

- SUBJECT:** Appeals process for disposition of cruelly treated animals
- COMMITTEE:** Judiciary — committee substitute recommended
- VOTE:** 7 ayes — Hartnett, Homer, Hopson, Alonzo, Gonzales, Hughes, Krusee  
0 nays  
2 absent — R. Cook, Goolsby
- WITNESSES:** None
- BACKGROUND:** Under Health & Safety Code, sec. 821.022, a justice of the peace court (JP court) or a municipal court may order the removal of an animal that has been mistreated by its owner (Penal Code, sec. 42.09). Under sec. 821.025, that court may further order:
- a public sale of the animal by auction;
  - the animal be given to a nonprofit animal shelter, pound, or society for the protection of animals; or
  - the animal be humanely destroyed if the court decides that the best interests of the animal or the public health and safety would be served by doing so.
- Under sec. 821.025(a), the owner may appeal a court order to auction the animal to a county court or county court at law. As a condition of the appeal, the owner must file an appeal bond in an amount determined by the JP or municipal court to be adequate to cover the estimated expense incurred in housing and caring for the impounded animal during the appeal.
- The decision of the county court or county court at law may not be further appealed to a higher court. An owner may not appeal a court order to give the animal to a nonprofit animal shelter, pound, or society for the protection of animals or to humanely destroy the animal.
- DIGEST:** CSHB 3930 would amend Health and Safety Code, sec. 821.025(a) to allow animal owners the right to appeal a court order to give the owner's

animal to a nonprofit animal shelter, pound, or society for the protection of animals or to humanely destroy the animal.

CSHB 3930 also would amend sec. 821.025(a) to allow the ruling of a county court or county court at law regarding the disposition of animals to be appealed to a higher court.

The court from which the appeal was taken could determine the amount of an appeal bond to cover the estimated expenses incurred in housing and caring for the impounded animal during the appeal process.

The bill would take effect on September 1, 2007, and would apply only to an appeal of a court order made on or after the effective date.

**SUPPORTERS  
SAY:**

As funds for animal control departments have dwindled and peace officers have focused their resources on other areas of crime, local governments sometimes have been turning to private organizations to ensure that animals are not being mistreated. These groups then provide evidence of mistreatment to a JP or a municipal court judge and obtain an order to remove the animal. The vast majority of the work of these private groups is praiseworthy, but certain isolated incidents have involved animals being seized because of their monetary value and sold by private organizations as a means of raising funds.

Animal owners wanting to combat this practice need the right to appeal the decisions of the JP or municipal courts for removal and disposition of their animals. CSHB 3930 would provide this relief by establishing mechanisms for judicial review. Judicial review is important and no less needed in the area of animal cruelty than in other areas.

**OPPONENTS  
SAY:**

CSHB 3930 would make it harder for law enforcement officers to seize animals that need rescue because removal orders could be delayed during an appeal. Current law provides for finality that allows the animals to be placed for adoption sooner. CSHB 3930 also would cost local governments. Prosecutors would have to try an entirely new case on the merits in the appeals courts because JP and most municipal courts are not courts of record. These delays result in added costs because of potentially longer periods of maintenance for the animals.