

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" means [~~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:

(A) is exempt from federal taxation under Section 501(c)(3), Internal Revenue Code of 1986, as a charitable organization; and

(B) has as its purpose:

(i) the prevention of cruelty to animals;

or

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

SECTION 2. Section 821.023, Health and Safety Code, is amended by amending Subsections (d) and (e) and adding Subsections

1 (e-1), (e-2), and (e-3) to read as follows:

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

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

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

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

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

15 (1) the administrative costs of:

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

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

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

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

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

24 (A) housing and caring for the animal during its
25 impoundment; and

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

1 (e-1) After a court finds that an animal's owner has cruelly
2 treated the animal, the court shall determine the estimated costs
3 to house and care for the impounded animal during the appeal
4 process, based on evidence provided by the municipal or county
5 animal shelter or nonprofit animal welfare organization that would
6 be caring for the animal during the pendency of the appeal.

7 (e-2) After making the determination under Subsection
8 (e-1), the court shall set the amount of bond for an appeal equal to
9 the sum of:

10 (1) the amount of the court costs ordered under
11 Subsection (e); and

12 (2) 150 percent of the estimated costs determined
13 under Subsection (e-1).

14 (e-3) 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(a), Health and Safety Code, is
27 amended to read as follows:

1 (a) An owner divested of ownership of an animal under
2 Section 821.023 may appeal the order to a county court or county
3 court at law in the county in which the justice or municipal court
4 is located. As a condition of perfecting an appeal, not later than
5 the 10th calendar day after the date the order is issued, the owner
6 must file a notice of appeal and a cash bond or surety [~~an appeal~~
7 bond in an amount set [~~determined~~] by the court under Section
8 821.023(e-2) [~~from which the appeal is taken to be adequate to cover~~
9 ~~the estimated expenses incurred in housing and caring for the~~
10 ~~impounded animal during the appeal process~~]. Not later than the
11 fifth calendar day after the date the notice of appeal and [~~appeal~~
12 bond is filed, the court from which the appeal is taken shall
13 deliver a copy of the court's transcript or, if the court is not a
14 court of record, a copy of the clerk's record to the county court or
15 county court at law to which the appeal is made. If the appeal is
16 made from a court of record, the court may deliver audio recordings
17 of the proceedings instead of a transcript. The cost to produce the
18 transcript, audio recording, or clerk's record shall be paid by the
19 appellant. Not later than the 10th calendar day after the date the
20 county court or county court at law, as appropriate, receives the
21 transcript, audio recording, or clerk's record, the court shall
22 dispose of the appeal. The decision of the county court or county
23 court at law under this section is final and may not be further
24 appealed.

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

27 Sec. 821.026. CONFLICT OF LAWS. In the event of a conflict

1 between this subchapter and another provision of any other law
2 relating to an appeal of a disposition regarding a cruelly treated
3 animal, including the bond required for that appeal, this
4 subchapter controls.

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

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