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Interpreter Services for the Hearing Impaired



## The 2016 Florida Statutes

<u>Title</u> <u>XLVI</u>	<u>Chapter 828</u>	<u>View Entire Chapter</u>
CRIMES	ANIMALS: CRUELTY; SALES; ANIMAL ENTERPRISE PROTECTION	

### **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 a petition seeking relief under this section in the county court of the county in which the animal is found within 10 days after the animal is seized or an order to provide care is issued. The court shall schedule and commence a hearing on the petition within 30 days after the petition is filed to determine whether the owner, if known, is able to adequately provide 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 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 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.

**History.**—s. 2, ch. 75-223; s. 2, ch. 76-102; s. 1, ch. 78-12; s. 1, ch. 79-234; s. 1, ch. 87-389; s. 1, ch. 89-194; s. 1285, ch. 97-102; s. 4, ch. 2010-87; s. 4, ch. 2015-18.