

BILL ANALYSIS

C.S.H.B. 1320
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, cockfight spectators are not punished, but dog fight spectators are held legally liable. Recently, approximately 10 people were caught watching a cockfight and may escape charges. Cockfighting is a cruel act, and those who participate or engage in the act in any manner should be held criminally responsible.

C.S.H.B. 1320 creates a Class A misdemeanor offense against a cockfighting spectator, creates other offenses relating to cockfighting, and assesses appropriate punishments to fit the crime.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1320 amends the Penal Code to create offenses relating to cockfighting. The bill makes it a state jail felony offense to knowingly cause a cock to fight with another cock, to participate in the earnings of or operate a facility used for cockfighting, to use or permit another to use any real estate, building, room, tent, arena, or other property for cockfighting, or to manufacture, buy, sell, barter, exchange, possess, advertise, or otherwise offer a gaff, slasher, or other sharp implement designed for attachment to a cock with the intent that the implement be used in cockfighting. The bill makes it a Class A misdemeanor to knowingly attend as a spectator an exhibition of cockfighting or to own or train a cock with the intent that the cock be used in an exhibition of cockfighting. The bill defines "cock," "cockfighting," "gaff," and "slasher." The bill expands the conditions that constitute the offense of engaging in organized criminal activity to include committing or conspiring to commit a cockfighting offense, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang.

C.S.H.B. 1320 amends the Code of Criminal Procedure to require the court entering a judgment of conviction of a person, following the final conviction for an offense involving cockfighting, to order that any cockfighting equipment be destroyed or forfeited to the state and requires the destruction of cocks, if necessary, to be carried out by a veterinarian licensed in Texas or, if one is not available, by trained personnel of a humane society or animal shelter.

C.S.H.B. 1320 requires a magistrate to whom the return of cockfighting equipment is made, if there is no prosecution or conviction following seizure of the equipment, to notify in writing the person found in possession of the cockfighting equipment to show cause why the property seized should not be destroyed or the proceeds forfeited. The bill requires any person interested in the alleged cockfighting equipment seized to appear before the magistrate on the 20th day following the date the notice was mailed or posted. The bill requires the magistrate to dispose of the property or proceeds in accordance with state law regarding the disposition of gambling paraphernalia, prohibited weapons, criminal instruments, and other contraband unless the person appearing before the magistrate to show cause proves by a preponderance of the evidence that the property or proceeds is not cockfighting equipment.

C.S.H.B. 1320 reenacts and amends Article 59.01(2), Code of Criminal Procedure, as amended by Chapters 127 (S.B. 1694), 822 (H.B. 73), and 885 (H.B. 2278), Acts of the 80th Legislature, Regular Session, 2007, to include in the definition of "contraband" for purposes of forfeiture of contraband, property of any nature, including real, personal, tangible, or intangible, that is used or intended to be used in the commission of a cockfighting offense or that is the proceeds gained from the commission of a cockfighting offense. The bill authorizes the attorney representing the state, if contraband relating to a cockfighting offense is subject to forfeiture under state law regarding forfeiture of contraband and state law regarding the disposition of gambling paraphernalia, prohibited weapons, criminal instruments, and other contraband, to proceed under either law. The bill defines "cockfighting equipment," "gaff," and "slasher."

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1320 differs from the original by making it a Class A misdemeanor, rather than a Class C misdemeanor, to own or train a cock with the intent that the cock be used in an exhibition of cockfighting. The substitute adds a provision not in the original expanding the conditions that constitute the offense of engaging in organized criminal activity to include cockfighting offenses committed in a combination or as a member of a criminal street gang.

C.S.H.B. 1320 adds a provision not in the original to include cockfighting property of any nature and the proceeds gained from a cockfighting offense in the definition of "contraband" for purposes of forfeiture of contraband. The substitute adds a provision not in the original that authorizes the attorney representing the state, if contraband relating to a cockfighting offense is subject to forfeiture under state law regarding forfeiture of contraband or the disposition of gambling paraphernalia, prohibited weapons, criminal instruments, and other contraband, to proceed under either law.