

By: Brimer

S.B. No. 1528

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 821.022-821.025, 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 animal has been or is being cruelly treated, the court or magistrate shall 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.

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

Sec. 821.023. HEARING; ORDER OF DISPOSITION [~~SALE~~] OR RETURN OF ANIMAL. (a) A finding in a [~~county~~] court of competent

1 jurisdiction that the owner of an animal is guilty of an offense
2 under Section 42.09, Penal Code, involving the animal is prima
3 facie evidence at a hearing authorized by Section 821.022 that the
4 animal has been cruelly treated.

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

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

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

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

15 (2) order the animal given to a nonprofit animal
16 shelter, pound, or society for the protection of animals; or

17 (3) 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.

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

23 (1) investigation;

24 (2) expert witnesses;

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

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

1 and

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

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

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

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

25 (b) Proceeds from the sale of the animal shall be applied
26 first to any costs owed by the former owner under Section 821.023(e)
27 [~~the expenses incurred in caring for the animal during impoundment~~

1 ~~and in conducting the auction~~]. The officer conducting the auction
2 shall pay any excess proceeds to the justice or municipal court
3 ordering the auction. The court shall return the excess proceeds to
4 the former owner of the animal.

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

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

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

21 (2) to humanely destroy the animal.

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

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

26 (2) destroyed, except under circumstances that would
27 require the humane destruction of the animal to prevent undue pain

1 to or suffering of the animal [~~821.022-821.024~~].

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