

1-1 By: Whitmire S.B. No. 554
1-2 (In the Senate - Filed January 27, 2009; February 23, 2009,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 March 19, 2009, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; March 19, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to conduct constituting the offense of dog fighting and to
1-9 the criminal and civil consequences of committing that offense.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsections (a), (b), and (e), Section 42.10,
1-12 Penal Code, are amended to read as follows:

1-13 (a) A person commits an offense if the person [~~he~~]
1-14 intentionally or knowingly:

1-15 (1) causes a dog to fight with another dog;

1-16 (2) participates in the earnings of or operates a
1-17 facility used for dog fighting;

1-18 (3) uses or permits another to use any real estate,
1-19 building, room, tent, arena, or other property for dog fighting;

1-20 (4) owns or possesses dog-fighting equipment with the
1-21 intent that the equipment be used to train a dog for dog fighting or
1-22 in furtherance of dog fighting;

1-23 (5) owns or trains a dog with the intent that the dog
1-24 be used in an exhibition of dog fighting; or

1-25 (6) [~~(5)~~] attends as a spectator an exhibition of dog
1-26 fighting.

1-27 (b) In this section:

1-28 (1) "Dog [~~,"~~ "~~dog~~"] fighting" means any situation in
1-29 which one dog attacks or fights with another dog.

1-30 (2) "Dog-fighting equipment" has the meaning assigned
1-31 by Article 18.18(g), Code of Criminal Procedure.

1-32 (e) An offense under Subsection (a)(4) [~~or~~] (5), or (6) is
1-33 a Class A misdemeanor. An offense under Subsection (a)(1), (2), or
1-34 (3) is a state jail felony.

1-35 SECTION 2. Subsection (a), Section 71.02, Penal Code, is
1-36 amended to read as follows:

1-37 (a) A person commits an offense if, with the intent to
1-38 establish, maintain, or participate in a combination or in the
1-39 profits of a combination or as a member of a criminal street gang,
1-40 he commits or conspires to commit one or more of the following:

1-41 (1) murder, capital murder, arson, aggravated
1-42 robbery, robbery, burglary, theft, aggravated kidnapping,
1-43 kidnapping, aggravated assault, aggravated sexual assault, sexual
1-44 assault, forgery, deadly conduct, assault punishable as a Class A
1-45 misdemeanor, burglary of a motor vehicle, or unauthorized use of a
1-46 motor vehicle;

1-47 (2) any gambling offense punishable as a Class A
1-48 misdemeanor;

1-49 (3) promotion of prostitution, aggravated promotion
1-50 of prostitution, or compelling prostitution;

1-51 (4) unlawful manufacture, transportation, repair, or
1-52 sale of firearms or prohibited weapons;

1-53 (5) unlawful manufacture, delivery, dispensation, or
1-54 distribution of a controlled substance or dangerous drug, or
1-55 unlawful possession of a controlled substance or dangerous drug
1-56 through forgery, fraud, misrepresentation, or deception;

1-57 (6) any unlawful wholesale promotion or possession of
1-58 any obscene material or obscene device with the intent to wholesale
1-59 promote the same;

1-60 (7) any offense under Subchapter B, Chapter 43,
1-61 depicting or involving conduct by or directed toward a child
1-62 younger than 18 years of age;

1-63 (8) any felony offense under Chapter 32;

1-64 (9) any offense under Chapter 36;

- 2-1 (10) any offense under Chapter 34 or 35;
 2-2 (11) any offense under Section 37.11(a);
 2-3 (12) any offense under Chapter 20A; ~~[or]~~
 2-4 (13) any offense under Section 37.10; or
 2-5 (14) any offense under Section 42.10.

2-6 SECTION 3. Subdivision (2), Article 59.01, Code of Criminal
 2-7 Procedure, as amended by Chapters 127 (S.B. 1694), 822 (H.B. 73),
 2-8 and 885 (H.B. 2278), Acts of the 80th Legislature, Regular Session,
 2-9 2007, is reenacted and amended to read as follows:

2-10 (2) "Contraband" means property of any nature,
 2-11 including real, personal, tangible, or intangible, that is:

2-12 (A) used in the commission of:

2-13 (i) any first or second degree felony under
 2-14 the Penal Code;

2-15 (ii) any felony under Section 15.031(b),
 2-16 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30,
 2-17 31, 32, 33, 33A, or 35, Penal Code;

2-18 (iii) any felony under The Securities Act
 2-19 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

2-20 (iv) any offense under Chapter 49, Penal
 2-21 Code, that is punishable as a felony of the third degree or state
 2-22 jail felony, if the defendant has been previously convicted three
 2-23 times of an offense under that chapter;

2-24 (B) used or intended to be used in the commission
 2-25 of:

2-26 (i) any felony under Chapter 481, Health
 2-27 and Safety Code (Texas Controlled Substances Act);

2-28 (ii) any felony under Chapter 483, Health
 2-29 and Safety Code;

2-30 (iii) a felony under Chapter 153, Finance
 2-31 Code;

2-32 (iv) any felony under Chapter 34, Penal
 2-33 Code;

2-34 (v) a Class A misdemeanor under Subchapter
 2-35 B, Chapter 365, Health and Safety Code, if the defendant has been
 2-36 previously convicted twice of an offense under that subchapter;

2-37 (vi) any felony under Chapter 152, Finance
 2-38 Code;

2-39 (vii) any felony under Chapter 32, Human
 2-40 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
 2-41 involves the state Medicaid program;

2-42 (viii) a Class B misdemeanor under Chapter
 2-43 522, Business & Commerce Code; ~~[or]~~

2-44 (ix) a Class A misdemeanor under Section
 2-45 35.153, Business & Commerce Code; or

2-46 (x) any offense under Section 42.10, Penal
 2-47 Code;

2-48 (C) the proceeds gained from the commission of a
 2-49 felony listed in Paragraph (A) or (B) of this subdivision, a
 2-50 misdemeanor listed in Paragraph (B)(viii) or (x) of this
 2-51 subdivision, or a crime of violence;

2-52 (D) acquired with proceeds gained from the
 2-53 commission of a felony listed in Paragraph (A) or (B) of this
 2-54 subdivision, a misdemeanor listed in Paragraph (B)(viii) or (x) of
 2-55 this subdivision, or a crime of violence; or

2-56 (E) used to facilitate or intended to be used to
 2-57 facilitate the commission of a felony under Section 15.031 or
 2-58 43.25, Penal Code.

2-59 SECTION 4. Chapter 59, Code of Criminal Procedure, is
 2-60 amended by adding Article 59.011 to read as follows:

2-61 Art. 59.011. If property described by Article
 2-62 59.01(2)(B)(x) is subject to forfeiture under this chapter and
 2-63 Article 18.18, the attorney representing the state may proceed
 2-64 under either provision.

2-65 SECTION 5. The changes in law made by this Act apply only to
 2-66 an offense committed on or after the effective date of this Act or
 2-67 to the forfeiture of property used in the commission of that
 2-68 offense. An offense committed before the effective date of this
 2-69 Act, or the forfeiture of property used in the commission of that

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

3-6 SECTION 6. This Act takes effect September 1, 2009.

3-7

* * * * *