

By: Van de Putte

S.B. No. 1850

A BILL TO BE ENTITLED

AN ACT

relating to appeals 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) "Magistrate" means any officer as defined in Article 2.09, Code of Criminal Procedure, except that the term does not include justices of the supreme court, judges of the court of criminal appeals or courts of appeals, judges or associate judges of statutory probate courts, or judges or associate judges of district courts that give preference to family law matters or family district courts under Subchapter D, Chapter 24, Government Code.

(3) "Seize in place" means to allow an animal subject to a warrant for seizure under this subchapter to remain with the owner in lieu of impoundment, but to prohibit the owner from moving or disposing of the animal.

SECTION 2. Section 821.022, Health and Safety Code, is

1 amended by amending Subsections (a) and (c) and adding Subsection
2 (d) to read as follows:

3 (a) If a peace officer or an officer who has responsibility
4 for animal control in a county or municipality has reason to believe
5 that an animal has been or is being cruelly treated, the officer may
6 apply to a justice court or magistrate in the county or to a
7 municipal court in the municipality in which the animal is located
8 for a warrant to seize the animal or seize the animal in place.

9 (c) The officer executing the warrant shall cause the animal
10 to be impounded or seized in place and shall give written notice to
11 the owner of the animal of the time and place of the hearing.

12 (d) An owner is entitled, on request, to a trial by jury in a
13 justice or municipal court in lieu of a hearing.

14 SECTION 3. The heading to Section 821.023, Health and
15 Safety Code, is amended to read as follows:

16 Sec. 821.023. HEARING OR TRIAL; ORDER OF DISPOSITION OR
17 RETURN OF ANIMAL.

18 SECTION 4. Sections 821.023(a), (b), (c), (d), (e), and
19 (g), Health and Safety Code, are amended to read as follows:

20 (a) A finding in a court of competent jurisdiction that the
21 owner of an animal is guilty of an offense under Section 42.09 or
22 42.092, Penal Code, involving the animal is prima facie evidence at
23 a hearing or trial authorized by Section 821.022 that the animal has
24 been cruelly treated.

25 (b) A statement of an owner made at a hearing or trial
26 provided for under this subchapter is not admissible in a trial of
27 the owner for an offense under Section 42.09 or 42.092, Penal Code.

1 (c) Each interested party is entitled to an opportunity to
2 present evidence at the hearing or trial.

3 (d) If the trier of fact [~~court~~] finds that the animal's
4 owner has cruelly treated the animal, the owner shall be divested of
5 ownership of the animal, and the court shall:

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

7 (2) order the animal given to a nonprofit animal
8 shelter, 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) If the trier of fact [~~A court that~~] finds that an
13 animal's owner has cruelly treated the animal the court shall order
14 the owner to pay all court costs, including costs of:

15 (1) investigation;

16 (2) expert witnesses;

17 (3) housing and caring for the animal during its
18 impoundment;

19 (4) conducting any public sale ordered by the court;

20 and

21 (5) humanely destroying the animal if destruction is
22 ordered by the court.

23 (g) The court shall order the animal returned to the owner
24 if the trier of fact [~~court~~] does not find that the animal's owner
25 has cruelly treated the animal.

26 SECTION 5. Section 821.025, Health and Safety Code, is
27 amended by amending Subsection (a) and adding Subsections (c) and

1 (d) to read as follows:

2 (a) An owner divested of ownership of an animal under
3 Section 821.023 may appeal the order to a county court or county
4 court at law in the county in which the justice or municipal court
5 is located. 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 an appeal bond in an amount
8 determined by the court from which the appeal is taken to be the
9 approximate actual cost anticipated to be ~~[adequate to cover the~~
10 ~~estimated expenses]~~ incurred in housing and caring for the
11 impounded animal during the appeal process. Not later than the
12 10th ~~[fifth]~~ calendar day after the date the notice of appeal and
13 appeal bond is filed, ~~[the court from which the appeal is taken~~
14 ~~shall deliver a copy of the court's transcript to the county court~~
15 ~~or county court at law to which the appeal is made. Not later than~~
16 ~~the 10th calendar day after the date]~~ the county court or county
17 court at law, as appropriate, ~~[receives the transcript, the court]~~
18 shall consider the matter de novo ~~[dispose of the appeal]~~. The
19 decision of the county court or county court at law under this
20 section is final and may not be further appealed.

21 (c) Notwithstanding Section 30.00014, Government Code, or
22 any other law, a person filing an appeal from a municipal court
23 under Subsection (a) is not required to file a motion for a new
24 trial to perfect an appeal.

25 (d) Notwithstanding any other law, a county court or a
26 county court at law has jurisdiction to hear an appeal filed under
27 this section.

1 SECTION 6. Section 821.0211, Health and Safety Code, is
2 repealed.

3 SECTION 7. (a) The change in law made by this Act to Section
4 821.022, Health and Safety Code, applies only to a warrant for
5 seizure of an animal issued on or after the effective date of this
6 Act. A warrant for seizure of an animal issued before the effective
7 date of this Act is covered by the law in effect when the warrant was
8 issued, and the former law is continued in effect for that purpose.

9 (b) The change in law made by this Act to Section 821.025,
10 Health and Safety Code, applies only to a request for an appeal made
11 on or after the effective date of this Act. A request for an appeal
12 made before the effective date of this Act is covered by the law in
13 effect when the appeal was made, and the former law is continued in
14 effect for that purpose.

15 SECTION 8. This Act takes effect September 1, 2011.