

SENATE AMENDMENTS

2nd Printing

By: Woolley, Christian, Laubenberg, Farrar,
et al.

H.B. No. 2328

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the offenses of cruelty to livestock and nonlivestock
3 animals.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 42.09, Penal Code, is amended to read as
6 follows:

7 Sec. 42.09. CRUELTY TO LIVESTOCK ANIMALS. (a) A person
8 commits an offense if the person intentionally or knowingly:

9 (1) tortures a livestock [~~an~~] animal;

10 (2) fails unreasonably to provide necessary food,
11 water, or care [~~, or shelter~~] for a livestock [~~an~~] animal in the
12 person's custody;

13 (3) abandons unreasonably a livestock [~~an~~] animal in
14 the person's custody;

15 (4) [~~transports or confines an animal in a cruel~~
16 ~~manner,~~

17 [~~(5) kills, seriously injures, or~~] administers poison
18 to a livestock [~~an~~] animal, other than cattle, horses, sheep,
19 swine, or goats, belonging to another without legal authority or
20 the owner's effective consent;

21 (5) causes one livestock animal to fight with another
22 livestock animal or with an animal as defined by Section 42.092

23 [~~(6) causes one animal to fight with another~~]; or

24 (6) [(7)] uses a live livestock animal as a lure in dog

1 race training or in dog coursing on a racetrack[~~+~~

2 [~~(8) trips a horse,~~

3 [~~(9) injures an animal, other than cattle, horses,~~
4 ~~sheep, swine, or goats, belonging to another without legal~~
5 ~~authority or the owner's effective consent, or~~

6 [~~(10) seriously overworks an animal].~~

7 (b) In [~~It is a defense to prosecution under this section~~
8 ~~that the actor was engaged in bona fide experimentation for~~
9 ~~scientific research.~~

10 [~~(c) For purposes of] this section:~~

11 (1) "Abandon" includes abandoning a livestock [~~an~~]
12 animal in the person's custody without making reasonable
13 arrangements for assumption of custody by another person.

14 (2) [~~"Animal" means a domesticated living creature and~~
15 ~~wild living creature previously captured. "Animal" does not include~~
16 ~~an uncaptured wild creature or a wild creature whose capture was~~
17 ~~accomplished by conduct at issue under this section.~~

18 [~~(3) "Cruel manner" includes a manner that causes or~~
19 ~~permits unjustified or unwarranted pain or suffering.~~

20 [~~(4)] "Custody" includes responsibility for the~~

21 health, safety, and welfare of a livestock [~~an~~] animal subject to
22 the person's care and control, regardless of ownership of the
23 livestock animal.

24 (2-a) "Depredation" has the meaning assigned by
25 Section 71.001, Parks and Wildlife Code.

26 (3) "Livestock animal" means:

27 (A) cattle, sheep, swine, goats, ratites, or

1 poultry commonly raised for human consumption;

2 (B) a horse, pony, mule, donkey, or hinny;

3 (C) native or nonnative hoofstock raised under
4 agriculture practices; or

5 (D) native or nonnative fowl raised under
6 agricultural practices.

7 (4) [(5)] "Necessary food, water, or care[~~, or~~
8 shelter]" includes food, water, or care[~~, or shelter~~] provided to
9 the extent required to maintain the livestock animal in a state of
10 good health.

11 ~~[(6) "Trip" means to use an object to cause a horse to~~
12 ~~fall or lose its balance.]~~

13 (c) [(d)] An offense under Subsection (a)(2) or[(7)] (3)[(7
14 (4), (9), or (10)] is a Class A misdemeanor, except that the offense
15 is a state jail felony if the person has previously been convicted
16 two times under this section, two times under Section 42.092, or one
17 time under this section and one time under Section 42.092. An
18 offense under Subsection (a)(1), (4), (5), or (6) is a state jail
19 felony, except that the offense is a felony of the third degree if
20 the person has previously been convicted two times under this
21 section, two times under Section 42.092, or one time under this
22 section and one time under Section 42.092.

23 ~~(d) [(e) It is a defense to prosecution under Subsection~~
24 ~~(a)(5) that the animal was discovered on the person's property in~~
25 ~~the act of or immediately after injuring or killing the person's~~
26 ~~goats, sheep, cattle, horses, swine, or poultry and that the person~~
27 ~~killed or injured the animal at the time of this discovery.~~

1 ~~[(f) It is a defense to prosecution under Subsection (a)(8)~~
2 ~~that the actor tripped the horse for the purpose of identifying the~~
3 ~~ownership of the horse or giving veterinary care to the horse.~~

4 ~~[(g)]~~ It is a defense to prosecution for an offense under
5 this section that the actor was engaged in bona fide
6 experimentation for scientific research ~~[the person had a~~
7 ~~reasonable fear of bodily injury to the person or to another by a~~
8 ~~dangerous wild animal as defined by Section 822.101, Health and~~
9 ~~Safety Code].~~

10 (e) ~~[(h)]~~ It is an exception to the application of this
11 section that the conduct engaged in by the actor is a generally
12 accepted and otherwise lawful:

13 (1) form of conduct occurring ~~[use of an animal if~~
14 ~~that use occurs]~~ solely for the purpose of or in support of:

15 (A) fishing, hunting, or trapping; or

16 (B) wildlife management, wildlife or depredation
17 control, or shooting preserve practices as regulated by state and
18 federal law; or

19 (2) animal husbandry or agriculture ~~[farming]~~
20 practice involving livestock animals.

21 ~~[(i) An offense under Subsection (a)(1), (5), (6), (7), or~~
22 ~~(8) is a state jail felony, except that the offense is a felony of~~
23 ~~the third degree if the person has previously been convicted two~~
24 ~~times under this section.]~~

25 SECTION 2. Chapter 42, Penal Code, is amended by adding
26 Section 42.092 to read as follows:

27 Sec. 42.092. CRUELTY TO NONLIVESTOCK ANIMALS. (a) In this

1 section:

2 (1) "Abandon" includes abandoning an animal in the
3 person's custody without making reasonable arrangements for
4 assumption of custody by another person.

5 (2) "Animal" means a domesticated living creature and
6 a wild living creature previously captured. The term does not
7 include an uncaptured wild creature or a livestock animal.

8 (3) "Cruel manner" includes a manner that causes or
9 permits unjustified or unwarranted pain or suffering.

10 (4) "Custody" includes responsibility for the health,
11 safety, and welfare of an animal subject to the person's care and
12 control, regardless of ownership of the animal.

13 (4-a) "Depredation" has the meaning assigned by
14 Section 71.001, Parks and Wildlife Code.

15 (5) "Livestock animal" has the meaning assigned by
16 Section 42.09.

17 (6) "Necessary food, water, care, or shelter" includes
18 food, water, care, or shelter provided to the extent required to
19 maintain the animal in a state of good health.

20 (b) A person commits an offense if the person intentionally,
21 knowingly, or recklessly:

22 (1) tortures an animal or in a cruel manner kills or
23 causes serious bodily injury to an animal;

24 (2) without legal authority or the owner's effective
25 consent, kills, administers poison to, or causes serious bodily
26 injury to an animal;

27 (3) fails unreasonably to provide necessary food,

1 water, care, or shelter for an animal in the person's custody;

2 (4) abandons unreasonably an animal in the person's
3 custody;

4 (5) transports or confines an animal in a cruel
5 manner;

6 (6) without legal authority or the owner's effective
7 consent, causes bodily injury to an animal;

8 (7) causes one animal to fight with another animal, if
9 either animal is not a dog;

10 (8) uses a live animal as a lure in dog race training
11 or in dog coursing on a racetrack; or

12 (9) seriously overworks an animal.

13 (c) An offense under Subsection (b)(3), (4), (5), (6), or
14 (9) is a Class A misdemeanor, except that the offense is a state
15 jail felony if the person has previously been convicted two times
16 under this section, two times under Section 42.09, or one time under
17 this section and one time under Section 42.09. An offense under
18 Subsection (b)(1), (2), (7), or (8) is a state jail felony, except
19 that the offense is a felony of the third degree if the person has
20 previously been convicted two times under this section, two times
21 under Section 42.09, or one time under this section and one time
22 under Section 42.09.

23 (d) It is a defense to prosecution under this section that:

24 (1) the actor had a reasonable fear of bodily injury to
25 the actor or to another person by a dangerous wild animal as defined
26 by Section 822.101, Health and Safety Code; or

27 (2) the actor was engaged in bona fide experimentation

1 for scientific research.

2 (e) It is a defense to prosecution under Subsection (b)(2)
3 or (6) that the animal was discovered on the person's property in
4 the act of or after injuring or killing the person's livestock
5 animals or damaging the person's crops and that the person killed or
6 injured the animal at the time of this discovery.

7 (f) It is an exception to the application of this section
8 that the conduct engaged in by the actor is a generally accepted and
9 otherwise lawful:

10 (1) form of conduct occurring solely for the purpose
11 of or in support of:

12 (A) fishing, hunting, or trapping; or

13 (B) wildlife management, wildlife or depredation
14 control, or shooting preserve practices as regulated by state and
15 federal law; or

16 (2) animal husbandry or agriculture practice
17 involving livestock animals.

18 SECTION 3. Section 54.0407, Family Code, is amended to read
19 as follows:

20 Sec. 54.0407. CRUELTY TO ANIMALS: COUNSELING REQUIRED. If
21 a child is found to have engaged in delinquent conduct constituting
22 an offense under Section 42.09 or 42.092, Penal Code, the juvenile
23 court shall order the child to participate in psychological
24 counseling for a period to be determined by the court.

25 SECTION 4. Sections 821.023(a) and (b), Health and Safety
26 Code, are amended to read as follows:

27 (a) A finding in a court of competent jurisdiction that the

1 owner of an animal is guilty of an offense under Section 42.09 or
2 42.092, Penal Code, involving the animal is prima facie evidence at
3 a hearing authorized by Section 821.022 that the animal has been
4 cruelly treated.

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

8 SECTION 5. Section 801.3585, Occupations Code, is amended
9 to read as follows:

10 Sec. 801.3585. LIABILITY FOR REPORTING ANIMAL CRUELTY;
11 IMMUNITY. A veterinarian who in good faith and in the normal course
12 of business reports to the appropriate governmental entity a
13 suspected incident of animal cruelty under Section 42.09 or 42.092,
14 Penal Code, is immune from liability in a civil or criminal action
15 brought against the veterinarian for reporting the incident.

16 SECTION 6. Section 1702.283, Occupations Code, is amended
17 to read as follows:

18 Sec. 1702.283. CRUELTY TO ANIMALS. A person who has been
19 convicted of cruelty to animals under Section 42.09 or 42.092,
20 Penal Code:

21 (1) is ineligible for a license as a guard dog company
22 or for registration as a dog trainer; and

23 (2) may not be employed to work with dogs as a security
24 officer by a security services contractor or security department of
25 a private business that uses dogs to protect individuals or
26 property or to conduct investigations.

27 SECTION 7. The change in law made by this Act applies only

1 to an offense committed on or after the effective date of this Act.
2 An offense committed before the effective date of this Act is
3 governed by the law in effect when the offense was committed, and
4 the former law is continued in effect for that purpose. For
5 purposes of this section, an offense was committed before the
6 effective date of this Act if any element of the offense was
7 committed before that date.

8 SECTION 8. This Act takes effect September 1, 2007.

ADOPTED

MAY 21 2007

Henry Daw
Secretary of the Senate

By: Whitmore

H.B. No. 2328

Substitute the following for H.B. No. 2328 :

By: Kel Alliger

C.S. H.B. No. 2328

A BILL TO BE ENTITLED

AN ACT

relating to the offenses of cruelty to livestock and nonlivestock animals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 42.09, Penal Code, is amended to read as follows:

Sec. 42.09. CRUELTY TO LIVESTOCK ANIMALS. (a) A person commits an offense if the person intentionally or knowingly:

(1) tortures a livestock [~~an~~] animal;

(2) fails unreasonably to provide necessary food, water, or care [~~, or shelter~~] for a livestock [~~an~~] animal in the person's custody;

(3) abandons unreasonably a livestock [~~an~~] animal in the person's custody;

(4) transports or confines an animal in a cruel manner;

(5) [~~kills, seriously injures, or~~] administers poison to a livestock [~~an~~] animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent;

(6) causes one livestock animal to fight with another livestock animal or with an animal as defined by Section 42.092 [~~causes one animal to fight with another~~];

(7) uses a live livestock animal as a lure in dog race

1 training or in dog coursing on a racetrack;

2 (8) trips a horse;

3 ~~[(9) injures an animal, other than cattle, horses,~~
4 ~~sheep, swine, or goats, belonging to another without legal~~
5 ~~authority or the owner's effective consent,] or~~

6 (9) ~~[(10)]~~ seriously overworks an animal.

7 (b) In ~~[It is a defense to prosecution under this section~~
8 ~~that the actor was engaged in bona fide experimentation for~~
9 ~~scientific research.~~

10 ~~[(c) For purposes of]~~ this section:

11 (1) "Abandon" includes abandoning a livestock ~~[an]~~
12 animal in the person's custody without making reasonable
13 arrangements for assumption of custody by another person.

14 (2) ~~["Animal" means a domesticated living creature and~~
15 ~~wild living creature previously captured. "Animal" does not include~~
16 ~~an uncaptured wild creature or a wild creature whose capture was~~
17 ~~accomplished by conduct at issue under this section.~~

18 ~~[(3)]~~ "Cruel manner" includes a manner that causes or
19 permits unnecessary ~~[unjustified]~~ or unjustifiable ~~[unwarranted]~~
20 pain or suffering.

21 (3) ~~[(4)]~~ "Custody" includes responsibility for the
22 health, safety, and welfare of a livestock ~~[an]~~ animal subject to
23 the person's care and control, regardless of ownership of the
24 livestock animal.

25 (4) "Depredation" has the meaning assigned by Section
26 71.001, Parks and Wildlife Code.

27 (5) "Livestock animal" means:

1 (A) cattle, sheep, swine, goats, ratites, or
2 poultry commonly raised for human consumption;

3 (B) a horse, pony, mule, donkey, or hinny;

4 (C) native or nonnative hoofstock raised under
5 agriculture practices; or

6 (D) native or nonnative fowl commonly raised
7 under agricultural practices.

8 (6) [~~(5)~~] "Necessary food, water, or care[~~, or~~
9 shelter]" includes food, water, or care[~~, or shelter~~] provided to
10 the extent required to maintain the livestock animal in a state of
11 good health.

12 (7) "Torture" includes any act that causes unnecessary
13 or unjustifiable pain or suffering.

14 (8) [~~(6)~~] "Trip" means to use an object to cause a
15 horse to fall or lose its balance.

16 (c) [~~(d)~~] An offense under Subsection (a)(2), (3), (4), or
17 (9)[~~, or (10)~~] is a Class A misdemeanor, except that the offense is
18 a state jail felony if the person has previously been convicted two
19 times under this section, two times under Section 42.092, or one
20 time under this section and one time under Section 42.092. An
21 offense under Subsection (a)(1), (5), (6), (7), or (8) is a state
22 jail felony, except that the offense is a felony of the third degree
23 if the person has previously been convicted two times under this
24 section, two times under Section 42.092, or one time under this
25 section and one time under Section 42.092.

26 (d) [~~(e)~~] It is a defense to prosecution under Subsection
27 (a)(5) that the animal was discovered on the person's property in

1 ~~the act of or immediately after injuring or killing the person's~~
2 ~~goats, sheep, cattle, horses, swine, or poultry and that the person~~
3 ~~killed or injured the animal at the time of this discovery.~~

4 [~~(f)~~] It is a defense to prosecution under Subsection (a)(8)
5 that the actor tripped the horse for the purpose of identifying the
6 ownership of the horse or giving veterinary care to the horse.

7 (e) [~~(g)~~] It is a defense to prosecution for an offense
8 under this section that the actor was engaged in bona fide
9 experimentation for scientific research [~~the person had a~~
10 ~~reasonable fear of bodily injury to the person or to another by a~~
11 ~~dangerous wild animal as defined by Section 822.101, Health and~~
12 ~~Safety Code].~~

13 (f) [~~(h)~~] It is an exception to the application of this
14 section that the conduct engaged in by the actor is a generally
15 accepted and otherwise lawful:

16 (1) form of conduct occurring [~~use of an animal if~~
17 ~~that use occurs]~~ solely for the purpose of or in support of:

18 (A) fishing, hunting, or trapping; or

19 (B) wildlife management, wildlife or depredation
20 control, or shooting preserve practices as regulated by state and
21 federal law; or

22 (2) animal husbandry or agriculture [~~farming]~~
23 practice involving livestock animals.

24 [~~(i) An offense under Subsection (a)(1), (5), (6), (7), or~~
25 ~~(8) is a state jail felony, except that the offense is a felony of~~
26 ~~the third degree if the person has previously been convicted two~~
27 ~~times under this section.]~~

1 SECTION 2. Chapter 42, Penal Code, is amended by adding
2 Section 42.092 to read as follows:

3 Sec. 42.092. CRUELTY TO NONLIVESTOCK ANIMALS. (a) In this
4 section:

5 (1) "Abandon" includes abandoning an animal in the
6 person's custody without making reasonable arrangements for
7 assumption of custody by another person.

8 (2) "Animal" means a domesticated living creature,
9 including any stray or feral cat or dog, and a wild living creature
10 previously captured. The term does not include an uncaptured wild
11 living creature or a livestock animal.

12 (3) "Cruel manner" includes a manner that causes or
13 permits unnecessary or unjustifiable pain or suffering.

14 (4) "Custody" includes responsibility for the health,
15 safety, and welfare of an animal subject to the person's care and
16 control, regardless of ownership of the animal.

17 (5) "Depredation" has the meaning assigned by Section
18 71.001, Parks and Wildlife Code.

19 (6) "Livestock animal" has the meaning assigned by
20 Section 42.09.

21 (7) "Necessary food, water, care, or shelter" includes
22 food, water, care, or shelter provided to the extent required to
23 maintain the animal in a state of good health.

24 (8) "Torture" includes any act that causes unnecessary
25 or unjustifiable pain or suffering.

26 (b) A person commits an offense if the person intentionally,
27 knowingly, or recklessly:

1 (1) tortures an animal or in a cruel manner kills or
2 causes serious bodily injury to an animal;

3 (2) without the owner's effective consent, kills,
4 administers poison to, or causes serious bodily injury to an
5 animal;

6 (3) fails unreasonably to provide necessary food,
7 water, care, or shelter for an animal in the person's custody;

8 (4) abandons unreasonably an animal in the person's
9 custody;

10 (5) transports or confines an animal in a cruel
11 manner;

12 (6) without the owner's effective consent, causes
13 bodily injury to an animal;

14 (7) causes one animal to fight with another animal, if
15 either animal is not a dog;

16 (8) uses a live animal as a lure in dog race training
17 or in dog coursing on a racetrack; or

18 (9) seriously overworks an animal.

19 (c) An offense under Subsection (b)(3), (4), (5), (6), or
20 (9) is a Class A misdemeanor, except that the offense is a state
21 jail felony if the person has previously been convicted two times
22 under this section, two times under Section 42.09, or one time under
23 this section and one time under Section 42.09. An offense under
24 Subsection (b)(1), (2), (7), or (8) is a state jail felony, except
25 that the offense is a felony of the third degree if the person has
26 previously been convicted two times under this section, two times
27 under Section 42.09, or one time under this section and one time

1 under Section 42.09.

2 (d) It is a defense to prosecution under this section that:

3 (1) the actor had a reasonable fear of bodily injury to
4 the actor or to another person by a dangerous wild animal as defined
5 by Section 822.101, Health and Safety Code; or

6 (2) the actor was engaged in bona fide experimentation
7 for scientific research.

8 (e) It is a defense to prosecution under Subsection (b)(2)
9 or (6) that:

10 (1) the animal was discovered on the person's property
11 in the act of or after injuring or killing the person's livestock
12 animals or damaging the person's crops and that the person killed or
13 injured the animal at the time of this discovery; or

14 (2) the person killed or injured the animal within the
15 scope of the person's employment as a public servant or in
16 furtherance of activities or operations associated with
17 electricity transmission or distribution, electricity generation
18 or operations associated with the generation of electricity, or
19 natural gas delivery.

20 (f) It is an exception to the application of this section
21 that the conduct engaged in by the actor is a generally accepted and
22 otherwise lawful:

23 (1) form of conduct occurring solely for the purpose
24 of or in support of:

25 (A) fishing, hunting, or trapping; or

26 (B) wildlife management, wildlife or depredation
27 control, or shooting preserve practices as regulated by state and

1 federal law; or

2 (2) animal husbandry or agriculture practice
3 involving livestock animals.

4 SECTION 3. Section 54.0407, Family Code, is amended to read
5 as follows:

6 Sec. 54.0407. CRUELTY TO ANIMALS: COUNSELING REQUIRED. If
7 a child is found to have engaged in delinquent conduct constituting
8 an offense under Section 42.09 or 42.092, Penal Code, the juvenile
9 court shall order the child to participate in psychological
10 counseling for a period to be determined by the court.

11 SECTION 4. Sections 821.023(a) and (b), Health and Safety
12 Code, are amended to read as follows:

13 (a) A finding in a court of competent jurisdiction that the
14 owner of an animal is guilty of an offense under Section 42.09 or
15 42.092, Penal Code, involving the animal is prima facie evidence at
16 a hearing authorized by Section 821.022 that the animal has been
17 cruelly treated.

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

21 SECTION 5. Section 801.3585, Occupations Code, is amended
22 to read as follows:

23 Sec. 801.3585. LIABILITY FOR REPORTING ANIMAL CRUELTY;
24 IMMUNITY. A veterinarian who in good faith and in the normal course
25 of business reports to the appropriate governmental entity a
26 suspected incident of animal cruelty under Section 42.09 or 42.092,
27 Penal Code, is immune from liability in a civil or criminal action

1 brought against the veterinarian for reporting the incident.

2 SECTION 6. Section 1702.283, Occupations Code, is amended
3 to read as follows:

4 Sec. 1702.283. CRUELTY TO ANIMALS. A person who has been
5 convicted of cruelty to animals under Section 42.09 or 42.092,
6 Penal Code:

7 (1) is ineligible for a license as a guard dog company
8 or for registration as a dog trainer; and

9 (2) may not be employed to work with dogs as a security
10 officer by a security services contractor or security department of
11 a private business that uses dogs to protect individuals or
12 property or to conduct investigations.

13 SECTION 7. The change in law made by this Act applies only
14 to an offense committed on or after the effective date of this Act.
15 An offense committed before the effective date of this Act is
16 governed by the law in effect when the offense was committed, and
17 the former law is continued in effect for that purpose. For
18 purposes of this section, an offense was committed before the
19 effective date of this Act if any element of the offense was
20 committed before that date.

21 SECTION 8. This Act does not bar, suspend, create, or
22 otherwise affect a right or liability to damages, penalty,
23 forfeiture, or other remedy authorized by law to be recovered or
24 enforced in a civil suit for conduct this Act defines as an offense,
25 and the civil injury is not merged in the offense.

26 SECTION 9. This Act takes effect September 1, 2007.

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 21 2007

BY:

W. Whitmore

Atay Spaw
Secretary of the Senate

1 Amend C.S.H.B. 2328 as follows:

2 In Section 1 of the bill, amend Sec. 42.09(a)(4) as
3 follows:

4 (4) transports or confines a livestock ~~[an]~~ animal
5 in a cruel and unusual manner;

6 In Section 1 of the bill, amend Sec. 42.09(a) (9) as
7 follows:

8 (9) ~~[-10]~~ seriously overworks a livestock ~~[an]~~
9 animal.

10 In section 1 of the bill, amend Sec. 42.09(b)(2) as
11 follows:

12 (2) "Cruel manner" includes a manner that causes or
13 permits unjustified or unwarranted pain or suffering.

14 In Section 1 of the bill, amend Sec. 42.09(b)(7) as
15 follows:

16 (7) "Torture" includes any act that causes
17 unjustifiable pain or suffering.

18 In Section 1 of the bill, amend Sec. 42.09(b)(9) In Section
19 1 of the bill, add new subsection (g) as follows:

20 (g) This section does not create a civil cause of action
21 for damages or enforcement of this section.

22 In Section 2 of the bill, amend Sec. 42.092(a)(3) as
23 follows:

24 (3) "Cruel manner" includes a manner that causes or
25 permits unjustified or unwarranted pain or suffering.

26 In Section 2 of the bill, amend Sec. 42.092(a)(8) as
27 follows:

28 (8) "Torture" includes any act that causes
29 unjustifiable pain or suffering.

1 In Section 2 of the bill, add a new subsection (g) as
2 follows:

3 (g) This section does not create a civil cause of action
4 for damages or enforcement of the section.

5 In Section 3 of the bill, delete SECTION 8 and renumber
6 subsequent sections accordingly.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 16, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2328** by Woolley (Relating to the offenses of cruelty to livestock and nonlivestock animals.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

This bill would amend the Penal Code to provide penalties for cruelty to livestock and nonlivestock animals. The bill would modify the current section of the Penal Code to apply to livestock animals and create a new section within the Penal Code for offenses against nonlivestock animals. The new section would make punishment for the first offense a Class A Misdemeanor and allow for penalty enhancements upon subsequent convictions. The bill would also amend the Family Code, relating to required counseling, and the Occupations Code to include the new Penal Code section.

This bill will take effect September 1, 2007 and apply to offenses committed on or after the effective date of the act. It is assumed that this bill would not significantly affect the operations of state government.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 696 Department of Criminal Justice

LBB Staff: JOB, ES, GG, LM, KJG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 11, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2328 by Woolley (Relating to the offenses of cruelty to livestock and nonlivestock animals.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

This bill would amend the Penal Code to provide penalties for cruelty to livestock and nonlivestock animals. The bill would modify the current section of the Penal Code to apply to livestock animals and create a new section within the Penal Code for offenses against nonlivestock animals. The new section would make punishment for the first offense a Class A Misdemeanor and allow for penalty enhancements upon subsequent convictions. The bill would also amend the Family Code and the Occupations Code to include the new Penal Code section.

This bill will take effect September 1, 2007 and apply to offenses committed on or after the effective date of the act. It is assumed that this bill would not significantly affect the operations of state government.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 696 Department of Criminal Justice

LBB Staff: JOB, ES, GG, LM, KJG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 5, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2328** by Woolley (Relating to the offenses of cruelty to livestock and nonlivestock animals.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

This bill would amend the Penal Code to provide penalties for cruelty to livestock and nonlivestock animals. The bill would modify the current section of the Penal Code to apply to livestock animals and create a new section within the Penal Code for offenses against nonlivestock animals. The new section would make punishment for the first offense a Class A Misdemeanor and allow for penalty enhancements upon subsequent convictions. The bill would also amend the Family Code to include the new Penal Code section.

This bill will take effect September 1, 2007 and apply to offenses committed on or after the effective date of the act. It is assumed that this bill would not significantly affect the operations of state government.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 696 Department of Criminal Justice

LBB Staff: JOB, ES, GG, LM, KJG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 19, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2328 by Woolley (Relating to the offenses of cruelty to livestock and nonlivestock animals.), **As Introduced**

No significant fiscal implication to the State is anticipated.

This bill would amend the Penal Code to provide penalties for cruelty to livestock and nonlivestock animals. The bill would modify the current section of the Penal Code to apply to livestock animals and create a new section within the Penal Code for offenses against nonlivestock animals. The new section would make punishment for the first offense a Class A Misdemeanor and allow for penalty enhancements upon subsequent convictions. The bill would also amend the Family Code to include the new Penal Code section.

This bill will take effect September 1, 2007 and apply to offenses committed on or after the effective date of the act. It is assumed that this bill would not significantly affect the operations of state government.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 696 Department of Criminal Justice

LBB Staff: JOB, ES, GG, LM, KJG

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 16, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2328** by Woolley (Relating to the offenses of cruelty to livestock and nonlivestock animals.), **Committee Report 2nd House, Substituted**

This bill would amend the Penal Code to provide penalties for cruelty to livestock and nonlivestock animals. The bill would modify the current section of the Penal Code to apply to livestock animals and create a new section within the Penal Code for offenses against nonlivestock animals. The new section would make punishment for the first offense a Class A Misdemeanor and subsequent punishments a state jail or third degree felony based on the number of previous convictions. The bill would also amend the Family Code to include the new penal code section.

In fiscal year 2006 there were 11 admissions to prison and state jail and 142 offenders (19 felony and 123 misdemeanor) placed on community supervision for cruelty to animals. Less than ten juveniles were admitted to the Texas Youth Commission in fiscal year 2006 for cruelty to animals.

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, LM

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 11, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2328 by Woolley (Relating to the offenses of cruelty to livestock and nonlivestock animals.), **As Engrossed**

This bill would amend the Penal Code to provide penalties for cruelty to livestock and nonlivestock animals. The bill would modify the current section of the Penal Code to apply to livestock animals and create a new section within the Penal Code for offenses against nonlivestock animals. The new section would make punishment for the first offense a Class A Misdemeanor and subsequent punishments a state jail or third degree felony based on the number of previous convictions. The bill would also amend the Family Code to include the new penal code section.

In fiscal year 2006 there were 11 admissions to prison and state jail and 142 offenders (19 felony and 123 misdemeanor) placed on community supervision for cruelty to animals. Less than ten juveniles were admitted to the Texas Youth Commission in fiscal year 2006 for cruelty to animals.

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

April 5, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2328 by Woolley (Relating to the offenses of cruelty to livestock and nonlivestock animals.), **Committee Report 1st House, Substituted**

This bill would amend the Penal Code to provide penalties for cruelty to livestock and nonlivestock animals. The bill would modify the current section of the Penal Code to apply to livestock animals and create a new section within the Penal Code for offenses against nonlivestock animals. The new section would make punishment for the first offense a Class A Misdemeanor and subsequent punishments a state jail or third degree felony based on the number of previous convictions. The bill would also amend the Family Code to include the new penal code section.

In fiscal year 2006 there were 11 admissions to prison and state jail and 209 (40 felony and 169 misdemeanor) offenders placed on community supervision in fiscal year 2005 for cruelty to animals. Only one juvenile was admitted to TYC in fiscal year 2006 for cruelty to animals.

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

March 19, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2328 by Woolley (Relating to the offenses of cruelty to livestock and nonlivestock animals.), **As Introduced**

This bill would amend the Penal Code to provide penalties for cruelty to livestock and nonlivestock animals. The bill would modify the current section of the Penal Code to apply to livestock animals and create a new section within the Penal Code for offenses against nonlivestock animals. The new section would make punishment for the first offense a Class A Misdemeanor and subsequent punishments a state jail or third degree felony based on the number of previous convictions. The bill would also amend the Family Code to include the new penal code section.

In fiscal year 2006 there were 11 admissions to prison and state jail and 209 (40 felony and 169 misdemeanor) offenders placed on community supervision in fiscal year 2005 for cruelty to animals. Only one juvenile was admitted to TYC in fiscal year 2006 for cruelty to animals.

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, LM