

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. Sections 821.021-821.025, Health and Safety Code, are amended to read as follows:

Sec. 821.021. DEFINITIONS [~~DEFINITION~~]. In this subchapter: []

(1) "Cruelly [~~cruelly~~] treated" includes:

(A) tortured; []

(B) intentionally injured;

(C) seriously overworked; []

(D) [~~unreasonably~~] abandoned; []

(E) [~~unreasonably~~] deprived of necessary food, water, care, or shelter; []

(F) cruelly confined; [] or

(G) caused to fight with another animal.

(2) "Cruelly confined" includes confinement that:

(A) does not allow the animal to:

(i) stand;

(ii) sit;

(iii) lie down;

(iv) turn around;

(v) fully extend its limbs; or

(vi) make normal posture adjustments;

1 (B) requires the animal to stand, sit, or lie in
2 its or another animal's excrement or other waste;

3 (C) causes or permits unjustified or unwarranted
4 pain or suffering to the animal; or

5 (D) places the animal's health or well-being at
6 risk.

7 (3) "Necessary care" includes proper veterinary
8 medical treatment for a sick or injured animal.

9 (4) "Necessary food and water" means wholesome food
10 and clean, potable water that are sufficient in amount and
11 appropriate for the particular animal to prevent malnutrition,
12 dehydration, or risk to the animal's health or well-being.

13 Sec. 821.022. SEIZURE OF CRUELLY TREATED ANIMAL. (a) If a
14 peace officer [~~county sheriff, constable, or deputy constable~~] or
15 an officer who has responsibility for animal control in a county or
16 municipality has reason to believe that an animal has been or is
17 being cruelly treated, the officer [~~he~~] may apply to a justice court
18 or magistrate in the county or to a municipal court in the
19 municipality in which the animal is located for a warrant to seize
20 the animal.

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

27 (c) The officer executing the warrant shall cause the animal

1 to be impounded and shall give written notice to the owner of the
2 animal of the time and place of the hearing.

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

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

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

14 (d) If [~~Except as provided by Subsection (c), if~~] the court
15 finds that the animal's owner has cruelly treated the animal or
16 negligently allowed the animal to be cruelly treated, the owner
17 shall be divested of ownership of the animal and[7] the court shall:

- 18 (1) order a public sale of the animal by auction;
19 (2) order the animal given to a nonprofit animal
20 shelter, pound, or society for the protection of animals; or
21 (3) order the animal humanely destroyed if the court
22 decides that the best interests of the animal or that the public
23 health and safety would be served by doing so.

24 (e) A [~~If the~~] court that finds that an [~~the~~] animal's owner
25 has cruelly treated the animal or negligently allowed the animal to
26 be cruelly treated shall order the owner to pay all court costs,
27 including costs of:

1 (1) investigation;

2 (2) expert witnesses;

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

5 (4) conducting any public sale ordered by the court;
6 and

7 (5) humanely destroying the animal if destruction is
8 ordered by the court [~~and that the animal is farm livestock, the~~
9 ~~owner shall be divested of ownership and the court shall order a~~
10 ~~public sale of the animal by auction, order the animal given to a~~
11 ~~nonprofit animal shelter, pound, or society for the protection of~~
12 ~~animals, or order the animal humanely destroyed if the court~~
13 ~~decides that the best interests of the animal or that the public~~
14 ~~health and safety would be served by doing so. In this subsection,~~
15 ~~"farm livestock" means cattle, hogs, sheep, goats, mules, horses,~~
16 ~~jacks, jennets, or poultry raised or used on a farm or ranch for~~
17 ~~food or for the production of legal income].~~

18 (f) The court may order that an animal disposed of under
19 Subsection (d)(1) or (d)(2) be spayed or neutered at the cost of the
20 receiving party.

21 (g) The court shall order the animal returned to the owner
22 if the court does not find that the animal's owner has cruelly
23 treated the animal or negligently allowed the animal to be cruelly
24 treated.

25 Sec. 821.024. SALE OR DISPOSITION OF CRUELLY TREATED
26 ANIMAL. (a) Notice of an auction ordered under this subchapter must
27 be posted on a public bulletin board where other public notices are

1 posted for the county or municipality. At the auction, a bid by the
2 former owner of a cruelly treated animal or the owner's
3 representative may not be accepted.

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

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

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

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

27 (2) to humanely destroy the animal.

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

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

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

8 SECTION 2. This Act takes effect September 1, 2003.