animal” shall be held to include every living dumb creature; the words “torture,” “torment,” and “cruelty” shall be held to include every act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering is caused, except when done in the interest of medical science, permitted, or allowed to continue when there is reasonable remedy or relief; and the words “owner” and “person” shall be held to include corporations, and the knowledge and acts of agents and employees of corporations in regard to animals transported, owned, employed by or in the custody of a corporation, shall be held to be the knowledge and act of such corporation.*



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### 2. GENERAL CRUELTY

#### FLA. STAT. ANN. § 828.02. Definitions.

In this chapter, and in every law of the state relating to or in any way affecting animals, the word “animal” shall be held to include every living dumb creature; *the words “torture,” “torment,” and “cruelty” shall be held to include every act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering is caused, except when done in the interest of medical science, permitted, or allowed to continue when there is reasonable remedy or relief; and the words “owner” and “person” shall be held to include corporations, and the knowledge and acts of agents and employees of corporations in regard to animals transported, owned, employed by or in the custody of a corporation, shall be held to be the knowledge and act of such corporation.*

#### FLA. STAT. ANN. § 828.08. Penalty for exposing poison.

*Whoever leaves or deposits any poison or any substance containing poison, in any common street, alley, lane, or thoroughfare of any kind, or in any yard or enclosure other than the yard or enclosure occupied or owned by such person, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*

#### FLA. STAT. ANN. § 828.12. Cruelty to animals.

- (1) *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 as provided in s. 775.082 or by a fine of not more than \$ 5,000, or both.*
- (2) *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 as provided in s. 775.082 or by a fine of not more than \$ 10,000, or both.*
  - (a) A person convicted of a violation of this subsection, 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, shall be ordered to pay a minimum mandatory fine of \$ 2,500 and undergo psychological counseling or complete an anger management treatment program.
  - (b) A person convicted of a second or subsequent violation of this subsection shall 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 shall be

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released only upon expiration of sentence, is not eligible for parole, control release, or any form of early release, and must serve 100 percent of the court-imposed sentence. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection.

- (3) *A person who commits multiple acts of animal cruelty or aggravated animal cruelty against an animal may be charged with a separate offense for each such act. A person who commits animal cruelty or aggravated animal cruelty against more than one animal may be charged with a separate offense for each animal such cruelty was committed upon.*
- (4) A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this section. Such a veterinarian is, therefore, under this subsection, immune from a lawsuit for his or her part in an investigation of cruelty to animals.
- (5) *A person who intentionally trips, fells, ropes, or lassos the legs of a horse by any means for the purpose of entertainment or sport commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this subsection, the term "trip" means any act that consists of the use of any wire, pole, stick, rope, or other apparatus to cause a horse to fall or lose its balance, and the term "horse" means any animal of any registered breed of the genus *Equus*, or any recognized hybrid thereof. This subsection does not apply when tripping is used:*
- (a) To control a horse that is posing an immediate threat to other livestock or human beings;
  - (b) For the purpose of identifying ownership of the horse when its ownership is unknown; or
  - (c) For the purpose of administering veterinary care to the horse.
- (6) In addition to other penalties prescribed by law, a person who is convicted of a violation of this section may be prohibited by the court from owning, possessing, keeping, harboring, or having custody or control over any animal for a period of time determined by the court.

### **FLA. STAT. ANN. § 828.125. Killing or aggravated abuse of horses or cattle; offenses; penalties.**

Any other provisions of this chapter to the contrary notwithstanding:

- (1) Any person who willfully and unlawfully, by any means whatsoever, kills, maims, mutilates, or causes great bodily harm or permanent breeding disability to any animal of the genus *Equus* (horse) or any animal of any registered breed or recognized registered hybrid of the genus *Bos* (cattle) commits a felony of the second degree, punishable as provided by s. 775.082, s. 775.083, or s. 775.084, except that any person who commits a violation of this subsection shall be sentenced to a minimum mandatory fine of \$3,500 and a minimum mandatory period of incarceration of 1 year.

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- (2) Any person who individually attempts or solicits, or jointly agrees, conspires, combines, or confederates with another person to commit, any act prohibited by subsection (1) and does an act in furtherance of said attempt, solicitation, or conspiracy shall be guilty of a felony of the second degree and is punishable as if the person or persons had actually committed such prohibited act as enumerated in subsection (1), notwithstanding any provisions found in s. 777.04. Nothing in this subsection shall be construed to prohibit separate convictions and sentences for a violation of this subsection and any violation of subsection (1).
- (3) *Any person who verbally or in writing threatens to commit any act prohibited by subsection (1) and has the apparent ability to carry out such threat and places the owner or custodian of said animal in fear that such an act as described in subsection (1) is about to take place shall be guilty of a felony of the third degree, punishable as provided by s. 775.082, s. 775.083 or s. 775.084.*
- (4) In addition to any other fines or penalties authorized by law, a person found guilty of violating any provision of subsection (1), subsection (2), or subsection (3) may be ordered by the court to make restitution to the aggrieved party in an amount not to exceed twice the gross fair market value of the said *Equus* or *Bos* killed or abused in an aggravated manner, or up to twice the gross loss caused, whichever is greater, plus attorney's fees and any and all related costs. Upon notice the court shall hold a hearing to determine the amount of fines, restitution, or costs to be imposed under this section, if not agreed upon by the parties.
- (5) This section shall not be construed to abridge, impede, prohibit, or otherwise interfere in any way with the application, implementation, or conduct of recognized livestock husbandry practices or techniques by or at the direction of the owner of the livestock so husbanded; nor shall any person be held culpable for any act prohibited by this chapter which results from weather conditions or other acts of God, providing that the person is in compliance with recognized livestock husbandry practices.

### **FLA. STAT. ANN. § 828.13. Confinement of animals without sufficient food, water, or exercise; abandonment of animals.**

- (1) *As used in this section:*
  - (a) *“Abandon” means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.*
  - (b) *“Owner” includes any owner, custodian, or other person in charge of an animal.*
- (2) *Whoever:*
  - (a) *Impounds or confines any animal in any place and fails to supply the animal during such confinement with a sufficient quantity of good and wholesome food and water,*
  - (b) *Keeps any animals in any enclosure without wholesome exercise and change of air, or*

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- (c) *Abandons to die any animal that is maimed, sick, infirm, or diseased, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or by both imprisonment and a fine.*
- (3) *Any person who is the owner or possessor, or has charge or custody, of any animal who abandons such 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 misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or by both imprisonment and a fine.*

**FLA. STAT. ANN. § 828.1615. Prohibiting artificial coloring and sale of certain animals.**

- (1) *It is unlawful for a person to:*
- (a) *Dye or artificially color an animal that is under 12 weeks of age, or a fowl or rabbit of any age;*
  - (b) *Bring a dyed or artificially colored animal that is under 12 weeks of age, or a fowl or rabbit of any age, into this state; or*
  - (c) *Sell, offer for sale, or give away as merchandising premiums, baby chickens, ducklings, or other fowl under 4 weeks of age or rabbits under 2 months of age to be used as pets, toys, or retail premiums.*
- (2) *The prohibitions in paragraphs (1)(a) and (1)(b) do not apply to animals that are temporarily dyed by agricultural entities for protective health purposes.*
- (3) *This section does not apply to an animal that is under 12 weeks of age, or a fowl or rabbit of any age, that is used or raised for agricultural purposes by a person with proper facilities to care for it or for the purpose of poultry or livestock exhibitions.*
- (4) *A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.*

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### 3. EXEMPTIONS

#### FLA. STAT. ANN. § 828.02. Definitions.

In this chapter, and in every law of the state relating to or in any way affecting animals, the word “animal” shall be held to include every living dumb creature; the words “torture,” “torment,” and “cruelty” shall be held to include every act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering is caused, *except when done in the interest of medical science*, permitted, or allowed to continue when there is reasonable remedy or relief; and the words “owner” and “person” shall be held to include corporations, and the knowledge and acts of agents and employees of corporations in regard to animals transported, owned, employed by or in the custody of a corporation, shall be held to be the knowledge and act of such corporation.

#### FLA. STAT. ANN. § 828.12. Cruelty to animals.

- (1) 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 as provided in s. 775.082 or by a fine of not more than \$ 5,000, or both.
- (2) 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 as provided in s. 775.082 or by a fine of not more than \$ 10,000, or both.
  - (a) A person convicted of a violation of this subsection, 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, shall be ordered to pay a minimum mandatory fine of \$ 2,500 and undergo psychological counseling or complete an anger management treatment program.
  - (b) A person convicted of a second or subsequent violation of this subsection shall 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 shall be released only upon expiration of sentence, is not eligible for parole, control release, or any form of early release, and must serve 100 percent of the court-imposed sentence. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection.
- (3) A person who commits multiple acts of animal cruelty or aggravated animal cruelty against an animal may be charged with a separate offense for each such act. A person who commits animal cruelty or aggravated animal cruelty against more than one animal

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may be charged with a separate offense for each animal such cruelty was committed upon.

- (4) *A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this section. Such a veterinarian is, therefore, under this subsection, immune from a lawsuit for his or her part in an investigation of cruelty to animals.*
- (5) A person who intentionally trips, fells, ropes, or lassos the legs of a horse by any means for the purpose of entertainment or sport commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this subsection, the term "trip" means any act that consists of the use of any wire, pole, stick, rope, or other apparatus to cause a horse to fall or lose its balance, and the term "horse" means any animal of any registered breed of the genus *Equus*, or any recognized hybrid thereof. This subsection does not apply when tripping is used:
  - (a) To control a horse that is posing an immediate threat to other livestock or human beings;
  - (b) For the purpose of identifying ownership of the horse when its ownership is unknown; or
  - (c) For the purpose of administering veterinary care to the horse.
- (6) In addition to other penalties prescribed by law, a person who is convicted of a violation of this section may be prohibited by the court from owning, possessing, keeping, harboring, or having custody or control over any animal for a period of time determined by the court.

### **FLA. STAT. ANN. § 828.125. Killing or aggravated abuse of registered breed horses or cattle; offenses; penalties.**

Any other provisions of this chapter to the contrary notwithstanding:

- (1) Any person who willfully and unlawfully, by any means whatsoever, kills, maims, mutilates, or causes great bodily harm or permanent breeding disability to any animal of the genus *Equus* (horse) or any animal of any registered breed or recognized registered hybrid of the genus *Bos* (cattle) commits a felony of the second degree, punishable as provided by s. 775.082, s. 775.083, or s. 775.084, except that any person who commits a violation of this subsection shall be sentenced to a minimum mandatory fine of \$3,500 and a minimum mandatory period of incarceration of 1 year.
- (2) Any person who individually attempts or solicits, or jointly agrees, conspires, combines, or confederates with another person to commit, any act prohibited by subsection (1) and does an act in furtherance of said attempt, solicitation, or conspiracy shall be guilty of a felony of the second degree and is punishable as if the person or persons had actually committed such prohibited act as enumerated in subsection (1), notwithstanding any provisions found in s. 777.04. Nothing in this subsection shall be construed to prohibit separate convictions and sentences for a violation of this subsection and any violation of subsection (1).

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- (3) Any person who verbally or in writing threatens to commit any act prohibited by subsection (1) and has the apparent ability to carry out such threat and places the owner or custodian of said animal in fear that such an act as described in subsection (1) is about to take place shall be guilty of a felony of the third degree, punishable as provided by s. 775.082, s. 775.083 or s. 775.084.
- (4) In addition to any other fines or penalties authorized by law, a person found guilty of violating any provision of subsection (1), subsection (2), or subsection (3) may be ordered by the court to make restitution to the aggrieved party in an amount not to exceed twice the gross fair market value of the said Equus or Bos killed or abused in an aggravated manner, or up to twice the gross loss caused, whichever is greater, plus attorney's fees and any and all related costs. Upon notice the court shall hold a hearing to determine the amount of fines, restitution, or costs to be imposed under this section, if not agreed upon by the parties.
- (5) *This section shall not be construed to abridge, impede, prohibit, or otherwise interfere in any way with the application, implementation, or conduct of recognized livestock husbandry practices or techniques by or at the direction of the owner of the livestock so husbanded ; nor shall any person be held culpable for any act prohibited by this chapter which results from weather conditions or other acts of God, providing that the person is in compliance with recognized livestock husbandry practices.*

### FLA. STAT. ANN. § 828.1615. Prohibiting artificial coloring and sale of certain animals.

- (1) It is unlawful for a person to:
  - (a) Dye or artificially color an animal that is under 12 weeks of age, or a fowl or rabbit of any age;
  - (b) Bring a dyed or artificially colored animal that is under 12 weeks of age, or a fowl or rabbit of any age, into this state; or
  - (c) Sell, offer for sale, or give away as merchandising premiums, baby chickens, ducklings, or other fowl under 4 weeks of age or rabbits under 2 months of age to be used as pets, toys, or retail premiums.
- (2) *The prohibitions in paragraphs (1)(a) and (1)(b) do not apply to animals that are temporarily dyed by agricultural entities for protective health purposes.*
- (3) *This section does not apply to an animal that is under 12 weeks of age, or a fowl or rabbit of any age, that is used or raised for agricultural purposes by a person with proper facilities to care for it or for the purpose of poultry or livestock exhibitions.*
- (4) A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

## ANIMAL PROTECTION LAWS OF FLORIDA

### 4. FIGHTING AND RACKETEERING

#### FLA. STAT. ANN. § 828.121. Conduct of simulated bullfighting exhibitions.

*It shall be unlawful, and punishable as a misdemeanor, for any person to conduct or engage in a simulated or bloodless bullfighting exhibition.*

#### FLA. STAT. ANN. § 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) *“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) *“Person” means every natural person, firm, copartnership, association, or corporation.*
- (3) *Any person who knowingly commits any of the following acts commits 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);*
  - (c) *Owning, leasing, managing, operating, or having control of any property kept or used for any activity described in paragraph (a) or paragraph (b);*
  - (d) *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;*
  - (g) *Betting or wagering any money or other valuable consideration on the fighting or baiting of animals; or*
  - (h) *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.*



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- (4) *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 and shall provide for appropriate and humane care or disposition of the animals. This subsection is not 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) *This section 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 to hunt wild hogs or to retrieve domestic hogs pursuant to customary hunting or agricultural practices.*
- (10) *This section shall not prohibit, impede, or otherwise interfere with recognized animal husbandry and training techniques or practices not otherwise specifically prohibited by law.*

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### FLA. STAT. ANN. § 895.02. Definitions.

**NOTE:** Unrelated statutory text has been omitted.

As used in ss. 895.01-895.08, the term:

\* \* \* \* \*

- (8) *“Racketeering activity” means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:*
- a. *Any crime that is chargeable by petition, indictment, or information under the following provisions of the Florida Statutes:*

\* \* \* \* \*

37. *Section 828.122, relating to fighting or baiting animals.*

\* \* \* \* \*

### FLA. STAT. ANN. § 895.03. Prohibited activities and defense.

- (1) *It is unlawful for any person who has with criminal intent received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.*
- (2) *It is unlawful for any person, through a pattern of racketeering activity or through the collection of an unlawful debt, to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property.*
- (3) *It is unlawful for any person employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.*
- (4) *It is unlawful for any person to conspire or endeavor to violate any of the provisions of subsection (1), subsection (2), or subsection (3).*

### FLA. STAT. ANN. § 895.04. Criminal penalties and alternative fine.

- (1) *Any person convicted of engaging in activity in violation of the provisions of s. 895.03 is guilty of a felony of the first degree and shall be punished as provided in s. 775.082, s. 775.083, or s. 775.084.*
- (2) *In lieu of a fine otherwise authorized by law, any person convicted of engaging in conduct in violation of the provisions of s. 895.03, through which the person derived pecuniary value, or by which he or she caused personal injury or property damage or*

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*other loss, may be sentenced to pay a fine that does not exceed 3 times the gross value gained or 3 times the gross loss caused, whichever is the greater, plus court costs and the costs of investigation and prosecution, reasonably incurred.*

- (3) The court shall hold a hearing to determine the amount of the fine authorized by subsection (2).
- (4) For the purposes of subsection (2), “pecuniary value” means:
  - (a) Anything of value in the form of money, a negotiable instrument, or a commercial interest or anything else the primary significance of which is economic advantage; or
  - (b) Any other property or service that has a value in excess of \$100.

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## 5. SEXUAL ASSAULT

**FLA. STAT. ANN. § 828.126. Sexual activities involving animals.**

- (1) *As used in this section, the term:*
  - (a) *“Sexual conduct” means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal for the purpose of sexual gratification or arousal of the person.*
  - (b) *“Sexual contact” means any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any penetration, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any penetration of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or sexual arousal of the person.*
- (2) *A person may not:*
  - (a) *Knowingly engage in any sexual conduct or sexual contact with an animal;*
  - (b) *Knowingly cause, aid, or abet another person to engage in any sexual conduct or sexual contact with an animal;*
  - (c) *Knowingly permit any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control; or*
  - (d) *Knowingly organize, promote, conduct, advertise, aid, abet, participate in as an observer, or perform any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose.*
- (3) *A person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*
- (4) *This section does not apply to accepted animal husbandry practices, conformation judging practices, or accepted veterinary medical practices.*

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## 6. CRUELTY TO WORKING ANIMALS

**FLA. STAT. ANN. § 413.081. Interference with or injury to a service animal; penalties; restitution.**

- (1) *A person who, with reckless disregard, interferes with, or permits a dog that he or she owns or is in the immediate control of to interfere with, the use of a service animal by obstructing, intimidating, or otherwise jeopardizing the safety of the service animal or its user commits a misdemeanor of the second degree for the first offense and a misdemeanor of the first degree for each subsequent offense, punishable as provided in s. 775.082 or s. 775.083.*
- (2) *A person who, with reckless disregard, injures or kills, or permits a dog that he or she owns or is in the immediate control of to injure or kill, a service animal commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*
- (3) *A person who intentionally injures or kills, or permits a dog that he or she owns or is in the immediate control of to injure or kill, a service animal commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*
- (4)
  - (a) A person who is convicted of a violation of this section, 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.
  - (b) 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; and lost wages or income incurred by the user during any period that the user is without the services of the service animal.

**FLA. STAT. ANN. § 843.19. Offenses against police dogs, fire dogs, SAR dogs, or police horses.**

- (1) As used in this section, the term:
  - (a) "Police canine" means any canine, and "police horse" means any horse, that is owned, or the service of which is employed, by a law enforcement agency or a correctional agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.
  - (b) "Fire canine" means any canine that is owned, or the service of which is employed, by a fire department, a special fire district, or the State Fire Marshal for the principal purpose of aiding in the detection of flammable materials or the investigation of fires.
  - (c) "SAR canine" means any search and rescue canine that is owned, or the service of which is utilized, by a fire department, a law enforcement agency, a

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correctional agency, a special fire district, or the State Fire Marshal for the principal purpose of aiding in the detection of missing persons, including, but not limited to, persons who are lost, who are trapped under debris as the result of a natural, manmade, or technological disaster, or who are drowning victims.

- (2) *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, fire canine, SAR canine, or police horse commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*
- (3) *Any person who actually and intentionally maliciously touches, strikes, or causes bodily harm to a police canine, fire canine, SAR canine, or police horse commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*
- (4) 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, punishable as provided in s. 775.082 or s. 775.083.
- (5) A person convicted of an offense under this section shall make restitution for injuries caused to the police canine, fire canine, SAR canine, or police horse and shall pay the replacement cost of the animal if, as a result of the offense, the animal can no longer perform its duties.

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### 7. MAXIMUM PENALTIES & STATUTES OF LIMITATIONS

**NOTE:** Fines for violations of [FLA. STAT. ANN. § 828.12](#) and [§ 828.13](#) differ from the maximum penalties listed below. Those fines are listed in the substantive statutes, available in the [General Cruelty](#) section of this document.

#### **FLA. STAT. ANN. § 775.081. Classifications of felonies and misdemeanors.**

- (1) Felonies are classified, for the purpose of sentence and for any other purpose specifically provided by statute, into the following categories:
- (a) Capital felony;
  - (b) Life felony;
  - (c) Felony of the first degree;
  - (d) Felony of the second degree; and
  - (e) Felony of the third degree.

A capital felony and a life felony must be so designated by statute. Other felonies are of the particular degree designated by statute. Any crime declared by statute to be a felony without specification of degree is of the third degree, except that this provision shall not affect felonies punishable by life imprisonment for the first offense.

- (2) Misdemeanors are classified, for the purpose of sentence and for any other purpose specifically provided by statute, into the following categories:
- (a) Misdemeanor of the first degree; and
  - (b) Misdemeanor of the second degree.

*A misdemeanor is of the particular degree designated by statute. Any crime declared by statute to be a misdemeanor without specification of degree is of the second degree.*

- (3) This section is supplemental to, and is not to be construed to alter, the law of this state establishing and governing criminal offenses that are divided into degrees by virtue of distinctive elements comprising such offenses, regardless of whether such law is established by constitutional provision, statute, court rule, or court decision.

#### **FLA. STAT. ANN. § 775.082. Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison.**

**NOTE:** Subsection (10) of this statute has been declared unconstitutional. *Brown v. State*, 260 So. 3d 147, 150 (Fla. 2018), *reh'g den.*, SC18-323, 2019 WL 354563 (2019)

- (1)
- (a) Except as provided in paragraph (b), a person who has been convicted of a capital felony shall be punished by death if the proceeding held to determine sentence according to the procedure set forth in s. 921.141 results in a determination that such person shall be punished by death, otherwise such person shall be punished by life imprisonment and shall be ineligible for parole.
  - (b)

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1. A person who actually killed, intended to kill, or attempted to kill the victim and who is convicted under s. 782.04 of a capital felony, or an offense that was reclassified as a capital felony, which was committed before the person attained 18 years of age shall be punished by a term of imprisonment for life if, after a sentencing hearing conducted by the court in accordance with s. 921.1401, the court finds that life imprisonment is an appropriate sentence. If the court finds that life imprisonment is not an appropriate sentence, such person shall be punished by a term of imprisonment of at least 40 years. A person sentenced pursuant to this subparagraph is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(a).
  2. A person who did not actually kill, intend to kill, or attempt to kill the victim and who is convicted under s. 782.04 of a capital felony, or an offense that was reclassified as a capital felony, which was committed before the person attained 18 years of age may be punished by a term of imprisonment for life or by a term of years equal to life if, after a sentencing hearing conducted by the court in accordance with s. 921.1401, the court finds that life imprisonment is an appropriate sentence. A person who is sentenced to a term of imprisonment of more than 15 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(c).
  3. The court shall make a written finding as to whether a person is eligible for a sentence review hearing under s. 921.1402(2)(a) or (c). Such a finding shall be based upon whether the person actually killed, intended to kill, or attempted to kill the victim. The court may find that multiple defendants killed, intended to kill, or attempted to kill the victim.
- (2) In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment as provided in subsection (1). No sentence of death shall be reduced as a result of a determination that a method of execution is held to be unconstitutional under the State Constitution or the Constitution of the United States.
- (3) A person who has been convicted of any other designated felony may be punished as follows:
- (a)
    1. For a life felony committed before October 1, 1983, by a term of imprisonment for life or for a term of at least 30 years.
    2. For a life felony committed on or after October 1, 1983, by a term of imprisonment for life or by a term of imprisonment not exceeding 40 years.



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3. Except as provided in subparagraph 4., for a life felony committed on or after July 1, 1995, by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment.
  4.
    - a. Except as provided in sub-subparagraph b., for a life felony committed on or after September 1, 2005, which is a violation of s. 800.04(5)(b), by:
      - (I) A term of imprisonment for life; or
      - (II) A split sentence that is a term of at least 25 years' imprisonment and not exceeding life imprisonment, followed by probation or community control for the remainder of the person's natural life, as provided in s. 948.012(4).
    - b. For a life felony committed on or after July 1, 2008, which is a person's second or subsequent violation of s. 800.04(5)(b), by a term of imprisonment for life.
  5. Notwithstanding subparagraphs 1.-4., a person who is convicted under s. 782.04 of an offense that was reclassified as a life felony which was committed before the person attained 18 years of age may be punished by a term of imprisonment for life or by a term of years equal to life imprisonment if the judge conducts a sentencing hearing in accordance with s. 921.1401 and finds that life imprisonment or a term of years equal to life imprisonment is an appropriate sentence.
    - a. A person who actually killed, intended to kill, or attempted to kill the victim and is sentenced to a term of imprisonment of more than 25 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(b).
    - b. A person who did not actually kill, intend to kill, or attempt to kill the victim and is sentenced to a term of imprisonment of more than 15 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(c).
    - c. The court shall make a written finding as to whether a person is eligible for a sentence review hearing under s. 921.1402(2)(b) or (c). Such a finding shall be based upon whether the person actually killed, intended to kill, or attempted to kill the victim. The court may find that multiple defendants killed, intended to kill, or attempted to kill the victim.
  6. For a life felony committed on or after October 1, 2014, which is a violation of s. 787.06(3)(g), by a term of imprisonment for life.
- (b)
1. For a felony of the first degree, by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment.

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2. Notwithstanding subparagraph 1., a person convicted under s. 782.04 of a first degree felony punishable by a term of years not exceeding life imprisonment, or an offense that was reclassified as a first degree felony punishable by a term of years not exceeding life, which was committed before the person attained 18 years of age may be punished by a term of years equal to life imprisonment if the judge conducts a sentencing hearing in accordance with s. 921.1401 and finds that a term of years equal to life imprisonment is an appropriate sentence.
  - a. A person who actually killed, intended to kill, or attempted to kill the victim and is sentenced to a term of imprisonment of more than 25 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(b).
  - b. A person who did not actually kill, intend to kill, or attempt to kill the victim and is sentenced to a term of imprisonment of more than 15 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(c).
  - c. The court shall make a written finding as to whether a person is eligible for a sentence review hearing under s. 921.1402(2)(b) or (c). Such a finding shall be based upon whether the person actually killed, intended to kill, or attempted to kill the victim. The court may find that multiple defendants killed, intended to kill, or attempted to kill the victim.
- (c) Notwithstanding paragraphs (a) and (b), a person convicted of an offense that is not included in s. 782.04 but that is an offense that is a life felony or is punishable by a term of imprisonment for life or by a term of years not exceeding life imprisonment, or an offense that was reclassified as a life felony or an offense punishable by a term of imprisonment for life or by a term of years not exceeding life imprisonment, which was committed before the person attained 18 years of age may be punished by a term of imprisonment for life or a term of years equal to life imprisonment if the judge conducts a sentencing hearing in accordance with s. 921.1401 and finds that life imprisonment or a term of years equal to life imprisonment is an appropriate sentence. A person who is sentenced to a term of imprisonment of more than 20 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(d).
- (d) For a felony of the second degree, by a term of imprisonment not exceeding 15 years.
- (e) *For a felony of the third degree, by a term of imprisonment not exceeding 5 years.*
- (4) *A person who has been convicted of a designated misdemeanor may be sentenced as follows:*
  - (a) *For a misdemeanor of the first degree, by a definite term of imprisonment not exceeding 1 year;*

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- (b) *For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days.*
- (5) Any person who has been convicted of a noncriminal violation may not be sentenced to a term of imprisonment nor to any other punishment more severe than a fine, forfeiture, or other civil penalty, except as provided in chapter 316 or by ordinance of any city or county.
- (6) Nothing in this section shall be construed to alter the operation of any statute of this state authorizing a trial court, in its discretion, to impose a sentence of imprisonment for an indeterminate period within minimum and maximum limits as provided by law, except as provided in subsection (1).
- (7) This section does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. Such a judgment or order may be included in the sentence.
- (8)
- (a) The sentencing guidelines that were effective October 1, 1983, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after October 1, 1983, and before January 1, 1994, and to all felonies, except capital felonies and life felonies, committed before October 1, 1983, when the defendant affirmatively selects to be sentenced pursuant to such provisions.
- (b) The 1994 sentencing guidelines, that were effective January 1, 1994, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after January 1, 1994, and before October 1, 1995.
- (c) The 1995 sentencing guidelines that were effective October 1, 1995, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after October 1, 1995, and before October 1, 1998.
- (d) The Criminal Punishment Code applies to all felonies, except capital felonies, committed on or after October 1, 1998. Any revision to the Criminal Punishment Code applies to sentencing for all felonies, except capital felonies, committed on or after the effective date of the revision.
- (e) Felonies, except capital felonies, with continuing dates of enterprise shall be sentenced under the sentencing guidelines or the Criminal Punishment Code in effect on the beginning date of the criminal activity.
- (9)
- (a)
1. "Prison releasee reoffender" means any defendant who commits, or attempts to commit:
    - a. Treason;
    - b. Murder;
    - c. Manslaughter;
    - d. Sexual battery;
    - e. Carjacking;
    - f. Home-invasion robbery;

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- g. Robbery;
  - h. Arson;
  - i. Kidnapping;
  - j. Aggravated assault with a deadly weapon;
  - k. Aggravated battery;
  - l. Aggravated stalking;
  - m. Aircraft piracy;
  - n. Unlawful throwing, placing, or discharging of a destructive device or bomb;
  - o. Any felony that involves the use or threat of physical force or violence against an individual;
  - p. Armed burglary;
  - q. Burglary of a dwelling or burglary of an occupied structure; or
  - r. Any felony violation of s. 790.07, s. 800.04, s. 827.03, s. 827.071, or s. 847.0135(5);
- within 3 years after being released from a state correctional facility operated by the Department of Corrections or a private vendor, a county detention facility following incarceration for an offense which the sentence pronounced was a prison sentence, or a correctional institution of another state, the District of Columbia, the United States, any possession or territory of the United States, or any foreign jurisdiction, following incarceration for an offense for which the sentence is punishable by more than 1 year in this state.
2. "Prison releasee reoffender" also means any defendant who commits or attempts to commit any offense listed in sub-subparagraphs (a)1.a.-r. while the defendant was serving a prison sentence or on escape status from a state correctional facility operated by the Department of Corrections or a private vendor or while the defendant was on escape status from a correctional institution of another state, the District of Columbia, the United States, any possession or territory of the United States, or any foreign jurisdiction, following incarceration for an offense for which the sentence is punishable by more than 1 year in this state.
  3. If the state attorney determines that a defendant is a prison releasee reoffender as defined in subparagraph 1., the state attorney may seek to have the court sentence the defendant as a prison releasee reoffender. Upon proof from the state attorney that establishes by a preponderance of the evidence that a defendant is a prison releasee reoffender as defined in this section, such defendant is not eligible for sentencing under the sentencing guidelines and must be sentenced as follows:
    - a. For a felony punishable by life, by a term of imprisonment for life;
    - b. For a felony of the first degree, by a term of imprisonment of 30 years;

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- c. For a felony of the second degree, by a term of imprisonment of 15 years; and
  - d. For a felony of the third degree, by a term of imprisonment of 5 years.
- (b) A person sentenced under paragraph (a) shall be released only by expiration of sentence and shall not be eligible for parole, control release, or any form of early release. Any person sentenced under paragraph (a) must serve 100 percent of the court-imposed sentence.
- (c) Nothing in this subsection shall prevent a court from imposing a greater sentence of incarceration as authorized by law, pursuant to s. 775.084 or any other provision of law.
- (d)
- 1. It is the intent of the Legislature that offenders previously released from prison or a county detention facility following incarceration for an offense for which the sentenced pronounced was a prison sentence who meet the criteria in paragraph (a) be punished to the fullest extent of the law and as provided in this subsection, unless the state attorney determines that extenuating circumstances exist which preclude the just prosecution of the offender, including whether the victim recommends that the offender not be sentenced as provided in this subsection.
  - 2. For every case in which the offender meets the criteria in paragraph (a) and does not receive the mandatory minimum prison sentence, the state attorney must explain the sentencing deviation in writing and place such explanation in the case file maintained by the state attorney.
- (10) If a defendant is sentenced for an offense committed on or after July 1, 2009, which is a third degree felony but not a forcible felony as defined in s. 776.08, and excluding any third degree felony violation under chapter 810, and if the total sentence points pursuant to s. 921.0024 are 22 points or fewer, the court must sentence the offender to a nonstate prison sanction. However, if the court makes written findings that a nonstate prison sanction could present a danger to the public, the court may sentence the offender to a state correctional facility pursuant to this section.
- (11) The purpose of this section is to provide uniform punishment for those crimes made punishable under this section and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

### FLA. STAT. ANN. § 775.083. Fines.

- (1) A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. 775.082; when specifically authorized by statute, he or she may be sentenced to pay a fine in lieu of any punishment described in s. 775.082. A person who has been convicted of a noncriminal

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violation may be sentenced to pay a fine. Fines for designated crimes and for noncriminal violations shall not exceed:

- (a) \$15,000, when the conviction is of a life felony.
- (b) \$10,000, when the conviction is of a felony of the first or second degree.
- (c) \$5,000, when the conviction is of a felony of the third degree.
- (d) \$1,000, when the conviction is of a misdemeanor of the first degree.
- (e) \$500, when the conviction is of a misdemeanor of the second degree or a noncriminal violation.
- (f) Any higher amount equal to double the pecuniary gain derived from the offense by the offender or double the pecuniary loss suffered by the victim.
- (g) Any higher amount specifically authorized by statute.

Fines imposed in this subsection shall be deposited by the clerk of the court in the fine and forfeiture fund established pursuant to s. 142.01. If a defendant is unable to pay a fine, the court may defer payment of the fine to a date certain. As used in this subsection, the term “convicted” or “conviction” means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

- (2) In addition to the fines set forth in subsection (1), court costs shall be assessed and collected in each instance a defendant pleads nolo contendere to, or is convicted of, or adjudicated delinquent for, a felony, a misdemeanor, or a criminal traffic offense under state law, or a violation of any municipal or county ordinance if the violation constitutes a misdemeanor under state law. The court costs imposed by this section shall be \$50 for a felony and \$20 for any other offense and shall be deposited by the clerk of the court into an appropriate county account for disbursement for the purposes provided in this subsection. A county shall account for the funds separately from other county funds as crime prevention funds. The county, in consultation with the sheriff, must expend such funds for crime prevention programs in the county, including safe neighborhood programs under ss. 163.501-163.523.
- (3) The purpose of this section is to provide uniform penalty authorization for criminal offenses and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

### FLA. STAT. ANN. § 775.15. Time limitations; general time limitations; exceptions.

- (1) A prosecution for a capital felony, a life felony, or a felony that resulted in a death may be commenced at any time. If the death penalty is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, all crimes designated as capital felonies shall be considered life felonies for the purposes of this section, and prosecution for such crimes may be commenced at any time.
- (2) Except as otherwise provided in this section, prosecutions for other offenses are subject to the following periods of limitation:

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- (a) A prosecution for a felony of the first degree must be commenced within 4 years after it is committed.
  - (b) *A prosecution for any other felony must be commenced within 3 years after it is committed.*
  - (c) *A prosecution for a misdemeanor of the first degree must be commenced within 2 years after it is committed.*
  - (d) *A prosecution for a misdemeanor of the second degree or a noncriminal violation must be commenced within 1 year after it is committed.*
- (3) An offense is committed either when every element has occurred or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.
- (4) (a) Prosecution on a charge on which the defendant has previously been arrested or served with a summons is commenced by the filing of an indictment, information, or other charging document.
- (b) A prosecution on a charge on which the defendant has not previously been arrested or served with a summons is commenced when either an indictment or information is filed, provided the *capias*, summons, or other process issued on such indictment or information is executed without unreasonable delay. In determining what is reasonable, inability to locate the defendant after diligent search or the defendant's absence from the state shall be considered. The failure to execute process on or extradite a defendant in another state who has been charged by information or indictment with a crime in this state shall not constitute an unreasonable delay.
- (c) If, however, an indictment or information has been filed within the time period prescribed in this section and the indictment or information is dismissed or set aside because of a defect in its content or form after the time period has elapsed, the period for commencing prosecution shall be extended 3 months from the time the indictment or information is dismissed or set aside.
- (5) The period of limitation does not run during any time when the defendant is continuously absent from the state or has no reasonably ascertainable place of abode or work within the state. This provision shall not extend the period of limitation otherwise applicable by more than 3 years, but shall not be construed to limit the prosecution of a defendant who has been timely charged by indictment or information or other charging document and who has not been arrested due to his or her absence from this state or has not been extradited for prosecution from another state.
- (6) A prosecution for perjury in an official proceeding that relates to the prosecution of a capital felony may be commenced at any time.
- (7) A prosecution for a felony that resulted in injury to any person, when such felony arises from the use of a "destructive device," as defined in s. 790.001, may be commenced within 10 years.
- (8) A prosecution for a felony violation of chapter 517 or s. 409.920 must be commenced within 5 years after the violation is committed.

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- (9) A prosecution for a felony violation of chapter 403 must be commenced within 5 years after the date of discovery of the violation.
- (10) A prosecution for a felony violation of s. 825.102 or s. 825.103 must be commenced within 5 years after it is committed.
- (11) A prosecution for a felony violation of ss. 440.105 and 817.234 must be commenced within 5 years after the violation is committed.
- (12) If the period prescribed in subsection (2), subsection (8), subsection (9), subsection (10), or subsection (11) has expired, a prosecution may nevertheless be commenced for:
  - a. Any offense, a material element of which is either fraud or a breach of fiduciary obligation, within 1 year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to the offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than 3 years.
  - b. Any offense based upon misconduct in office by a public officer or employee at any time when the defendant is in public office or employment, within 2 years from the time he or she leaves public office or employment, or during any time permitted by any other part of this section, whichever time is greater.
- (13)
  - a. If the victim of a violation of s. 794.011, former s. 794.05, Florida Statutes 1995, s. 800.04, s. 826.04, or s. 847.0135(5) is under the age of 18, the applicable period of limitation, if any, does not begin to run until the victim has reached the age of 18 or the violation is reported to a law enforcement agency or other governmental agency, whichever occurs earlier. Such law enforcement agency or other governmental agency shall promptly report such allegation to the state attorney for the judicial circuit in which the alleged violation occurred. If the offense is a first or second degree felony violation of s. 794.011, and the offense is reported within 72 hours after its commission, the prosecution for such offense may be commenced at any time. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before December 31, 1984.
  - b. If the offense is a first degree felony violation of s. 794.011 and the victim was under 18 years of age at the time the offense was committed, a prosecution of the offense may be commenced at any time. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before October 1, 2003.
  - c. If the offense is a violation of s. 794.011 and the victim was under 16 years of age at the time the offense was committed, a prosecution of the offense may be commenced at any time. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before July 1, 2010.
- (14)
  - a. A prosecution for a first or second degree felony violation of s. 794.011, if the victim is 16 years of age or older at the time of the offense and the offense is



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reported to a law enforcement agency within 72 hours after commission of the offense, may be commenced at any time.

- b. Except as provided in paragraph (a) or paragraph (13)(b), a prosecution for a first or second degree felony violation of s. 794.011, if the victim is 16 years of age or older at the time of the offense, must be commenced within 8 years after the violation is committed. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before July 1, 2015.

(15)

- a. In addition to the time periods prescribed in this section, a prosecution for any of the following offenses may be commenced within 1 year after the date on which the identity of the accused is established, or should have been established by the exercise of due diligence, through the analysis of deoxyribonucleic acid (DNA) evidence, if a sufficient portion of the evidence collected at the time of the original investigation and tested for DNA is preserved and available for testing by the accused:
  1. An offense of sexual battery under chapter 794.
  2. A lewd or lascivious offense under s. 800.04 or s. 825.1025.
- b. This subsection applies to any offense that is not otherwise barred from prosecution between July 1, 2004, and June 30, 2006.

(16)

- a. In addition to the time periods prescribed in this section, a prosecution for any of the following offenses may be commenced at any time after the date on which the identity of the accused is established, or should have been established by the exercise of due diligence, through the analysis of deoxyribonucleic acid (DNA) evidence, if a sufficient portion of the evidence collected at the time of the original investigation and tested for DNA is preserved and available for testing by the accused:
  1. Aggravated battery or any felony battery offense under chapter 784.
  2. Kidnapping under s. 787.01 or false imprisonment under s. 787.02.
  3. An offense of sexual battery under chapter 794.
  4. A lewd or lascivious offense under s. 800.04, s. 825.1025, or s. 847.0135(5).
  5. A burglary offense under s. 810.02.
  6. A robbery offense under s. 812.13, s. 812.131, or s. 812.135.
  7. Carjacking under s. 812.133.
  8. Aggravated child abuse under s. 827.03.
- b. This subsection applies to any offense that is not otherwise barred from prosecution on or after July 1, 2006.

- (17) In addition to the time periods prescribed in this section, a prosecution for video voyeurism in violation of s. 810.145 may be commenced within 1 year after the date on which the victim of video voyeurism obtains actual knowledge of the existence of such a recording or the date on which the recording is confiscated by a law enforcement

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agency, whichever occurs first. Any dissemination of such a recording before the victim obtains actual knowledge thereof or before its confiscation by a law enforcement agency does not affect any provision of this subsection.

- (18) If the offense is a violation of s. 800.04(4) or (5) and the victim was under 16 years of age at the time the offense was committed, a prosecution of the offense may be commenced at any time, unless, at the time of the offense, the offender is less than 18 years of age and is no more than 4 years older than the victim. This subsection applies to an offense that is not otherwise barred from prosecution on or before October 1, 2014.
- (19) A prosecution for a violation of s. 787.06 may be commenced at any time. This subsection applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before October 1, 2014.
- (20) If the victim is younger than 18 years of age at the time the offense was committed, a prosecution for a violation of s. 794.011 may be commenced at any time. This subsection applies to an offense that is committed on or after July 1, 2020.

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**ANIMAL PROTECTION LAWS OF FLORIDA****8. CROSS ENFORCEMENT & REPORTING****FLA. STAT. ANN. § 828.03. Agents of counties, societies, etc., may prosecute violators.**

- (1) *Any county or any society or association for the prevention of cruelty to children or animals, organized under the laws of this state, may appoint agents for the purpose of investigating violations of any of the provisions of this chapter or any other law of the state for the purpose of protecting children and animals or preventing any act of cruelty thereto.*
- (2) All appointments of such agents by such societies or corporations must have the approval of the mayor of the city in which the society or association exists, and if the society or association exists or works outside of any city, the appointment must be approved by the county court judge or the judge of the circuit court for the county, and the mayor or judge shall keep a record of such appointment. The approval of the appointment of any agent by a county for either the incorporated or unincorporated areas of such county shall be by the county commission.

**ANIMAL PROTECTION LAWS OF FLORIDA****9. VETERINARY REPORTING & IMMUNITY****FLA. STAT. ANN. § 474.2165. Ownership and control of veterinary medical patient records; report or copies of records to be furnished.**

- (1) As used in this section, the term “records owner” means any veterinarian who generates a medical record after making a physical examination of, or administering treatment or dispensing legend drugs to, any patient; any veterinarian to whom records are transferred by a previous records owner; or any veterinarian's employer, provided the employment contract or agreement between the employer and the veterinarian designates the employer as the records owner.
- (2) Each person who provides veterinary medical services shall maintain medical records, as established by rule.
- (3) Any records owner licensed under this chapter who makes an examination of, or administers treatment or dispenses legend drugs to, any patient shall, upon request of the client or the client's legal representative, furnish, in a timely manner, without delays for legal review, copies of all reports and records relating to such examination or treatment, including X rays. The furnishing of such report or copies shall not be conditioned upon payment of a fee for services rendered.
- (4) Except as otherwise provided in this section, such records may not be furnished to, and the medical condition of a patient may not be discussed with, any person other than the client or the client's legal representative or other veterinarians involved in the care or treatment of the patient, except upon written authorization of the client. However, such records may be furnished without written authorization under the following circumstances:
  - (a) To any person, firm, or corporation that has procured or furnished such examination or treatment with the client's consent.
  - (b) In any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the client or the client's legal representative by the party seeking such records.
  - (c) For statistical and scientific research, provided the information is abstracted in such a way as to protect the identity of the patient and the client, or provided written permission is received from the client or the client's legal representative.
  - (d) *In any criminal action or situation where a veterinarian suspects a criminal violation. If a criminal violation is suspected, a veterinarian may, without notice to or authorization from the client, report the violation to a law enforcement officer, an animal control officer who is certified pursuant to s. 828.27(4)(a), or an agent appointed under s. 828.03. However, if a suspected violation occurs at a commercial food-producing animal operation on land classified as agricultural under s. 193.461, the veterinarian must provide notice to the client or the client's legal representative before reporting the suspected violation to an officer or*

## ANIMAL PROTECTION LAWS OF FLORIDA

*agent under this paragraph. The report may not include written medical records except upon the issuance of an order from a court of competent jurisdiction.*

- (5) Except in a medical negligence action or administrative proceeding when a veterinarian is or reasonably expects to be named as a defendant, information disclosed to a veterinarian by a client in the course of the care and treatment of the patient is confidential and may be disclosed only to other veterinarians involved in the care or treatment of the patient, or if permitted by written authorization from the client or compelled by subpoena at a deposition, evidentiary hearing, or trial for which proper notice has been given.
- (6) The department may obtain patient records pursuant to a subpoena without written authorization from the client if the department and the probable cause panel of the board find reasonable cause to believe that a veterinarian has excessively or inappropriately prescribed any controlled substance specified in chapter 893 in violation of this chapter or that a veterinarian has practiced his or her profession below that level of care, skill, and treatment required as defined by this chapter.
- (7) Notwithstanding the provisions of s. 455.242, records owners shall place an advertisement in the local newspaper or notify clients, in writing, when they are terminating practice, retiring, or relocating and are no longer available to patients and shall offer clients the opportunity to obtain a copy of their medical records.
- (8) Notwithstanding the provisions of s. 455.242, records owners shall notify the board office when they are terminating practice, retiring, or relocating and are no longer available to patients, specifying who the new records owner is and where the medical records can be found.
- (9) Whenever a records owner has turned records over to a new records owner, the new records owner shall be responsible for providing a copy of the complete medical record, upon written request, of the client or the client's legal representative.
- (10) Veterinarians in violation of the provisions of this section shall be disciplined by the board.
- (11) A records owner furnishing copies of reports or records pursuant to this section shall charge no more than the actual cost of copying, including reasonable staff time, or the amount specified in administrative rule by the board.
- (12) Nothing in this section shall be construed to limit veterinarian consultations, as necessary.

### **FLA. STAT. ANN. § 828.12. Cruelty to animals.**

- (1) 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 as provided in s. 775.082 or by a fine of not more than \$ 5,000, or both.

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- (2) 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 as provided in s. 775.082 or by a fine of not more than \$ 10,000, or both.
- (a) A person convicted of a violation of this subsection, 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, shall be ordered to pay a minimum mandatory fine of \$ 2,500 and undergo psychological counseling or complete an anger management treatment program.
  - (b) A person convicted of a second or subsequent violation of this subsection shall 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 shall be released only upon expiration of sentence, is not eligible for parole, control release, or any form of early release, and must serve 100 percent of the court-imposed sentence. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection.
- (3) A person who commits multiple acts of animal cruelty or aggravated animal cruelty against an animal may be charged with a separate offense for each such act. A person who commits animal cruelty or aggravated animal cruelty against more than one animal may be charged with a separate offense for each animal such cruelty was committed upon.
- (4) *A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this section. Such a veterinarian is, therefore, under this subsection, immune from a lawsuit for his or her part in an investigation of cruelty to animals.*
- (5) A person who intentionally trips, fells, ropes, or lassos the legs of a horse by any means for the purpose of entertainment or sport commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this subsection, the term "trip" means any act that consists of the use of any wire, pole, stick, rope, or other apparatus to cause a horse to fall or lose its balance, and the term "horse" means any animal of any registered breed of the genus Equus, or any recognized hybrid thereof. The provisions of this subsection does not apply when tripping is used:
- (a) To control a horse that is posing an immediate threat to other livestock or human beings;
  - (b) For the purpose of identifying ownership of the horse when its ownership is unknown; or
  - (c) For the purpose of administering veterinary care to the horse.
- (6) In addition to other penalties prescribed by law, a person who is convicted of a violation of this section may be prohibited by the court from owning, possessing, keeping, harboring, or having custody or control over any animal for a period of time determined by the court.

**ANIMAL PROTECTION LAWS OF FLORIDA****10. LAW ENFORCEMENT POLICIES****FLA. STAT. ANN. § 828.03. Agents of counties, societies, etc., may prosecute violators.**

- (1) *Any county or any society or association for the prevention of cruelty to children or animals, organized under the laws of this state, may appoint agents for the purpose of investigating violations of any of the provisions of this chapter or any other law of the state for the purpose of protecting children and animals or preventing any act of cruelty thereto.*
- (2) *All appointments of such agents by such societies or corporations must have the approval of the mayor of the city in which the society or association exists, and if the society or association exists or works outside of any city, the appointment must be approved by the county court judge or the judge of the circuit court for the county, and the mayor or judge shall keep a record of such appointment. The approval of the appointment of any agent by a county for either the incorporated or unincorporated areas of such county shall be by the county commission.*

**FLA. STAT. ANN. § 828.17. Officer to arrest without warrant.**

*Any sheriff or any other peace officer of the state, or any police officer of any city or town of the state, shall arrest without warrant any person found violating any of the provisions of ss. 828.08, 828.12, and 828.13-828.16, and the officer making the arrest shall hold the offender until a warrant can be procured, and he or she shall use proper diligence to procure such warrant.*

## ANIMAL PROTECTION LAWS OF FLORIDA

## 11. SEIZURE

**FLA. STAT. ANN. § 828.073. Animals found in distress.**

- (1) *The purpose of this section is to provide a means by which a neglected or mistreated animal may 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 county or of any society or association for the prevention of cruelty to animals appointed under s. 828.03, and protected and disposed of appropriately and humanely.*
- (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 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 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 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 taking custody and properly disposing 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 of an animal pursuant to 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 with chapter 48 relating to service of process. The sheriff of the county may 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*



## ANIMAL PROTECTION LAWS OF FLORIDA

prevention of cruelty to animals taking custody of an animal pursuant to this section shall provide for the animal until either:

1. The owner is adjudged by the court to be able to adequately provide 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 paragraph (c) and humanely disposed of.
- (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 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, 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.

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- (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 this chapter.
  - (g) Convictions pursuant to applicable statutes prohibiting cruelty to animals.
  - (h) 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 for the animal.
- (7) In any case in which an animal is offered for auction under 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.
  - (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.

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**ANIMAL PROTECTION LAWS OF FLORIDA**

**12. COURTROOM ANIMAL ADVOCATE PROGRAM**

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**ANIMAL PROTECTION LAWS OF FLORIDA**

**13. PROTECTION ORDERS**

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**ANIMAL PROTECTION LAWS OF FLORIDA****14. RESTITUTION****FLA. STAT. ANN. § 828.073. Animals found in distress.**

- (1) The purpose of this section is to provide a means by which a neglected or mistreated animal may 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 county or of any society or association for the prevention of cruelty to animals appointed under s. 828.03, and protected and disposed of appropriately and humanely.
- (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 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 petition seeking relief under this section 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 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 taking custody and properly disposing 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 of an animal pursuant to 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 with chapter 48 relating to service of process. The sheriff of the county may 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

## ANIMAL PROTECTION LAWS OF FLORIDA

prevention of cruelty to animals taking custody of an animal pursuant to this section shall provide for the animal until either:

1. The owner is adjudged by the court to be able to adequately provide 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 paragraph (c) and humanely disposed of.
- (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 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, 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

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- 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 this chapter.
  - (g) Convictions pursuant to applicable statutes prohibiting cruelty to animals.
  - (h) 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 for the animal.
- (7) *In any case in which an animal is offered for auction under 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.*
  - (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.*

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## 15. FORFEITURE &amp; POSSESSION BANS

## FLA. STAT. ANN. § 828.073. Animals found in distress.

- (1) The purpose of this section is to provide a means by which a neglected or mistreated animal may 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 county or of any society or association for the prevention of cruelty to animals appointed under s. 828.03, and protected disposed of appropriately and humanely.
- (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 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 petition seeking relief under this section 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 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 taking custody and properly disposing of stray or abandoned animals as lawfully performed by animal control agents.
- (3) The law enforcement officer, any 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 of an animal pursuant to 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 with chapter 48 relating to service of process. The sheriff of the county may not charge a fee for service of such notice.
- (4)
  - (a) The law enforcement officer, any animal control officer certified pursuant to s. 828.27, or the agent of any county or of any society or association for the



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prevention of cruelty to animals taking custody of an animal pursuant to this section shall provide for the animal until either:

1. The owner is adjudged by the court to be able to adequately provide 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 paragraph (c) and humanely disposed of.
- (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 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, 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.*

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- (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 this chapter.*
  - (g) *Convictions pursuant to applicable statutes prohibiting cruelty to animals.*
  - (h) *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 for the animal.*
- (7) In any case in which an animal is offered for auction under 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, any 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.
  - (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.

### FLA. STAT. ANN. § 828.12. Cruelty to animals.

- (1) 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 as provided in s. 775.082 or by a fine of not more than \$ 5,000, or both.
- (2) 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 as provided in s. 775.082 or by a fine of not more than \$ 10,000, or both.
- (a) A person convicted of a violation of this subsection, 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, shall be ordered to pay a minimum mandatory fine of \$ 2,500 and undergo psychological counseling or complete an anger management treatment program.
  - (b) A person convicted of a second or subsequent violation of this subsection shall 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 shall be

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released only upon expiration of sentence, is not eligible for parole, control release, or any form of early release, and must serve 100 percent of the court-imposed sentence. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection.

- (3) A person who commits multiple acts of animal cruelty or aggravated animal cruelty against an animal may be charged with a separate offense for each such act. A person who commits animal cruelty or aggravated animal cruelty against more than one animal may be charged with a separate offense for each animal such cruelty was committed upon.
- (4) A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this section. Such a veterinarian is, therefore, under this subsection, immune from a lawsuit for his or her part in an investigation of cruelty to animals.
- (5) A person who intentionally trips, fells, ropes, or lassos the legs of a horse by any means for the purpose of entertainment or sport commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this subsection, the term "trip" means any act that consists of the use of any wire, pole, stick, rope, or other apparatus to cause a horse to fall or lose its balance, and the term "horse" means any animal of any registered breed of the genus *Equus*, or any recognized hybrid thereof. This subsection does not apply when tripping is used:
  - (a) To control a horse that is posing an immediate threat to other livestock or human beings;
  - (b) For the purpose of identifying ownership of the horse when its ownership is unknown; or
  - (c) For the purpose of administering veterinary care to the horse.
- (6) *In addition to other penalties prescribed by law, a person who is convicted of a violation of this section may be prohibited by the court from owning, possessing, keeping, harboring, or having custody or control over any animal for a period of time determined by the court.*

**ANIMAL PROTECTION LAWS OF FLORIDA****16. COURT-ORDERED TREATMENT****FLA. STAT. ANN. § 828.12. Cruelty to animals.**

- (1) 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 as provided in s. 775.082 or by a fine of not more than \$ 5,000, or both.
- (2) 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 as provided in s. 775.082 or by a fine of not more than \$ 10,000, or both.
  - (a) *A person convicted of a violation of this subsection, 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, shall be ordered to pay a minimum mandatory fine of \$ 2,500 and undergo psychological counseling or complete an anger management treatment program.*
  - (b) A person convicted of a second or subsequent violation of this subsection shall 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 shall be released only upon expiration of sentence, is not eligible for parole, control release, or any form of early release, and must serve 100 percent of the court-imposed sentence. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection.
- (3) A person who commits multiple acts of animal cruelty or aggravated animal cruelty against an animal may be charged with a separate offense for each such act. A person who commits animal cruelty or aggravated animal cruelty against more than one animal may be charged with a separate offense for each animal such cruelty was committed upon.
- (4) A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this section. Such a veterinarian is, therefore, under this subsection, immune from a lawsuit for his or her part in an investigation of cruelty to animals.
- (5) A person who intentionally trips, fells, ropes, or lassos the legs of a horse by any means for the purpose of entertainment or sport commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this subsection, the term "trip" means any act that consists of the use of any wire, pole, stick, rope, or other apparatus to cause a horse to fall or lose its balance, and the term "horse" means any animal of any registered breed of the genus Equus, or any recognized hybrid thereof. The provisions of this subsection does not apply when tripping is used:

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- (a) To control a horse that is posing an immediate threat to other livestock or human beings;
  - (b) For the purpose of identifying ownership of the horse when its ownership is unknown; or
  - (c) For the purpose of administering veterinary care to the horse.
- (6) In addition to other penalties prescribed by law, a person who is convicted of a violation of this section may be prohibited by the court from owning, possessing, keeping, harboring, or having custody or control over any animal for a period of time determined by the court.

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## 17. HOT CARS

**Fla. Stat. Ann. § 768.139. Rescue of vulnerable person or domestic animal from a motor vehicle; immunity from civil liability.**

- (1) Definitions.--As used in this section, the term:
  - (a) *“Domestic animal” means a dog, cat, or other animal that is domesticated and may be kept as a household pet. The term does not include livestock or other farm animals.*
  - (b) *“Motor vehicle” has the same meaning as provided in s. 320.01.*
  - (c) *“Vulnerable person” has the same meaning as provided in s. 435.02.*
- (2) Immunity for damage to motor vehicle.--*A person who enters a motor vehicle, by force or otherwise, for the purpose of removing a vulnerable person or domestic animal is immune from civil liability for damage to the motor vehicle if the person:*
  - (a) *Determines the motor vehicle is locked or there is otherwise no reasonable method for the vulnerable person or domestic animal to exit the motor vehicle without assistance.*
  - (b) *Has a good faith and reasonable belief, based upon the known circumstances, that entry into the motor vehicle is necessary because the vulnerable person or domestic animal is in imminent danger of suffering harm.*
  - (c) *Ensures that law enforcement is notified or 911 called before entering the motor vehicle or immediately thereafter.*
  - (d) *Uses no more force to enter the motor vehicle and remove the vulnerable person or domestic animal than is necessary.*
  - (e) *Remains with the vulnerable person or domestic animal in a safe location, in reasonable proximity to the motor vehicle, until law enforcement or other first responder arrives.*
- (3) Applicability.--This section does not limit or expand any immunity provided under s. 768.13 for the care or treatment of the vulnerable person or domestic animal.

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## 18. CIVIL NUISANCE ABATEMENT

## Fla. Stat. Ann. § 60.05. Abatement of nuisances.

- (1) *When any nuisance as defined in s. 823.05 exists, the Attorney General, state attorney, city attorney, county attorney, or any citizen of the county may sue in the name of the state on his or her relation to enjoin the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists.*
- (2) The court may allow a temporary injunction without bond on proper proof being made. If it appears by evidence or affidavit that a temporary injunction should issue, the court, pending the determination on final hearing, may enjoin:
  - (a) The maintaining of a nuisance;
  - (b) The operating and maintaining of the place or premises where the nuisance is maintained;
  - (c) The owner or agent of the building or ground upon which the nuisance exists;
  - (d) The conduct, operation, or maintenance of any business or activity operated or maintained in the building or on the premises in connection with or incident to the maintenance of the nuisance.

The injunction shall specify the activities enjoined and shall not preclude the operation of any lawful business not conducive to the maintenance of the nuisance complained of. At least 3 days' notice in writing shall be given defendant of the time and place of application for the temporary injunction.

- (3)
  - (a) The defendant shall be given written notice to abate the nuisance within 10 days after the issuance of the notice. The notice must inform the defendant that an application for temporary injunction may be filed if the nuisance is not timely abated. If the nuisance is not timely abated, the defendant must be given a second written notice that informs the defendant that an application for a temporary injunction will be filed if the nuisance is not abated within 15 days after the end of the initial 10-day period. However, if the defendant responds to the first notice in writing within the initial 10-day period, and in such response alleges and provides proof that:
    1. Nuisance abatement involves compliance with another law of this state and the requirements of such law make nuisance abatement within 10 days impossible; or
    2. The terms of an executed contract to perform services necessary to abate the nuisance require more than 10 days to complete, the defendant must be given a second written notice providing the defendant with an extended time period to abate the nuisance sufficient to comply with such other law or contract terms.
  - (b) A second notice sent under paragraph (a) must also provide the location where the application will be filed and the time when it will be filed. If the nuisance is

## ANIMAL PROTECTION LAWS OF FLORIDA

not timely abated as provided in the second notice, the application for the temporary injunction must be filed as indicated in the notice.

- (c) In addition to the information required under paragraphs (a) and (b), each notice must:
1. If applicable, describe the building, booth, tent, or place that is an alleged nuisance.
  2. State the activities that led to the nuisance allegations.
  3. State the actions necessary to abate the nuisance.
  4. State that costs will be assessed if abatement of the nuisance is not completed and if the court determines that the nuisance exists.
- (d) The notices provided in this subsection must be sent by personal service to the owner at his or her address as it appears on the latest tax assessment roll or to the tenant of such address. If an address is not found for the owner, the notices must be sent to the location of the alleged nuisance and displayed prominently and conspicuously at that location.
- (4) Evidence of the general reputation of the alleged nuisance and place is admissible to prove the existence of the nuisance. An action filed by a citizen may not be dismissed unless the court is satisfied that it should be dismissed. Otherwise the action shall continue and the state attorney notified to proceed with it. If the action is brought by a citizen and the court finds that there was no reasonable ground for the action, the costs shall be taxed against the citizen.
- (5) On trial if the existence of a nuisance is shown, the court shall issue a permanent injunction and order the costs to be paid by the persons establishing or maintaining the nuisance and shall adjudge that the costs are a lien on all personal property found in the place of the nuisance and on the failure of the property to bring enough to pay the costs, then on the real estate occupied by the nuisance. A lien may not attach to the real estate of any other than said persons unless 5 days' written notice has been given to the owner or his or her agent who fails to begin to abate the nuisance within said 5 days. In a proceeding abating a nuisance pursuant to s. 823.10 or s. 823.05, if a tenant has been convicted of an offense under chapter 893 or s. 796.07, the court may order the tenant to vacate the property within 72 hours if the tenant and owner of the premises are parties to the nuisance abatement action and the order will lead to the abatement of the nuisance.
- (6) If the action was brought by the Attorney General, a state attorney, or any other officer or agency of state government; if the court finds either before or after trial that there was no reasonable ground for the action; and if judgment is rendered for the defendant, the costs and reasonable attorney's fees shall be taxed against the state.



## ANIMAL PROTECTION LAWS OF FLORIDA

### Fla. Stat. Ann. § 823.01. Nuisances; penalty.

*All nuisances that tend to annoy the community, injure the health of the citizens in general, or corrupt the public morals are misdemeanors of the second degree, punishable as provided in s. 775.083, except that a violation of s. 823.10 is a felony of the third degree.*

### Fla. Stat. Ann. § 823.05. Places and groups in criminal gang-related activity declared nuisance; massage establishments engaged in prohibited activity; may be abated and enjoined.

- (1) *A person who erects, establishes, continues, maintains, owns or leases any of the following is deemed to be maintaining a nuisance, and the building, erection, place, tent or booth and the furniture, fixtures and content of such structure, are declared a nuisance, and all such places or persons shall be abated or enjoined as provided in ss. 60.05 and 60.06.*
  - (a) A building, booth, tent, or place that tends to annoy the community or injure the health of the community, or becomes manifestly injurious to the morals or manners of the people as provided in s. 823.01.
  - (b) A house of prostitution, assignation, or lewdness.
  - (c) A place or building in which persons engage in games of chance in violation of the law.
  - (d) A place where any law of the state is violated.
- (2)
  - (e) As used in this subsection, the terms “criminal gang,” “criminal gang member,” “criminal gang associate,” and “criminal gang-related activity” have the same meanings as provided in s. 874.03.
  - (f) A criminal gang, criminal gang member, or criminal gang associate who engages in the commission of criminal gang-related activity is a public nuisance. Any and all such persons shall be abated or enjoined as provided in ss. 60.05 and 60.06.
  - (g) The use of a location on two or more occasions by a criminal gang, criminal gang members, or criminal gang associates for the purpose of engaging in criminal gang-related activity is a public nuisance. Such use of a location as a public nuisance shall be abated or enjoined as provided in ss. 60.05 and 60.06.
  - (h) Nothing in this subsection shall prevent a local governing body from adopting and enforcing laws consistent with this chapter relating to criminal gangs and gang violence. Where local laws duplicate or supplement this chapter, this chapter shall be construed as providing alternative remedies and not as preempting the field.
  - (i) The state, through the Department of Legal Affairs or any state attorney, or any of the state's agencies, instrumentalities, subdivisions, or municipalities having jurisdiction over conduct in violation of a provision of this chapter may institute civil proceedings under this subsection. In any action brought under this subsection, the circuit court shall proceed as soon as practicable to the hearing

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and determination. Pending final determination, the circuit court may at any time enter such injunctions, prohibitions, or restraining orders, or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper.

(3) A massage establishment as defined in s. 480.033(7) that operates in violation of s. 480.0475 or s. 480.0535(2) is declared a nuisance and may be abated or enjoined as provided in ss. 60.05 and 60.06.

(4)

(a) Any place or premises that has been used on more than two occasions within a six-month period as the site of any of the following violations is declared a nuisance and may be abated or enjoined as provided in ss 60.05 and 60.06:

3. Section 812.019, relating to dealing in stolen property.

4. Section 784.011, s. 784.021, s. 784.03, or s. 784.045, relating to assault and battery.

5. Section 810.02, relating to burglary.

6. Section 812.014, relating to theft.

7. Section 812.131, relating to robbery by sudden snatching.

(b) Notwithstanding any other law, a rental property that is declared a nuisance under this subsection may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act if the nuisance was committed by someone other than the owner of the property and the property owner commences rehabilitation of the property within 30 days after the property is declared a nuisance and completes the rehabilitation within a reasonable time thereafter.

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**ANIMAL PROTECTION LAWS OF FLORIDA**

**19. AG-GAG LAWS**

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**ANIMAL PROTECTION LAWS OF FLORIDA****20. BREED SPECIFIC LEGISLATION****FLA. STAT. ANN. § 767.14. Additional local restrictions authorized.**

*This act does not limit any local government from adopting an ordinance to address the safety and welfare concerns caused by attacks on persons or domestic animals, placing further restrictions or additional requirements on owners of dogs that have bitten or attacked persons or domestic animals, or developing procedures and criteria for the implementation of this act, provided that no such regulation is specific to breed and that the provisions of this act are not lessened by such additional regulations or requirements. This section does not apply to any local ordinance adopted prior to October 1, 1990.*