

SUBJECT: Allowing peace officers to seize cruelly treated animals.

COMMITTEE: Agriculture and Livestock — committee substitute recommended

VOTE: 4 ayes — Hardcastle, B. Brown, Burnam, Swinford
0 nays
3 absent — Miller, D. Jones, Laney

WITNESSES: For — Dave Garcia, Society for the Prevention of Cruelty to Animals of Texas (Collin County Animal Control); Kent M. Robertson, City of Dallas Animal Control Division; Patti Stepp, Texas Animal Control Association and Brazos Animal Shelter; Skip Trimble, Texas Humane Legislation Network
Against — None
On — Sharon Brooks, Travis County Attorney's Office

BACKGROUND: Health and Safety Code, Ch. 821, subsection B sets forth guidelines for the disposition of cruelly treated animals in a civil proceeding. Cruel treatment is defined as torture, serious overwork, abandonment, deprivation of necessary food, care, or shelter, cruel confinement, or causing an animal to fight with another animal.

A county sheriff, constable, or deputy constable who suspects cruel treatment of an animal can apply for a warrant from a justice or municipal court, then seize and impound the animal. If a county court rules against the animal's owner, the animal can be sold at public auction, given to a shelter, or humanely destroyed. Auction proceeds are given to the owner after auction and impoundment costs are paid. The owner may appeal the court's order to sell an animal at auction. Specific direction is given in the code for the disposition of cruelly treated farm livestock.

DIGEST: CSHB 1119 would allow any peace officer who suspected cruel treatment of an animal to apply for a seizure warrant. The warrant could be obtained from a justice court, a municipal court, or a magistrate.

A court that found an owner guilty of cruelly treating an animal would require the owner to pay all court costs, including costs of investigation and expert witnesses, housing and caring for the animal during impoundment, auction costs in the event of a public sale, and the cost of humanely destroying the animal if so ordered. Proceeds from an animal's sale would be applied toward the above costs.

The animal's owner could appeal an order to sell the animal at auction, but only to the county court, and first the owner would have to file a bond in an amount sufficient to house and care for the animal during the appeals process. An owner could not appeal a court's order to destroy the animal or to give it away to a shelter. While an appeal was pending, an animal could not be sold, nor could it be destroyed unless necessary to prevent the animal from suffering.

Language specific to farm livestock would be deleted from Health and Safety Code, sec. 821.023, which would make the terms of the bill apply equally to domestic animals and livestock.

CSHB 1119 would take effect September 1, 2003.

**SUPPORTERS
SAY:**

By expanding the number of eligible players who could participate in the process of responding to animal abuse, CSHB 1119 would reduce the time it takes to intervene, thus saving the lives of animals who might otherwise die from inhumane treatment. In many localities, the courts close after 5 p.m, making it nearly impossible for officers to access the seizure warrants they need to remove animals from abusive homes. However, many counties have 24-hour magistrates who could issue such warrants. Allowing any peace officer to obtain the warrant is important, because officers on the front lines often discover cruelly treated animals when responding to other emergency calls at night or on weekends. Under this bill, if a peace officer walked into a planned dog fight or a house with 100 cats, something could be done quickly to rescue the mistreated animals.

The bill would help counties and cities recover their costs in cruel treatment proceedings and would put financial responsibility on the owner of the animal, where it belongs. For example, it costs a county an average of \$5.00 per day to house, feed and care for a healthy animal in already overcrowded

shelters. When 150 dogs are rescued from a puppy mill, and it takes 10 days to get the case heard in court, at \$750 per day, the costs add up quickly. These numbers assume that the animals are healthy. In some cases, animals have been so badly abused that rehabilitation expenses can cost the county up to \$10,000. Clearly, local taxpayers have an interest in expediting these cases and assessing the financial burden on the responsible party: the owner.

CSHB 1119 would help cut down on frivolous appeals by owners that drive up costs for local communities and prolong suffering for the animals. Animal owners often will drag out seizure proceedings with multiple appeals while counties and cities are burdened with the custody and care of the animal pending a final judgment. By limiting an owner's ability to appeal only to the county court and only to a court order to sell an animal at auction, the bill would reduce significantly the number of appeals and the length of the appeals process. A county currently is unable to adopt out a healthy animal or euthanize a sick one until a final judgment is rendered. Boarding animals for a long period of time is not good for the animal and can expose it to other illnesses while in confinement. Keeping an unhealthy animal alive only prolongs suffering for the innocent victim of an owner's neglect or abuse.

This bill would strike a fair balance between protecting animals, taxpayers, and responsible pet owners. A peace officer would be very unlikely to seize an animal except in a clearly abusive situation. For example, a chained dog does not necessarily constitute cruelty, but a dog that has been chained for two weeks without food and water does. Further, many police dogs are trained with choke chains, so an officer would be unlikely to seize an animal simply because its owner was using a choke chain. In any event, the courts are there to protect all citizens, and a person who felt wrongly accused would be entitled to a fair hearing before a judge.

**OPPONENTS
SAY:**

CSHB 1119 could create a potential burden on some dog owners who may be accused unfairly by police officers of animal abuse. People who keep guard dogs such as Rottweilers or Pit Bulls could be accused of cruelty to their animals simply by keeping the dog chained or closely confined in the owner's yard. The definition of cruelty is so broad in the statute as to include potentially acceptable behavior by a pet owner, depending on the animal's breed and function. Other pet owners use tested training or restraint methods such as choke chains that could be considered abusive by some. Granting

HB 1119
House Research Organization
page 4

police officers the authority to seize animals could lead to overly broad interpretation of the statute and potential intimidation of otherwise responsible dog owners whom police merely wish to harass.

NOTES:

HB 1119 as filed would have expanded the definition of cruel treatment of an animal in Health and Safety Code, sec. 821.021, to include specific descriptions of cruel confinement and necessary care. It also would have extended culpability to an owner who negligently allowed the animal to be cruelly treated.