

HCS SS#2 SB 167 -- PROTECTION OF CERTAIN PERSONS AND ANIMALS

SPONSOR: Gregory (21)

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on General Laws by a vote of 9 to 0. Voted "Do Pass" by the Standing Committee on Rules-Legislative by a vote of 8 to 0.

The following is a summary of the House Committee Substitute for SB 167.

RESTRAINT OF A CHILD DURING JUVENILE COURT PROCEEDING (Section 211.436)

This bill prohibits the use of instruments of restraint on a child during a juvenile court proceeding and requires the instruments to be removed prior to the child's appearance before the court, unless the court finds that certain exceptions, specified in the bill, apply. If the juvenile officer believes there is an immediate safety or flight risk, the juvenile officer must advise the child's attorney and prior to the commencement of the proceeding a written request for the child to remain restrained during the proceeding. The child's attorney will have an opportunity to be heard and, if restraints are ordered, the court will make findings of fact in support of the order.

CONFISCATION OF ANIMALS (Section 578.018)

This bill changes the laws regarding the confiscation of animals. In its main provisions, the bill:

(1) Specifies that a law enforcement official must seek a warrant to enter private property to inspect, care for, or confiscate neglected or abused animals. Currently, either a law enforcement official or a duly authorized public health official can seek the warrant;

(2) Prohibits an animal from being sterilized before the completion of the disposition hearing unless it is necessary to save life or relieve suffering;

(3) Allows a third party approved by the court to care for confiscated animals;

(4) Specifies that the owner of any animal that has been confiscated cannot be responsible for the animal's care and keeping prior to a disposition hearing if at the hearing, there is no finding of abuse or neglect by the court and the court orders the animals returned to the owner;

(5) Requires a reasonable bond or security to be posted within 72 hours of the disposition hearing in an amount sufficient to provide for the care of the animal and consistent with the fair market cost of boarding the animal in an appropriate retail boarding facility if the owner, custodian, or any person claiming an interest in an animal that has been confiscated because of neglect or abuse would like to prevent disposition of the animal after the disposition hearing and while the criminal case proceeds. Currently, the owner, custodian, or any person claiming an interest in an animal that has been impounded because of neglect or abuse may prevent disposition of the animal by posting bond or security in an amount sufficient to provide for the animal's care for at least 30 days, inclusive of the date on which the animal was taken into custody;

(6) Specifies that all animals confiscated must receive proper care as determined by state law and regulations. Any facility or organization must be liable to the owner for damages for any negligent act or abuse of the animal which occurs while the animal is in its care, custody, and control;

(7) Specifies that in the event that an animal owner is not liable for the costs incurred while the charges were pending, the costs of care and the liability for the life or death of the animal and medical procedures performed are the responsibility of the confiscating agency;

(8) Allows an owner to demand the return of the animal held in custody if he or she posted a sufficient bond and is acquitted or there is a final discharge without a conviction unless there is a settlement agreement, consent judgment, or a suspended imposition of sentence. Any entity with care, custody, and control of the animal must immediately return it to the owner upon demand and proof of the acquittal or final discharge without conviction. The animal owner must not be liable for any costs incurred relating to the placement or care of the animal while the charges were pending unless there is a settlement agreement, consent judgment, or a suspended imposition of sentence;

(9) Specifies that any person or entity that intentionally euthanizes, other than as permissible under the provisions of the bill, or intentionally sterilizes an animal prior to a disposition hearing or during any period for which a reasonable bond was secured for the animal's care will be guilty of a class B misdemeanor and is liable to the owner for damages including the actual value of the animal. Each individual animal for which a violation occurs is a separate offense. Any second or subsequent violation is a class A misdemeanor, and any entity licensed under

state law must be subject to a licensure sanction by its governing body; and

(10) Requires, in the event that the animal owner is not liable for the costs incurred, the confiscating agency to be responsible for the usual and customary veterinary costs and fair market boarding fees and be liable for the life or death of the animal and for medical procedures performed while the charges were pending.

DANNY'S LAW (Section 578.365)

This bill provides that the offense of hazing will be known as "Danny's Law" and provides that a person is guilty of the offense of hazing if a person knowingly, actively, and not under duress participates in, solicits another person to participate in, or causes or plans a willful act that endangers a student or certain members of organizations under the sanction of a public or private college or university.

This bill provides that a person will not be guilty of the offense of hazing if the person establishes that he or she:

- (1) Was present at the event where hazing occurred and a person was in need of immediate medical assistance;
- (2) Was the first person to call 911 or campus security to report the need for medical attention;
- (3) Provided the relevant information to the 911 operator or campus security; and
- (4) Remained at the scene until medical assistance arrived and cooperated with such assistance.

Additionally, this bill provides that a person is immune from prosecution if the person can establish that he or she rendered aid to the hazing victim before assistance arrived.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the Senate Perfected version of the bill.

PROPONENTS: Supporters say that these measures will save lives by seeking to eliminate hazing rituals and the current social acceptance around them. This bill further seeks to protect those people who want to help the victim of a hazing incident, but who might not offer assistance for fear of being blamed.

Testifying in person for the bill were Senator Gregory; Arnie C. Dienoff; and Robert Selsor.

OPPONENTS: There was no opposition voiced to the committee.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.