

By: Goodman

H.B. No. 1119

A BILL TO BE ENTITLED

AN ACT

relating to the disposition of cruelly treated animals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 821, Health and Safety Code, is amended by adding Section 821.0211 to read as follows:

Sec. 821.0211. ADDITIONAL DEFINITION. In this subchapter, "magistrate" means any officer as defined in Article 2.09, Code of Criminal Procedure, except that the term does not include justices of the supreme court, judges of the court of criminal appeals, or courts of appeals, judges or masters of statutory probate courts, or judges or masters of district courts that give preference to family law matters or family district courts under Subchapter D, Chapter 24, Government Code.

SECTION 2. Sections 821.022-821.025, Health and Safety Code, are amended to read as follows:

Sec. 821.022. SEIZURE OF CRUELLY TREATED ANIMAL. (a) If a peace officer [~~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, the officer [~~he~~] may 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) On a showing of probable cause to believe that the

1 animal has been or is being cruelly treated, the court or magistrate  
2 shall issue the warrant and set a time within 10 calendar days of  
3 the date of issuance for a hearing in the appropriate justice court  
4 or municipal court to determine whether the animal has been cruelly  
5 treated.

6 (c) The officer executing the warrant shall cause the animal  
7 to be impounded and shall give written notice to the owner of the  
8 animal of the time and place of the hearing.

9 Sec. 821.023. HEARING; ORDER OF DISPOSITION [~~SALE~~] OR  
10 RETURN OF ANIMAL. (a) A finding in a [county] court of competent  
11 jurisdiction that the owner of an animal is guilty of an offense  
12 under Section 42.09, Penal Code, involving the animal is prima  
13 facie evidence at a hearing authorized by Section 821.022 that the  
14 animal has been cruelly treated.

15 (b) A statement of an owner made at a hearing provided for  
16 under this subchapter is not admissible in a trial of the owner for  
17 an offense under Section 42.09, Penal Code.

18 (c) Each interested party is entitled to an opportunity to  
19 present evidence at the hearing.

20 (d) If [~~Except as provided by Subsection (e), if~~] the court  
21 finds that the animal's owner has cruelly treated the animal, the  
22 owner shall be divested of ownership of the animal, and the court  
23 shall:

- 24 (1) order a public sale of the animal by auction;
- 25 (2) order the animal given to a nonprofit animal  
26 shelter, pound, or society for the protection of animals; or
- 27 (3) order the animal humanely destroyed if the court

1 decides that the best interests of the animal or that the public  
2 health and safety would be served by doing so.

3 (e) A [~~If the~~] court that finds that an [~~the~~] animal's owner  
4 has cruelly treated the animal shall order the owner to pay all  
5 court costs, including costs of:

6 (1) investigation;

7 (2) expert witnesses;

8 (3) housing and caring for the animal during its  
9 impoundment;

10 (4) conducting any public sale ordered by the court;

11 and

12 (5) humanely destroying the animal if destruction is

13 ordered by the court [~~and that the animal is farm livestock, the~~

14 ~~owner shall be divested of ownership and the court shall order a~~

15 ~~public sale of the animal by auction, order the animal given to a~~

16 ~~nonprofit animal shelter, pound, or society for the protection of~~

17 ~~animals, or order the animal humanely destroyed if the court~~

18 ~~decides that the best interests of the animal or that the public~~

19 ~~health and safety would be served by doing so. In this subsection,~~

20 ~~"farm livestock" means cattle, hogs, sheep, goats, mules, horses,~~

21 ~~jacks, jennets, or poultry raised or used on a farm or ranch for~~

22 ~~food or for the production of legal income].~~

23 (f) The court may order that an animal disposed of under

24 Subsection (d)(1) or (d)(2) be spayed or neutered at the cost of the

25 receiving party.

26 (g) The court shall order the animal returned to the owner

27 if the court does not find that the animal's owner has cruelly

1 treated the animal.

2           Sec. 821.024. SALE OR DISPOSITION OF CRUELLY TREATED  
3 ANIMAL. (a) Notice of an auction ordered under this subchapter must  
4 be posted on a public bulletin board where other public notices are  
5 posted for the county or municipality. At the auction, a bid by the  
6 former owner of a cruelly treated animal or the owner's  
7 representative may not be accepted.

8           (b) Proceeds from the sale of the animal shall be applied  
9 first to any costs owed by the former owner under Section 821.023(e)  
10 ~~[the expenses incurred in caring for the animal during impoundment~~  
11 ~~and in conducting the auction]~~. The officer conducting the auction  
12 shall pay any excess proceeds to the justice or municipal court  
13 ordering the auction. The court shall return the excess proceeds to  
14 the former owner of the animal.

15           (c) If the officer is unable to sell the animal at auction,  
16 the officer ~~[he]~~ may cause the animal to be humanely destroyed or  
17 may give the animal to a nonprofit animal shelter, pound, or society  
18 for the protection of animals.

19           Sec. 821.025. APPEAL. (a) An owner of an animal ordered sold  
20 at public auction as provided in this subchapter may appeal the  
21 order to a county court or county court at law in the county in which  
22 the justice or municipal court is located. As a condition of  
23 perfecting an appeal, the owner must file an appeal bond in an  
24 amount determined by the justice or municipal court to be adequate  
25 to cover the estimated expenses incurred in housing and caring for  
26 the impounded animal during the appeal process. The decision of the  
27 county court or county court at law may not be further appealed. An

1 owner may not appeal an order:

2 (1) to give the animal to a nonprofit animal shelter,  
3 pound, or society for the protection of animals; or

4 (2) to humanely destroy the animal.

5 (b) While an appeal under this section is pending, the  
6 animal may not be:

7 (1) sold[~~, destroyed,~~] or given away as provided by  
8 Sections 821.023 and 821.024; or

9 (2) destroyed, except under circumstances which would  
10 require the humane destruction of the animal to prevent undue pain  
11 to or suffering of the animal [~~821.022-821.024~~].

12 SECTION 3. This Act takes effect September 1, 2003.