

1-1 By: Goodman (Senate Sponsor - Brimer) H.B. No. 1119
1-2 (In the Senate - Received from the House April 2, 2003;
1-3 April 7, 2003, read first time and referred to Committee on Health
1-4 and Human Services; May 21, 2003, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 7,
1-6 Nays 0; May 21, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1119 By: Janek

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the disposition of cruelly treated animals and to
1-11 punishment for the offense of cruelty to animals.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter B, Chapter 821, Health and Safety
1-14 Code, is amended by adding Section 821.0211 to read as follows:

1-15 Sec. 821.0211. ADDITIONAL DEFINITION. In this subchapter,
1-16 "magistrate" means any officer as defined in Article 2.09, Code of
1-17 Criminal Procedure, except that the term does not include justices
1-18 of the supreme court, judges of the court of criminal appeals, or
1-19 courts of appeals, judges or masters of statutory probate courts,
1-20 or judges or masters of district courts that give preference to
1-21 family law matters or family district courts under Subchapter D,
1-22 Chapter 24, Government Code.

1-23 SECTION 2. Sections 821.022-821.025, Health and Safety
1-24 Code, are amended to read as follows:

1-25 Sec. 821.022. SEIZURE OF CRUELLY TREATED ANIMAL. (a) If a
1-26 peace officer [~~county sheriff, constable, or deputy constable~~] or
1-27 an officer who has responsibility for animal control in a county or
1-28 municipality has reason to believe that an animal has been or is
1-29 being cruelly treated, the officer [~~he~~] may apply to a justice court
1-30 or magistrate in the county or to a municipal court in the
1-31 municipality in which the animal is located for a warrant to seize
1-32 the animal.

1-33 (b) On a showing of probable cause to believe that the
1-34 animal has been or is being cruelly treated, the court or magistrate
1-35 shall issue the warrant and set a time within 10 calendar days of
1-36 the date of issuance for a hearing in the appropriate justice court
1-37 or municipal court to determine whether the animal has been cruelly
1-38 treated.

1-39 (c) The officer executing the warrant shall cause the animal
1-40 to be impounded and shall give written notice to the owner of the
1-41 animal of the time and place of the hearing.

1-42 Sec. 821.023. HEARING; ORDER OF DISPOSITION [~~SALE~~] OR
1-43 RETURN OF ANIMAL. (a) A finding in a [~~county~~] court of competent
1-44 jurisdiction that the owner of an animal is guilty of an offense
1-45 under Section 42.09, Penal Code, involving the animal is prima
1-46 facie evidence at a hearing authorized by Section 821.022 that the
1-47 animal has been cruelly treated.

1-48 (b) A statement of an owner made at a hearing provided for
1-49 under this subchapter is not admissible in a trial of the owner for
1-50 an offense under Section 42.09, Penal Code.

1-51 (c) Each interested party is entitled to an opportunity to
1-52 present evidence at the hearing.

1-53 (d) If [~~Except as provided by Subsection (c), if~~] the court
1-54 finds that the animal's owner has cruelly treated the animal, the
1-55 owner shall be divested of ownership of the animal, and the court
1-56 shall:

1-57 (1) order a public sale of the animal by auction;

1-58 (2) order the animal given to a nonprofit animal
1-59 shelter, pound, or society for the protection of animals; or

1-60 (3) order the animal humanely destroyed if the court
1-61 decides that the best interests of the animal or that the public
1-62 health and safety would be served by doing so.

1-63 (e) A [~~If the~~] court that finds that an [~~the~~] animal's owner

has cruelly treated the animal shall order the owner to pay all court costs, including costs of:

- (1) investigation;
- (2) expert witnesses;
- (3) housing and caring for the animal during its impoundment;

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

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

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

(g) The court shall order the animal returned to the owner if the court does not find that the animal's owner has cruelly treated the animal.

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

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

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

Sec. 821.025. APPEAL. (a) An owner of an animal ordered sold at public auction as provided in this subchapter may appeal the order to a county court or county court at law in the county in which the justice or municipal court is located. As a condition of perfecting an appeal, the owner must 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. The decision of the county court or county court at law may not be further appealed. An owner may not appeal an order:

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

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

- (1) sold [~~, destroyed,~~] or given away as provided by Sections 821.023 and 821.024; or
- (2) destroyed, except under circumstances which would require the humane destruction of the animal to prevent undue pain to or suffering of the animal [~~821.022-821.024].~~

SECTION 3. Section 42.09(d), Penal Code, is amended to read as follows:

(d) An offense under this section [~~Subsection (a)(2), (3), (4), (9), or (10)]~~ is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section.

SECTION 4. Section 42.09(g), Penal Code, as added by

3-1 Chapter 450, Acts of the 77th Legislature, Regular Session, 2001,
3-2 is repealed.
3-3 SECTION 5. This Act takes effect September 1, 2003.

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