

BILL ANALYSIS

Senate Research Center
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H.B. 963
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, a case involving the seizure of cruelly treated animals can be appealed. An owner who has been divested of ownership of an animals for cruel treatment is able to appeal from a justice court, a municipal court, or a municipal court of record to a county court or county court at law. Questions have arisen in legal practice regarding the required steps in the appeal process and the amount and type of appeal bond needed to assure that the costs of caring for the animal incurred by the government agency or designated nonprofit animal welfare organization are adequately covered. The purpose of H.B. 963 is to standardize the requirements and procedures for appeals; expedite the appeal so that the animals are not held in limbo for an extended period of time; and provide adequate recovery of impound and care costs incurred during the litigation process.

H.B. 963 amends current law relating to the costs associated with proceedings regarding cruelly treated animals.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 821.021, Health and Safety Code, as follows:

Sec. 821.021. New heading: DEFINITIONS. Defines, in this subchapter, "nonprofit animal welfare organization" and "owner" and makes a nonsubstantive change.

SECTION 2. Amends Section 821.023, Health and Safety Code, by amending Subsections (d) and (e) and adding Subsections (e-1), (e-2), and (e-3), as follows:

(d) Requires the court, if the court finds that the animal's owner has cruelly treated the animal, to divest the owner of ownership of the animal, and to order a public sale of the animal by auction, order the animal given to a municipal or county animal shelter or a nonprofit animal welfare organization, rather than a shelter, pound, or society for the protection of animals, or order the animal humanely destroyed if the court decides that the best interest of the animal or that the public health and safety would be served by doing so.

(e) Requires the court, after a court finds that an animal's owner has cruelly treated the animal, to order the owner to pay all court costs. Sets forth a list of certain court costs to be paid by the owner. Makes nonsubstantive changes.

(e-1) Requires the court, after a court finds that an animal's owner has cruelly treated the animal, to determine the estimated costs likely to be incurred by a municipal or county animal shelter or a nonprofit animal welfare organization to house and care for the impounded animal during the appeal process.

(e-2) Requires the court at the time of entering judgment, after making the determination under Subsection (e-1), to set the amount of bond for an appeal equal to the sum of the amount of the court costs ordered under Subsection (e), and the amount of the estimated costs determined under Subsection (e-1).

(e-3) Provides that, notwithstanding any other law, the amount of court costs that a court may order under Subsection (e) and the amount of bond that a court determines under Subsection (e-2) are excluded in determining the court's jurisdiction under Subtitle A (Courts), Title 2, Government Code.

SECTION 3. Amends Section 821.024(c), Health and Safety Code, to authorize an 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 municipal or county animal shelter or a nonprofit animal welfare organization. Makes a conforming change.

SECTION 4. Amends Section 821.025, Health and Safety Code, as follows:

Sec. 821.025. APPEAL. (a) Authorizes an owner divested of ownership of an animal under Section 821.023 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.

(b) Creates this subsection from existing text. Requires the owner, as a condition of perfecting an appeal, not later than the 10th calendar day after the date the order is issued, to file a notice of appeal and a cash bond or surety bond in an amount set by the court under Section 821.023(e-2), rather than an appeal bond in an amount determined by the court from which the appeal is taken to be adequate to cover the estimated expenses incurred in housing and caring for the impounded animal during the appeal process.

(c) Creates this subsection from existing text. Requires the court from which the appeal is taken, not later than the fifth calendar day after the date the notice of appeal and bond is filed, to deliver a copy of the clerk's record, rather than the court's transcript, to the clerk of the county court or county court at law to which the appeal is made. Makes a conforming change.

(d) Creates this subsection from existing text. Requires the court, not later than the 10th calendar day after the date the county court or county court at law, as appropriate, receives a copy of the clerk's record, to consider the matter de novo and dispose of the appeal. Entitles a party to the appeal to a jury trial on request. Makes a conforming change.

(e) Creates this subsection from existing text. Provides that the decision of the county court or county court at law under this section is final and may not be further appealed.

(f) Provides that, notwithstanding Section 30.00014, Government Code, or any other law, a person filing an appeal from a municipal court under Subsection (a) is not required to file a motion for a new trial to perfect an appeal.

(g) Provides that, notwithstanding any other law, a county court or a county court at law has jurisdiction to hear an appeal filed under this section.

(h) Redesignates existing Subsection (b) as Subsection (h). Makes no further changes to this subsection.

SECTION 5. Amends Subchapter B, Chapter 821, Health and Safety Code, by adding Section 821.026, as follows:

Sec. 821.026. CONFLICT OF LAWS. Provides that in the event of a conflict between this subchapter and another provision of any other law relating to an appeal of a

disposition regarding a cruelly treated animal, including the bond required for that appeal, this subchapter controls.

SECTION 6. Makes application of this Act to a proceeding commenced under Section 821.023, Health and Safety Code, prospective.

SECTION 7. Effective date: September 1, 2011.