

By: Hartnett

H.B. No. 963

A BILL TO BE ENTITLED

AN ACT

relating to the costs associated with proceedings regarding cruelly treated animals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 821.021, Health and Safety Code, is amended to read as follows:

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

(1) "Cruelly [~~,"cruelly]~~ treated" includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.

(2) "Nonprofit animal welfare organization" means a nonprofit organization that has as its purpose:

(A) the prevention of cruelty to animals; or

(B) the sheltering of, caring for, and providing homes for lost, stray, and abandoned animals.

(3) "Owner" includes a person who owns or has custody or control of an animal.

SECTION 2. Section 821.023, Health and Safety Code, is amended by amending Subsections (d) and (e) and adding Subsections (e-1), (e-2), (e-3), and (e-4) to read as follows:

(d) If the court finds that the animal's owner has cruelly treated the animal, the owner shall be divested of ownership of the

1 animal, and the court shall:

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

3 (2) order the animal given to a municipal or county
4 animal shelter or a nonprofit animal welfare organization [~~shelter,~~
5 ~~pound, or society for the protection of animals~~]; or

6 (3) order the animal humanely destroyed if the court
7 decides that the best interests of the animal or that the public
8 health and safety would be served by doing so.

9 (e) After a [A] court [~~that~~] finds that an animal's owner
10 has cruelly treated the animal, the court shall order the owner to
11 pay all court costs, including:

12 (1) the administrative costs of:

13 (A) [~~(1)~~] investigation;

14 (B) [~~(2)~~] expert witnesses; and

15 (C) [~~(3)~~ ~~housing and caring for the animal~~
16 ~~during its impoundment,~~

17 [~~(4)~~] conducting any public sale ordered by the
18 court; and

19 (2) the costs incurred by a municipal or county animal
20 shelter or a nonprofit animal welfare organization in:

21 (A) housing and caring for the animal during its
22 impoundment; and

23 (B) [~~(5)~~] humanely destroying the animal if
24 destruction is ordered by the court.

25 (e-1) After a court finds that an animal's owner has cruelly
26 treated the animal, the court shall determine the estimated costs
27 likely to be incurred by a municipal or county animal shelter or a

1 nonprofit animal welfare organization to house and care for the
2 impounded animal during the appeal process.

3 (e-2) After making the determination under Subsection
4 (e-1), the court at the time of entering the judgment shall set the
5 amount of bond for an appeal equal to the sum of:

6 (1) the amount of the court costs ordered under
7 Subsection (e); and

8 (2) the amount of the estimated costs determined under
9 Subsection (e-1).

10 (e-3) A court may not require a person to provide a bond in
11 an amount greater than or in addition to the amount determined by
12 the court under Subsection (e-2) to perfect an appeal under Section
13 821.025.

14 (e-4) Notwithstanding any other law, the amount of court
15 costs that a court may order under Subsection (e) and the amount of
16 bond that a court determines under Subsection (e-2) are excluded in
17 determining the court's jurisdiction under Subtitle A, Title 2,
18 Government Code.

19 SECTION 3. Section 821.024(c), Health and Safety Code, is
20 amended to read as follows:

21 (c) If the officer is unable to sell the animal at auction,
22 the officer may cause the animal to be humanely destroyed or may
23 give the animal to a municipal or county animal shelter or a
24 nonprofit animal welfare organization [~~shelter, pound, or society~~
25 ~~for the protection of animals~~].

26 SECTION 4. Section 821.025, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 821.025. APPEAL. (a) An owner divested of ownership
2 of an animal under Section 821.023 may appeal the order to a county
3 court or county court at law in the county in which the justice or
4 municipal court is located.

5 **(b)** As a condition of perfecting an appeal, not later than
6 the 10th calendar day after the date the order is issued, the owner
7 must file a notice of appeal and a cash bond or surety [~~an appeal~~]
8 bond in an amount set [~~determined~~] by the court under Section
9 821.023(e-2) [~~from which the appeal is taken to be adequate to cover~~
10 ~~the estimated expenses incurred in housing and caring for the~~
11 ~~impounded animal during the appeal process~~].

12 **(c)** Not later than the fifth calendar day after the date the
13 notice of appeal and [~~appeal~~] bond is filed, the court from which
14 the appeal is taken shall deliver a copy of the clerk's record
15 [~~court's transcript~~] to the clerk of the county court or county
16 court at law to which the appeal is made.

17 **(d)** Not later than the 10th calendar day after the date the
18 county court or county court at law, as appropriate, receives a copy
19 of the clerk's record [~~transcript~~], the court shall consider the
20 matter de novo and dispose of the appeal. A party to the appeal is
21 entitled to a jury trial on request.

22 **(e)** The decision of the county court or county court at law
23 under this section is final and may not be further appealed.

24 **(f)** Notwithstanding Section 30.00014, Government Code, or
25 any other law, a person filing an appeal from a municipal court
26 under Subsection (a) is not required to file a motion for a new
27 trial to perfect an appeal.

1 (g) Notwithstanding any other law, a county court or a
2 county court at law has jurisdiction to hear an appeal filed under
3 this section.

4 (h) [~~(b)~~] While an appeal under this section is pending, the
5 animal may not be:

6 (1) sold or given away as provided by Sections 821.023
7 and 821.024; or

8 (2) destroyed, except under circumstances which would
9 require the humane destruction of the animal to prevent undue pain
10 to or suffering of the animal.

11 SECTION 5. Subchapter B, Chapter 821, Health and Safety
12 Code, is amended by adding Section 821.026 to read as follows:

13 Sec. 821.026. CONFLICT OF LAWS. In the event of a conflict
14 between this subchapter and another provision of any other law
15 relating to an appeal of a disposition regarding a cruelly treated
16 animal, including the bond required for that appeal, this
17 subchapter controls.

18 SECTION 6. The change in law made by this Act applies only
19 to a proceeding commenced under Section 821.023, Health and Safety
20 Code, on or after the effective date of this Act. A proceeding
21 commenced before the effective date of this Act is covered by the
22 law in effect at the time the proceeding is commenced, and the
23 former law is continued in effect for that purpose.

24 SECTION 7. This Act takes effect September 1, 2011.