

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1119
By: Goodman (Brimer)
Health & Human Services
5/21/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, the Texas Health and Safety Code sets forth a civil procedure by which county or municipal authorities can seize an animal that is being or has been cruelly treated by its owner and divest the owner of ownership rights to the animal. C.S.H.B. 1119 amends the Texas Health and Safety Code to facilitate seizure of the animal, shorten the judicial process, and allow counties and municipalities to recover court costs and other expenses related to the seizure proceedings.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 821, Health and Safety Code, by adding Section 821.0211, as follows:

Sec. 821.0211. ADDITIONAL DEFINITION. Defines "magistrate."

SECTION 2. Amends Sections 821.022-821.025, Health and Safety Code, as follows:

Sec. 821.022. (a) Authorizes the officer, if a peace officer, rather than the county sheriff, constable, or deputy constable, or an officer who has responsibility for animal control in a county or municipality has reason to believe that an animal has been or is being cruelly treated, to apply to a justice court or magistrate in the county or to a municipal court in the municipality in which the animal is located for a warrant to seize the animal.

(b) Requires the court or magistrate, on a showing of probable cause to believe that the animal has been or is being cruelly treated, to issue the warrant and set a time within 10 calendar days of the date of issuance for a hearing in the appropriate justice court or municipal court to determine whether the animal has been cruelly treated.

Sec. 821.023. New heading: HEARING; ORDER OF DISPOSITION OR RETURN OF ANIMAL. (a) Provides that a finding in a court of competent jurisdiction that the owner of an animal is guilty of an offense under Section 42.09, Penal Code, involving the animal is prima facie evidence at a hearing authorized by Section 821.022 that the animal has been cruelly treated.

(d) Requires the owner, if the court finds that the animal's owner has cruelly treated the animal, to be divested of ownership of the animal, and requires the court to perform certain tasks.

(e) Requires a court that finds that an animal's owner has cruelly treated the animal to order the owner to pay all court costs, including certain costs. Deletes current text

relating to an exception.

Sec. 821.024. (b) Requires proceeds from the sale of the animal to be applied first to any costs owed by the former owner under Section 821.023(e).

(c) Authorizes the officer, if the officer is unable to sell the animal at auction, to cause the animal to be humanely destroyed or to give the animal to a nonprofit animal shelter, pound, or society for the protection of animals.

Sec. 821.025. APPEAL. (a) Authorizes an owner of an animal ordered sold at public auction as provided in this subchapter to appeal the order to a county court or county court at law in the county in which the justice or municipal court is located. Requires the owner, as a condition of perfecting an appeal, to file an appeal bond in an amount determined by the justice or municipal court to be adequate to cover the estimated expenses incurred in housing and caring for the impounded animal during the appeal process. Prohibits the decision of the county court or county court at law from being further appealed. Prohibits an owner from appealing certain orders.

(b) Prohibits the animal, while an appeal under this section is pending, from being sold or given away as provided by Sections 821.023 and 821.024 or destroyed, except under circumstances which would require the humane destruction of the animal to prevent undue pain to or suffering of the animal.

SECTION 3. Amends Section 42.09(d), Penal Code, to provide that an offense under this section, rather than under Subsection (a)(2), (3), (4), (9), or (10), is a Class A misdemeanor.

SECTION 4. Repealer: Section 42.09(g) (making it a defense to prosecution for an offense under this section that the person had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal), Penal Code, as added by Chapter 450, Acts of the 77th Legislature, Regular Session, 2001.

SECTION 5. Effective date: September 1, 2003.