

1-1 By: Hartnett (Senate Sponsor - Rodriguez) H.B. No. 963
1-2 (In the Senate - Received from the House May 16, 2011;
1-3 May 16, 2011, read first time and referred to Committee on Criminal
1-4 Justice; May 21, 2011, reported favorably by the following vote:
1-5 Yeas 5, Nays 1; May 21, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the costs associated with proceedings regarding cruelly
1-9 treated animals.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 821.021, Health and Safety Code, is
1-12 amended to read as follows:

1-13 Sec. 821.021. DEFINITIONS [~~DEFINITION~~]. In this
1-14 subchapter:

1-15 (1) "Cruelly [~~,"cruelly]~~ treated" includes tortured,
1-16 seriously overworked, unreasonably abandoned, unreasonably
1-17 deprived of necessary food, care, or shelter, cruelly confined, or
1-18 caused to fight with another animal.

1-19 (2) "Nonprofit animal welfare organization" means a
1-20 nonprofit organization that has as its purpose:

1-21 (A) the prevention of cruelty to animals; or

1-22 (B) the sheltering of, caring for, and providing
1-23 homes for lost, stray, and abandoned animals.

1-24 (3) "Owner" includes a person who owns or has custody
1-25 or control of an animal.

1-26 SECTION 2. Section 821.023, Health and Safety Code, is
1-27 amended by amending Subsections (d) and (e) and adding Subsections
1-28 (e-1), (e-2), (e-3), and (e-4) to read as follows:

1-29 (d) If the court finds that the animal's owner has cruelly
1-30 treated the animal, the owner shall be divested of ownership of the
1-31 animal, and the court shall:

1-32 (1) order a public sale of the animal by auction;

1-33 (2) order the animal given to a municipal or county
1-34 animal shelter or a nonprofit animal welfare organization [~~shelter,~~
1-35 ~~pound, or society for the protection of animals~~]; or

1-36 (3) order the animal humanely destroyed if the court
1-37 decides that the best interests of the animal or that the public
1-38 health and safety would be served by doing so.

1-39 (e) After a [A] court [that] finds that an animal's owner
1-40 has cruelly treated the animal, the court shall order the owner to
1-41 pay all court costs, including:

1-42 (1) the administrative costs of:

1-43 (A) [~~(1)~~] investigation;

1-44 (B) [~~(2)~~] expert witnesses; and

1-45 (C) [~~(3)~~] housing and caring for the animal
1-46 during its impoundment;

1-47 [~~(4)~~] conducting any public sale ordered by the
1-48 court; and

1-49 (2) the costs incurred by a municipal or county animal
1-50 shelter or a nonprofit animal welfare organization in:

1-51 (A) housing and caring for the animal during its
1-52 impoundment; and

1-53 (B) [~~(5)~~] humanely destroying the animal if
1-54 destruction is ordered by the court.

1-55 (e-1) After a court finds that an animal's owner has cruelly
1-56 treated the animal, the court shall determine the estimated costs
1-57 likely to be incurred by a municipal or county animal shelter or a
1-58 nonprofit animal welfare organization to house and care for the
1-59 impounded animal during the appeal process.

1-60 (e-2) After making the determination under Subsection
1-61 (e-1), the court at the time of entering the judgment shall set the
1-62 amount of bond for an appeal equal to the sum of:

1-63 (1) the amount of the court costs ordered under
1-64 Subsection (e); and

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

2-3 (e-3) A court may not require a person to provide a bond in
 2-4 an amount greater than or in addition to the amount determined by
 2-5 the court under Subsection (e-2) to perfect an appeal under Section
 2-6 821.025.

2-7 (e-4) Notwithstanding any other law, the amount of court
 2-8 costs that a court may order under Subsection (e) and the amount of
 2-9 bond that a court determines under Subsection (e-2) are excluded in
 2-10 determining the court's jurisdiction under Subtitle A, Title 2,
 2-11 Government Code.

2-12 SECTION 3. Section 821.024(c), Health and Safety Code, is
 2-13 amended to read as follows:

2-14 (c) If the officer is unable to sell the animal at auction,
 2-15 the officer may cause the animal to be humanely destroyed or may
 2-16 give the animal to a municipal or county animal shelter or a
 2-17 nonprofit animal welfare organization [~~shelter, pound, or society~~
 2-18 ~~for the protection of animals~~].

2-19 SECTION 4. Section 821.025, Health and Safety Code, is
 2-20 amended to read as follows:

2-21 Sec. 821.025. APPEAL. (a) An owner divested of ownership
 2-22 of an animal under Section 821.023 may appeal the order to a county
 2-23 court or county court at law in the county in which the justice or
 2-24 municipal court is located.

2-25 (b) As a condition of perfecting an appeal, not later than
 2-26 the 10th calendar day after the date the order is issued, the owner
 2-27 must file a notice of appeal and a cash bond or surety [~~an appeal~~]
 2-28 bond in an amount set [~~determined~~] by the court under Section
 2-29 821.023(e-2) [~~from which the appeal is taken to be adequate to cover~~
 2-30 ~~the estimated expenses incurred in housing and caring for the~~
 2-31 ~~impounded animal during the appeal process~~].

2-32 (c) Not later than the fifth calendar day after the date the
 2-33 notice of appeal and [~~appeal~~] bond is filed, the court from which
 2-34 the appeal is taken shall deliver a copy of the clerk's record
 2-35 [~~court's transcript~~] to the clerk of the county court or county
 2-36 court at law to which the appeal is made.

2-37 (d) Not later than the 10th calendar day after the date the
 2-38 county court or county court at law, as appropriate, receives a copy
 2-39 of the clerk's record [~~transcript~~], the court shall consider the
 2-40 matter de novo and dispose of the appeal. A party to the appeal is
 2-41 entitled to a jury trial on request.

2-42 (e) The decision of the county court or county court at law
 2-43 under this section is final and may not be further appealed.

2-44 (f) Notwithstanding Section 30.00014, Government Code, or
 2-45 any other law, a person filing an appeal from a municipal court
 2-46 under Subsection (a) is not required to file a motion for a new
 2-47 trial to perfect an appeal.

2-48 (g) Notwithstanding any other law, a county court or a
 2-49 county court at law has jurisdiction to hear an appeal filed under
 2-50 this section.

2-51 (h) [~~(b)~~] While an appeal under this section is pending, the
 2-52 animal may not be:

2-53 (1) sold or given away as provided by Sections 821.023
 2-54 and 821.024; or

2-55 (2) destroyed, except under circumstances which would
 2-56 require the humane destruction of the animal to prevent undue pain
 2-57 to or suffering of the animal.

2-58 SECTION 5. Subchapter B, Chapter 821, Health and Safety
 2-59 Code, is amended by adding Section 821.026 to read as follows:

2-60 Sec. 821.026. CONFLICT OF LAWS. In the event of a conflict
 2-61 between this subchapter and another provision of any other law
 2-62 relating to an appeal of a disposition regarding a cruelly treated
 2-63 animal, including the bond required for that appeal, this
 2-64 subchapter controls.

2-65 SECTION 6. The change in law made by this Act applies only
 2-66 to a proceeding commenced under Section 821.023, Health and Safety
 2-67 Code, on or after the effective date of this Act. A proceeding
 2-68 commenced before the effective date of this Act is covered by the
 2-69 law in effect at the time the proceeding is commenced, and the

3-1 former law is continued in effect for that purpose.

3-2 SECTION 7. This Act takes effect September 1, 2011.

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