

BILL ANALYSIS

C.S.H.B. 963
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, a case involving the seizure of cruelly treated animals can be appealed. An owner who has been divested of ownership of the animals for cruelly 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 animals incurred by the government agency or designated nonprofit animal welfare organization are adequately covered. The purpose of C.S.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.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 963 amends the Health and Safety Code, in provisions authorizing an animal found by a court to have been cruelly treated by the animal's owner or such an animal that is unable to be sold at a court-ordered auction to be given to certain entities, specifies the entities as a municipal or county animal shelter or a nonprofit animal welfare organization, rather than a nonprofit shelter, pound, or society for the protection of animals. The bill clarifies that the court costs of investigation and expert witnesses and the court costs of conducting any public sale ordered by the court required to be paid by an owner found to have cruelly treated an animal are administrative costs and requires such an owner to pay the costs incurred by a municipal or county animal shelter or a nonprofit animal welfare organization in housing and caring for the animal during its impoundment, among other costs.

C.S.H.B. 963 requires a court, after the 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. The bill requires the court, at the time of entering the judgment and after determining the estimated costs, to set the amount of bond for an appeal to a sum of the court costs and the estimated costs to house and care for the impounded animal during the appeal process. The bill prohibits a court from requiring a person to provide a bond in an amount greater than or in addition to that sum to perfect an appeal.

C.S.H.B. 963 establishes that the amount of costs a court is authorized to order an owner found to have cruelly treated an animal to pay and the amount of bond for an appeal set by the court under the bill's provisions are excluded in determining the court's jurisdiction. The bill, in provisions relating to an appeal of an order divesting a person of ownership of a cruelly treated animal, specifies that the owner is required to file a cash bond or surety bond, rather than an

appeal bond, and makes conforming changes.

C.S.H.B. 963 requires a court from which an appeal relating to the disposition of a cruelly treated animal is taken to deliver a copy of the clerk's record to the clerk of the county court or county court at law to which the appeal is made, rather than deliver a copy of the court's transcript to the county court or county court at law to which the appeal is made. The bill requires a county court or a county court at law to which such an appeal is made to consider the matter de novo, in addition to disposing of the appeal, not later than the 10th calendar day after the date the court receives a copy of the clerk's record. The bill entitles a party to the appeal to a jury trial on request.

C.S.H.B. 963 specifies that a person filing an appeal from a municipal court of an order divesting the person of ownership of a cruelly treated animal is not required to file a motion for a new trial to perfect the appeal. The bill specifies that a county court or a county court at law has jurisdiction to hear an appeal relating to the disposition of a cruelly treated animal and provides that, if Health and Safety Code provisions relating to the disposition of cruelly treated animals conflict with another provision of any other law relating to an appeal of a disposition regarding a cruelly treated animal, including the bond required for the appeal, these Health and Safety Code provisions control. The bill defines "nonprofit animal welfare organization" and "owner" and makes conforming and nonsubstantive changes.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 963, in the definition of "nonprofit animal welfare organization," differs from the original by omitting the specification that the nonprofit organization is a charitable organization exempt under the Internal Revenue Code of 1986. The substitute contains a provision not included in the original defining "owner."

C.S.H.B. 963 differs from the original by requiring a court that 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, whereas the original specifies that the required cost determination is based on evidence provided by the municipal or county animal shelter or a nonprofit animal welfare organization that would be caring for the animal during the pendency of the appeal.

C.S.H.B. 963 differs from the original by requiring the court to set the amount of the bond for an appeal at the sum of court costs and estimated costs during the appeal process of housing and impounding the animal, rather than 150 percent of housing and impound costs as in the original. The substitute differs from the original by specifying that the court is required to set the amount of the bond for an appeal at the time of entering the judgment, whereas the original contains no such specification. The substitute contains a provision not included in the original prohibiting a court from requiring a person to provide a bond in an amount greater than or in addition the bond amount for an appeal as determined by the court at the time of judgment in order in order to perfect an appeal.

C.S.H.B. 963 differs from the original by requiring the court from which an appeal relating to the disposition of a cruelly treated animal is taken to deliver a copy of the clerk's record to the clerk of the county court or county court at law to which the appeal is made, whereas the original authorizes the court, if the court is not a court of record, to deliver a copy of the clerk's record to the county court or county court at law to which the appeal is made or, if the court is a court of record, to deliver audio recordings of the proceedings. The substitute omits a provision included

in the original requiring the appellant to pay the cost to produce the transcript, audio recording, or clerk's record. The substitute contains provisions not included in the original requiring the county court or county court at law to which the appeal is made to consider the matter de novo and entitling a party to the appeal to a jury trial on request.

C.S.H.B. 963 contains provisions not included in the original specifying that a person filing an appeal from a municipal court of an order divesting the person of ownership of a cruelly treated animal is not required to file a motion for a new trial to perfect the appeal and specifying that a county court or a county court at law has jurisdiction to hear an appeal relating to the disposition of such an animal. The substitute differs from the original in nonsubstantive ways.