

**Analysis by Zandra Anderson**  
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**HB 1046 (Appeals for Cruelty Seizures)**

**Homer (Judiciary & Civil Jurisprudence)**

1. Current law only allows for an appeal on a determination of cruelty for animals seized if the judge orders the animals sold at auction.
2. Current law does not allow for an appeal on a determination of cruelty for animals seized if the judge awards the animals to a nonprofit animal shelter, pound, or a society for the protection of animals *or* if the judge orders the animals destroyed.
3. This bill would provide an appeal for animals awarded to a nonprofit animal shelter, pound, or a society for the protection of animals, or if the judge orders the animals destroyed.
4. Current law provides that the owner has to file an appeal bond for expenses for caring for the animals to get an appeal. This bill would keep that provision and make it applicable to all appeals of cruelty determinations so that the expense for caring for animals is borne by the owner.

**Why We Support this Bill:**

1. Animals are property and current law allows for your property to be taken away from the owner based on a single hearing heard by a single judge.
2. Current law does not give an owner a trial, a right to a jury, or an appeal.
3. The hearings occur within ten (10) days of the seizure and can happen within a day or two putting the owner at a disadvantage not giving him time to prepare or find an attorney.
4. Owners often appear without representation and have no idea that their animals can be permanently taken from them at this single hearing.
5. Each interested party can testify and bring forth evidence at the hearing so the animal owner often faces testimony against him from animal control, the peace officers involved in the seizure, the county or city attorney, representatives from humane organizations seeking to get the animals, veterinarians, and any other witnesses offered against him. The owner is at a distinct disadvantage in these hearings.
6. The owner's animals are seized before he ever has a chance to defend himself. It is much harder to get back something than it is to keep something, so these hearings are very hard for the owner to win.
7. The hearing is determined by a judge employed by a county or city who entertains testimony and evidence offered by the county or city attorney, the county or city animal control, the county or city peace officers, so it is a difficult task for the owner to convince the judge to rule against these individuals that he or she routinely sees in court on these proceedings. The system is inherently biased against the owner.

8. Local humane organizations trying to get the animals often testify in these hearings and they are usually respected, so it adds even more difficulty for the animal owner.

9. A chance for an appeal sets up a system of checks and balances that is integral to our system of justice.

10. The legislature can add a time restraint for the appeal to be entertained so that it is limited to a number of days rather than months or years which answers any concern of a long appellate process. Of the few cases that are currently appealed, they are routinely preferentially set which hastens them along.

11. Most cases of any kind are never appealed so there is not going to be a huge number of these cases clogging the courts.

12. Since the owner has to post an appeal bond for expenses of caring for the animals as a condition of an appeal, there will not be extra costs to the facility housing the animals as has been alleged by the opposition to this bill.

13. An owner of other property, such as tables or chairs, are afforded a trial, the right to a jury and appeals in other property disputes. Texas animals and their owners do not deserve less.

14. This bill is opposed by animal rights groups including Texas Humane Legislative Network (THLN), a lobbying corporation, and People for the Ethical Treatment of Animals (PETA), a multi-million dollar 501(c)(3) corporation headquartered in Virginia. These groups have put out email Action Alerts that falsely claim that the expenses of an appeal would prevent animals from smaller cities and counties being able to pursue these cases due to the expenses. The truth is that the owner has to post an appeal bond to cover expenses for care of animals as prerequisite to an appeal.

THLN and PETA falsely claim that city or county attorneys would have to try these cases twice and that the owner would get an entirely new trial. The truth is that the owner does not currently get a trial, only a hearing.

THLN and PETA indicate that seizures often involved hundreds of animals and that they are almost always malnourished so they will suffer longer. The truth is that if an animal is suffering state law provides for their humane euthanasia and if any animals are malnourished they will be fed. Further, most seizures do not involve hundreds of animals. The media tends to report large seizures, but the majority of them involve a small number of animals.