

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Christian, et al.

H.B. No. 1320

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to creating an offense for engaging in certain conduct  
3 relating to cockfighting and to the criminal and civil consequences  
4 of committing that offense.

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

6 SECTION 1. Chapter 42, Penal Code, is amended by adding  
7 Section 42.105 to read as follows:

8 Sec. 42.105. COCKFIGHTING. (a) In this section:

9 (1) "Cock" means the male of any type of domestic fowl.

10 (2) "Cockfighting" means any situation in which one  
11 cock attacks or fights with another cock.

12 (3) "Gaff" means an artificial steel spur designed to  
13 attach to the leg of a cock to replace or supplement the cock's  
14 natural spur.

15 (4) "Slasher" means a steel weapon resembling a curved  
16 knife blade designed to attach to the foot of a cock.

17 (b) A person commits an offense if the person knowingly:

18 (1) causes a cock to fight with another cock;

19 (2) participates in the earnings of or operates a  
20 facility used for cockfighting;

21 (3) uses or permits another to use any real estate,  
22 building, room, tent, arena, or other property for cockfighting;

23 (4) owns or trains a cock with the intent that the cock  
24 be used in an exhibition of cockfighting;

1           (5) manufactures, buys, sells, barter, exchanges,  
2 possesses, advertises, or otherwise offers a gaff, slasher, or  
3 other sharp implement designed for attachment to a cock with the  
4 intent that the implement be used in cockfighting; or

5           (6) attends as a spectator an exhibition of  
6 cockfighting.

7           (c) An offense under Subsection (b)(1), (2), (3), or (5) is  
8 a state jail felony. An offense under Subsection (b)(4) is a Class  
9 A misdemeanor. An offense under Subsection (b)(6) is a Class C  
10 misdemeanor.

11           (d) It is an affirmative defense to prosecution under  
12 Subsection (b)(4) that the actor owns or trains a cock with the  
13 intent that the cock be used as a show bird or pet.

14           SECTION 2. Article 14.06(d), Code of Criminal Procedure, is  
15 amended to read as follows:

16           (d) Subsection (c) applies only to a person charged with  
17 committing an offense under:

18           (1) Section 481.121, Health and Safety Code, if the  
19 offense is punishable under Subsection (b)(1) or (2) of that  
20 section;

21           (2) Section 28.03, Penal Code, if the offense is  
22 punishable under Subsection (b)(2) of that section;

23           (3) Section 28.08, Penal Code, if the offense is  
24 punishable under Subsection (b)(1) of that section;

25           (4) Section 31.03, Penal Code, if the offense is  
26 punishable under Subsection (e)(2)(A) of that section;

27           (5) Section 31.04, Penal Code, if the offense is

1 punishable under Subsection (e)(2) of that section;

2 (6) Section 38.114, Penal Code, if the offense is  
3 punishable as a Class B misdemeanor; [~~or~~]

4 (7) Section 42.105, Penal Code, if the offense is  
5 punishable as a Class A misdemeanor; or

6 (8) Section 521.457, Transportation Code.

7 SECTION 3. Articles 18.18(a), (b), (e), and (f), Code of  
8 Criminal Procedure, are amended to read as follows:

9 (a) Following the final conviction of a person for  
10 possession of a gambling device or equipment, altered gambling  
11 equipment, or gambling paraphernalia, for an offense involving a  
12 criminal instrument, for an offense involving an obscene device or  
13 material, for an offense involving child pornography, or for an  
14 offense involving a scanning device or re-encoder, the court  
15 entering the judgment of conviction shall order that the machine,  
16 device, gambling equipment or gambling paraphernalia, instrument,  
17 obscene device or material, child pornography, or scanning device  
18 or re-encoder be destroyed or forfeited to the state. Not later  
19 than the 30th day after the final conviction of a person for an  
20 offense involving a prohibited weapon, the court entering the  
21 judgment of conviction on its own motion, on the motion of the  
22 prosecuting attorney in the case, or on the motion of the law  
23 enforcement agency initiating the complaint on notice to the  
24 prosecuting attorney in the case if the prosecutor fails to move for  
25 the order shall order that the prohibited weapon be destroyed or  
26 forfeited to the law enforcement agency that initiated the  
27 complaint. If the court fails to enter the order within the time

1 required by this subsection, any magistrate in the county in which  
2 the offense occurred may enter the order. Following the final  
3 conviction of a person for an offense involving dog fighting or  
4 cockfighting, the court entering the judgment of conviction shall  
5 order that any dog-fighting or cockfighting equipment be destroyed  
6 or forfeited to the state. Destruction of dogs and cocks, if  
7 necessary, must be carried out by a veterinarian licensed in this  
8 state or, if one is not available, by trained personnel of a humane  
9 society or an animal shelter. If forfeited, the court shall order  
10 the contraband delivered to the state, any political subdivision of  
11 the state, or to any state institution or agency. If gambling  
12 proceeds were seized, the court shall order them forfeited to the  
13 state and shall transmit them to the grand jury of the county in  
14 which they were seized for use in investigating alleged violations  
15 of the Penal Code, or to the state, any political subdivision of the  
16 state, or to any state institution or agency.

17 (b) If there is no prosecution or conviction following  
18 seizure, the magistrate to whom the return was made shall notify in  
19 writing the person found in possession of the alleged gambling  
20 device or equipment, altered gambling equipment or gambling  
21 paraphernalia, gambling proceeds, prohibited weapon, obscene  
22 device or material, child pornography, scanning device or  
23 re-encoder, criminal instrument, or dog-fighting or cockfighting  
24 equipment to show cause why the property seized should not be  
25 destroyed or the proceeds forfeited. The magistrate, on the motion  
26 of the law enforcement agency seizing a prohibited weapon, shall  
27 order the weapon destroyed or forfeited to the law enforcement

1 agency seizing the weapon, unless a person shows cause as to why the  
2 prohibited weapon should not be destroyed or forfeited. A law  
3 enforcement agency shall make a motion under this section in a  
4 timely manner after the time at which the agency is informed in  
5 writing by the attorney representing the state that no prosecution  
6 will arise from the seizure.

7 (e) Any person interested in the alleged gambling device or  
8 equipment, altered gambling equipment or gambling paraphernalia,  
9 gambling proceeds, prohibited weapon, obscene device or material,  
10 child pornography, scanning device or re-encoder, criminal  
11 instrument, or dog-fighting or cockfighting equipment seized must  
12 appear before the magistrate on the 20th day following the date the  
13 notice was mailed or posted. Failure to timely appear forfeits any  
14 interest the person may have in the property or proceeds seized, and  
15 no person after failing to timely appear may contest destruction or  
16 forfeiture.

17 (f) If a person timely appears to show cause why the  
18 property or proceeds should not be destroyed or forfeited, the  
19 magistrate shall conduct a hearing on the issue and determine the  
20 nature of property or proceeds and the person's interest therein.  
21 Unless the person proves by a preponderance of the evidence that the  
22 property or proceeds is not gambling equipment, altered gambling  
23 equipment, gambling paraphernalia, gambling device, gambling  
24 proceeds, prohibited weapon, obscene device or material, child  
25 pornography, criminal instrument, scanning device or re-encoder,  
26 or dog-fighting or cockfighting equipment and that he is entitled  
27 to possession, the magistrate shall dispose of the property or

1 proceeds in accordance with Paragraph (a) of this article.

2 SECTION 4. Article 18.18(g), Code of Criminal Procedure, as  
3 effective April 1, 2009, is amended to read as follows:

4 (g) For purposes of this article:

5 (1) "criminal instrument" has the meaning defined in  
6 the Penal Code;

7 (2) "gambling device or equipment, altered gambling  
8 equipment or gambling paraphernalia" has the meaning defined in the  
9 Penal Code;

10 (3) "prohibited weapon" has the meaning defined in the  
11 Penal Code;

12 (4) "dog-fighting equipment" means:

13 (A) equipment used for training or handling a  
14 fighting dog, including a harness, treadmill, cage, decoy, pen,  
15 house for keeping a fighting dog, feeding apparatus, or training  
16 pen;

17 (B) equipment used for transporting a fighting  
18 dog, including any automobile, or other vehicle, and its  
19 appurtenances which are intended to be used as a vehicle for  
20 transporting a fighting dog;

21 (C) equipment used to promote or advertise an  
22 exhibition of dog fighting, including a printing press or similar  
23 equipment, paper, ink, or photography equipment; or

24 (D) a dog trained, being trained, or intended to  
25 be used to fight with another dog;

26 (4-a) "cockfighting equipment" means:

27 (A) equipment used for training or handling a

1 fighting cock, including a cage, decoy, gaff, slasher, pen, house  
2 for keeping a fighting cock, feeding apparatus, or training pen;

3 (B) equipment used for transporting a fighting  
4 cock, including any automobile or other vehicle and its  
5 appurtenances that are intended to be used as a vehicle for  
6 transporting a fighting cock;

7 (C) equipment used to promote or advertise an  
8 exhibition of cockfighting, including a printing press or similar  
9 equipment, paper, ink, or photography equipment; or

10 (D) a cock trained, being trained, or intended to  
11 be used to fight with another cock;

12 (4-b) "gaff" and "slasher" have the meanings assigned  
13 by Section 42.105, Penal Code;

14 (5) "obscene device" and "obscene" have the meanings  
15 assigned by Section 43.21, Penal Code;

16 (6) "re-encoder" has the meaning assigned by Section  
17 522.001, Business & Commerce Code;

18 (7) "scanning device" has the meaning assigned by  
19 Section 522.001, Business & Commerce Code; and

20 (8) "obscene material" and "child pornography"  
21 include digital images and the media and equipment on which those  
22 images are stored.

23 SECTION 5. Article 59.01(2), Code of Criminal Procedure, as  
24 amended by Chapters 127 (S.B. 1694), 822 (H.B. 73), and 885 (H.B.  
25 2278), Acts of the 80th Legislature, Regular Session, 2007, is  
26 reenacted and amended to read as follows:

27 (2) "Contraband" means property of any nature,

1 including real, personal, tangible, or intangible, that is:

2 (A) used in the commission of:

3 (i) any first or second degree felony under  
4 the Penal Code;

5 (ii) any felony under Section 15.031(b),  
6 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30,  
7 31, 32, 33, 33A, or 35, Penal Code;

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

10 (iv) any offense under Chapter 49, Penal  
11 Code, that is punishable as a felony of the third degree or state  
12 jail felony, if the defendant has been previously convicted three  
13 times of an offense under that chapter;

14 (B) used or intended to be used in the commission  
15 of:

16 (i) any felony under Chapter 481, Health  
17 and Safety Code (Texas Controlled Substances Act);

18 (ii) any felony under Chapter 483, Health  
19 and Safety Code;

20 (iii) a felony under Chapter 153, Finance  
21 Code;

22 (iv) any felony under Chapter 34, Penal  
23 Code;

24 (v) a Class A misdemeanor under Subchapter  
25 B, Chapter 365, Health and Safety Code, if the defendant has been  
26 previously convicted twice of an offense under that subchapter;

27 (vi) any felony under Chapter 152, Finance



1 Code;

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

5 (viii) a Class B misdemeanor under Chapter  
6 522, Business & Commerce Code; [~~or~~]

7 (ix) a Class A misdemeanor under Section  
8 35.153, Business & Commerce Code; or

9 (x) any offense under Section 42.105, Penal  
10 Code;

11 (C) the proceeds gained from the commission of a  
12 felony listed in Paragraph (A) or (B) of this subdivision, a  
13 misdemeanor listed in Paragraph (B)(viii) or (x) of this  
14 subdivision, or a crime of violence;

15 (D) acquired with proceeds gained from the  
16 commission of a felony listed in Paragraph (A) or (B) of this  
17 subdivision, a misdemeanor listed in Paragraph (B)(viii) or (x) of  
18 this subdivision, or a crime of violence; or

19 (E) used to facilitate or intended to be used to  
20 facilitate the commission of a felony under Section 15.031 or  
21 43.25, Penal Code.

22 SECTION 6. Chapter 59, Code of Criminal Procedure, is  
23 amended by adding Article 59.011 to read as follows:

24 Art. 59.011. COCKFIGHTING CONTRABAND. If property  
25 described by Article 59.01(2)(B)(x) is subject to forfeiture under  
26 this chapter and Article 18.18, the attorney representing the state  
27 may proceed under either provision.

1           SECTION 7. The changes in law made by this Act apply only to  
2 an offense committed on or after the effective date of this Act or  
3 to the forfeiture of property used in the commission of that  
4 offense. An offense committed before the effective date of this  
5 Act, or the forfeiture of property used in the commission of that  
6 offense, is governed by the law in effect when the offense was  
7 committed, and the former law is continued in effect for that  
8 purpose. For purposes of this section, an offense was committed  
9 before the effective date of this Act if any element of the offense  
10 occurred before that date.

11           SECTION 8. This Act takes effect September 1, 2009.

ADOPTED

MAY 27 2009

*Atty. Gen.*  
Secretary of the Senate

By: *Robyn Ellis*

H.B. No. 1320

Substitute the following for H.B. No. 1320:

By: *Robyn Ellis*

C.S. H.B. No. 1320

A BILL TO BE ENTITLED

1 AN ACT

2 relating to creating an offense for engaging in certain conduct  
3 relating to cockfighting and to the criminal and civil consequences  
4 of committing that offense.

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

6 SECTION 1. Chapter 42, Penal Code, is amended by adding  
7 Section 42.105 to read as follows:

8 Sec. 42.105. COCKFIGHTING. (a) In this section:

9 (1) "Cock" means the male of any type of domestic fowl.

10 (2) "Cockfighting" means any situation in which one  
11 cock attacks or fights with another cock.

12 (3) "Gaff" means an artificial steel spur designed to  
13 attach to the leg of a cock to replace or supplement the cock's  
14 natural spur.

15 (4) "Slasher" means a steel weapon resembling a curved  
16 knife blade designed to attach to the foot of a cock.

17 (b) A person commits an offense if the person knowingly:

18 (1) causes a cock to fight with another cock;

19 (2) participates in the earnings of or operates a  
20 facility used for cockfighting;

21 (3) uses or permits another to use any real estate,  
22 building, room, tent, arena, or other property for cockfighting;

23 (4) owns or trains a cock with the intent that the cock  
24 be used in an exhibition of cockfighting;

1           (5) manufactures, buys, sells, barter, exchanges,  
2 possesses, advertises, or otherwise offers a gaff, slasher, or  
3 other sharp implement designed for attachment to a cock with the  
4 intent that the implement be used in cockfighting; or

5           (6) attends as a spectator an exhibition of  
6 cockfighting.

7           (c) An offense under Subsection (b)(1), (2), (3), or (5) is  
8 a state jail felony. An offense under Subsection (b)(4) is a Class  
9 A misdemeanor. An offense under Subsection (b)(6) is a Class C  
10 misdemeanor, except that the offense is a Class A misdemeanor if it  
11 is shown on the trial of the offense that the person has been  
12 previously convicted of an offense under that subsection.

13           SECTION 2. Section 71.02(a), Penal Code, is amended to read  
14 as follows:

15           (a) A person commits an offense if, with the intent to  
16 establish, maintain, or participate in a combination or in the  
17 profits of a combination or as a member of a criminal street gang,  
18 he commits or conspires to commit one or more of the following:

19           (1) murder, capital murder, arson, aggravated  
20 robbery, robbery, burglary, theft, aggravated kidnapping,  
21 kidnapping, aggravated assault, aggravated sexual assault, sexual  
22 assault, forgery, deadly conduct, assault punishable as a Class A  
23 misdemeanor, burglary of a motor vehicle, or unauthorized use of a  
24 motor vehicle;

25           (2) any gambling offense punishable as a Class A  
26 misdemeanor;

27           (3) promotion of prostitution, aggravated promotion

1 of prostitution, or compelling prostitution;

2 (4) unlawful manufacture, transportation, repair, or  
3 sale of firearms or prohibited weapons;

4 (5) unlawful manufacture, delivery, dispensation, or  
5 distribution of a controlled substance or dangerous drug, or  
6 unlawful possession of a controlled substance or dangerous drug  
7 through forgery, fraud, misrepresentation, or deception;

8 (6) any unlawful wholesale promotion or possession of  
9 any obscene material or obscene device with the intent to wholesale  
10 promote the same;

11 (7) any offense under Subchapter B, Chapter 43,  
12 depicting or involving conduct by or directed toward a child  
13 younger than 18 years of age;

14 (8) any felony offense under Chapter 32;

15 (9) any offense under Chapter 36;

16 (10) any offense under Chapter 34 or 35;

17 (11) any offense under Section 37.11(a);

18 (12) any offense under Chapter 20A; [~~or~~]

19 (13) any offense under Section 37.10; or

20 (14) any offense under Section 42.105.

21 SECTION 3. Article 14.06(d), Code of Criminal Procedure, is  
22 amended to read as follows:

23 (d) Subsection (c) applies only to a person charged with  
24 committing an offense under:

25 (1) Section 481.121, Health and Safety Code, if the  
26 offense is punishable under Subsection (b)(1) or (2) of that  
27 section;

1           (2) Section 28.03, Penal Code, if the offense is  
2 punishable under Subsection (b)(2) of that section;

3           (3) Section 28.08, Penal Code, if the offense is  
4 punishable under Subsection (b)(1) of that section;

5           (4) Section 31.03, Penal Code, if the offense is  
6 punishable under Subsection (e)(2)(A) of that section;

7           (5) Section 31.04, Penal Code, if the offense is  
8 punishable under Subsection (e)(2) of that section;

9           (6) Section 38.114, Penal Code, if the offense is  
10 punishable as a Class B misdemeanor; [~~or~~]

11           (7) Section 42.105, Penal Code, if the offense is  
12 punishable as a Class A misdemeanor; or

13           (8) Section 521.457, Transportation Code.

14           SECTION 4. Articles 18.18(a), (b), (e), and (f), Code of  
15 Criminal Procedure, are amended to read as follows:

16           (a) Following the final conviction of a person for  
17 possession of a gambling device or equipment, altered gambling  
18 equipment, or gambling paraphernalia, for an offense involving a  
19 criminal instrument, for an offense involving an obscene device or  
20 material, for an offense involving child pornography, or for an  
21 offense involving a scanning device or re-encoder, the court  
22 entering the judgment of conviction shall order that the machine,  
23 device, gambling equipment or gambling paraphernalia, instrument,  
24 obscene device or material, child pornography, or scanning device  
25 or re-encoder be destroyed or forfeited to the state. Not later  
26 than the 30th day after the final conviction of a person for an  
27 offense involving a prohibited weapon, the court entering the

1 judgment of conviction on its own motion, on the motion of the  
2 prosecuting attorney in the case, or on the motion of the law  
3 enforcement agency initiating the complaint on notice to the  
4 prosecuting attorney in the case if the prosecutor fails to move for  
5 the order shall order that the prohibited weapon be destroyed or  
6 forfeited to the law enforcement agency that initiated the  
7 complaint. If the court fails to enter the order within the time  
8 required by this subsection, any magistrate in the county in which  
9 the offense occurred may enter the order. Following the final  
10 conviction of a person for an offense involving dog fighting or  
11 cockfighting, the court entering the judgment of conviction shall  
12 order that any dog-fighting or cockfighting equipment be destroyed  
13 or forfeited to the state. Destruction of dogs and cocks, if  
14 necessary, must be carried out by a veterinarian licensed in this  
15 state or, if one is not available, by trained personnel of a humane  
16 society or an animal shelter. If forfeited, the court shall order  
17 the contraband delivered to the state, any political subdivision of  
18 the state, or to any state institution or agency. If gambling  
19 proceeds were seized, the court shall order them forfeited to the  
20 state and shall transmit them to the grand jury of the county in  
21 which they were seized for use in investigating alleged violations  
22 of the Penal Code, or to the state, any political subdivision of the  
23 state, or to any state institution or agency.

24 (b) If there is no prosecution or conviction following  
25 seizure, the magistrate to whom the return was made shall notify in  
26 writing the person found in possession of the alleged gambling  
27 device or equipment, altered gambling equipment or gambling

1 paraphernalia, gambling proceeds, prohibited weapon, obscene  
2 device or material, child pornography, scanning device or  
3 re-encoder, criminal instrument, or dog-fighting or cockfighting  
4 equipment to show cause why the property seized should not be  
5 destroyed or the proceeds forfeited. The magistrate, on the motion  
6 of the law enforcement agency seizing a prohibited weapon, shall  
7 order the weapon destroyed or forfeited to the law enforcement  
8 agency seizing the weapon, unless a person shows cause as to why the  
9 prohibited weapon should not be destroyed or forfeited. A law  
10 enforcement agency shall make a motion under this section in a  
11 timely manner after the time at which the agency is informed in  
12 writing by the attorney representing the state that no prosecution  
13 will arise from the seizure.

14 (e) Any person interested in the alleged gambling device or  
15 equipment, altered gambling equipment or gambling paraphernalia,  
16 gambling proceeds, prohibited weapon, obscene device or material,  
17 child pornography, scanning device or re-encoder, criminal  
18 instrument, or dog-fighting or cockfighting equipment seized must  
19 appear before the magistrate on the 20th day following the date the  
20 notice was mailed or posted. Failure to timely appear forfeits any  
21 interest the person may have in the property or proceeds seized, and  
22 no person after failing to timely appear may contest destruction or  
23 forfeiture.

24 (f) If a person timely appears to show cause why the  
25 property or proceeds should not be destroyed or forfeited, the  
26 magistrate shall conduct a hearing on the issue and determine the  
27 nature of property or proceeds and the person's interest therein.



1 Unless the person proves by a preponderance of the evidence that the  
2 property or proceeds is not gambling equipment, altered gambling  
3 equipment, gambling paraphernalia, gambling device, gambling  
4 proceeds, prohibited weapon, obscene device or material, child  
5 pornography, criminal instrument, scanning device or re-encoder,  
6 or dog-fighting or cockfighting equipment and that he is entitled  
7 to possession, the magistrate shall dispose of the property or  
8 proceeds in accordance with Paragraph (a) of this article.

9 SECTION 5. Article 18.18(g), Code of Criminal Procedure, as  
10 effective April 1, 2009, is amended to read as follows:

11 (g) For purposes of this article:

12 (1) "criminal instrument" has the meaning defined in  
13 the Penal Code;

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16 Penal Code;

17 (3) "prohibited weapon" has the meaning defined in the  
18 Penal Code;

19 (4) "dog-fighting equipment" means:

20 (A) equipment used for training or handling a  
21 fighting dog, including a harness, treadmill, cage, decoy, pen,  
22 house for keeping a fighting dog, feeding apparatus, or training  
23 pen;

24 (B) equipment used for transporting a fighting  
25 dog, including any automobile, or other vehicle, and its  
26 appurtenances which are intended to be used as a vehicle for  
27 transporting a fighting dog;

1 (C) equipment used to promote or advertise an  
2 exhibition of dog fighting, including a printing press or similar  
3 equipment, paper, ink, or photography equipment; or

4 (D) a dog trained, being trained, or intended to  
5 be used to fight with another dog;

6 (4-a) "cockfighting equipment" means:

7 (A) equipment used for training or handling a  
8 fighting cock, including a cage, decoy, gaff, slasher, pen, house  
9 for keeping a fighting cock, feeding apparatus, or training pen;

10 (B) equipment used for transporting a fighting  
11 cock, including any automobile or other vehicle and its  
12 appurtenances that are intended to be used as a vehicle for  
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14 (C) equipment used to promote or advertise an  
15 exhibition of cockfighting, including a printing press or similar  
16 equipment, paper, ink, or photography equipment; or

17 (D) a cock trained, being trained, or intended to  
18 be used to fight with another cock;

19 (4-b) "gaff" and "slasher" have the meanings assigned  
20 by Section 42.105, Penal Code;

21 (5) "obscene device" and "obscene" have the meanings  
22 assigned by Section 43.21, Penal Code;

23 (6) "re-encoder" has the meaning assigned by Section  
24 522.001, Business & Commerce Code;

25 (7) "scanning device" has the meaning assigned by  
26 Section 522.001, Business & Commerce Code; and

27 (8) "obscene material" and "child pornography"

1 include digital images and the media and equipment on which those  
2 images are stored.

3 SECTION 6. Article 59.01(2), Code of Criminal Procedure, as  
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12 (ii) any felony under Section 15.031(b),  
13 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30,  
14 31, 32, 33, 33A, or 35, Penal Code;

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

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

21 (B) used or intended to be used in the commission  
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24 and Safety Code (Texas Controlled Substances Act);

25 (ii) any felony under Chapter 483, Health  
26 and Safety Code;

27 (iii) a felony under Chapter 153, Finance

1 Code;

2 (iv) any felony under Chapter 34, Penal  
3 Code;

4 (v) a Class A misdemeanor under Subchapter  
5 B, Chapter 365, Health and Safety Code, if the defendant has been  
6 previously convicted twice of an offense under that subchapter;

7 (vi) any felony under Chapter 152, Finance  
8 Code;

9 (vii) any felony under Chapter 32, Human  
10 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that  
11 involves the state Medicaid program;

12 (viii) a Class B misdemeanor under Chapter  
13 522, Business & Commerce Code; ~~or~~

14 (ix) a Class A misdemeanor under Section  
15 35.153, Business & Commerce Code; or

16 (x) any offense under Section 42.105, Penal  
17 Code;

18 (C) the proceeds gained from the commission of a  
19 felony listed in Paragraph (A) or (B) of this subdivision, a  
20 misdemeanor listed in Paragraph (B)(viii) or (x) of this  
21 subdivision, or a crime of violence;

22 (D) acquired with proceeds gained from the  
23 commission of a felony listed in Paragraph (A) or (B) of this  
24 subdivision, a misdemeanor listed in Paragraph (B)(viii) or (x) of  
25 this subdivision, or a crime of violence; or

26 (E) used to facilitate or intended to be used to  
27 facilitate the commission of a felony under Section 15.031 or

1 43.25, Penal Code.

2 SECTION 7. Chapter 59, Code of Criminal Procedure, is  
3 amended by adding Article 59.011 to read as follows:

4 Art. 59.011. If property described by Article  
5 59.01(2)(B)(x) is subject to forfeiture under this chapter and  
6 Article 18.18, the attorney representing the state may proceed  
7 under either provision.

8 SECTION 8. The changes in law made by this Act apply only to  
9 an offense committed on or after the effective date of this Act or  
10 to the forfeiture of property used in the commission of that  
11 offense. An offense committed before the effective date of this  
12 Act, or the forfeiture of property used in the commission of that  
13 offense, is governed by the law in effect when the offense was  
14 committed, and the former law is continued in effect for that  
15 purpose. For purposes of this section, an offense was committed  
16 before the effective date of this Act if any element of the offense  
17 occurred before that date.

18 SECTION 9. This Act takes effect September 1, 2009.

# ADOPTED

MAY 27 2009

*Lotay Spaw*  
Secretary of the Senate

BY: *[Signature]*

FLOOR AMENDMENT NO. 1

1 Amend CSH.B. No. 1320 by adding the following appropriately  
2 numbered SECTIONS to the bill and renumbering subsequent SECTIONS  
3 of the bill accordingly:

4 SECTION \_\_\_\_ . Subsection (d), Article 59.03, Code of  
5 Criminal Procedure, is amended to read as follows:

6 (d) A person in the possession of property at the time a  
7 peace officer seizes the property under this chapter may at the time  
8 of seizure assert the person's interest in or right to the property.  
9 Any peace officer, including the [A] peace officer who seizes the  
10 property, [under this chapter] may not [at the time of seizure]  
11 request, require, or in any manner induce any person, including a  
12 person who asserts an interest in or right to the property [seized],  
13 to execute a document purporting to waive the person's interest in  
14 or rights to [the] property seized under this chapter.

15 SECTION \_\_\_\_ . Article 59.03, Code of Criminal Procedure, is  
16 amended by adding Subsection (e) to read as follows:

17 (e) At any time before notice is filed under Article  
18 59.04(b), an attorney representing the state may not request,  
19 require, or in any manner induce any person, including a person who  
20 asserts an interest in or right to property seized under this  
21 chapter, to execute a document purporting to waive the person's  
22 interest in or rights to the property.

23 SECTION \_\_\_\_ . Article 59.06, Code of Criminal Procedure, is  
24 amended by adding Subsections (c-1), (d-1), and (d-2) and amending  
25 Subsections (d) and (g) to read as follows:

26 (c-1) Any postjudgment interest from money, securities,  
27 negotiable instruments, stocks or bonds, or things of value, or  
28 proceeds from the sale of those items, that are deposited in an  
29 interest-bearing bank account under Subsection (c) shall be used

1 for the same purpose as the principal.

2 (d) Proceeds awarded under this chapter to a law enforcement  
3 agency or to the attorney representing the state may be spent by the  
4 agency or the attorney after a budget for the expenditure of the  
5 proceeds has been submitted to the commissioners court or governing  
6 body of the municipality. The budget must be detailed and clearly  
7 list and define the categories of expenditures, but may not list  
8 details that would endanger the security of an investigation or  
9 prosecution. Expenditures are subject to the audit and enforcement  
10 provisions established under this chapter [article]. A  
11 commissioners court or governing body of a municipality may not use  
12 the existence of an award to offset or decrease total salaries,  
13 expenses, and allowances that the agency or the attorney receives  
14 from the commissioners court or governing body at or after the time  
15 the proceeds are awarded.

16 (d-1) The head of a law enforcement [the] agency or an  
17 attorney representing the state may not use proceeds or property  
18 received under this chapter to:

19 (1) contribute to a political campaign;

20 (2) make a donation to any entity, except as provided  
21 by Subsection (d-2);

22 (3) pay expenses related to the training or education  
23 of any member of the judiciary;

24 (4) pay any travel expenses related to attendance at  
25 training or education seminars if the expenses violate generally  
26 applicable restrictions established by the commissioners court or  
27 governing body of the municipality, as applicable;

28 (5) purchase alcoholic beverages;

29 (6) make any expenditure not approved by the  
30 commissioners court or governing body of the municipality, as  
31 applicable, if the head of a law enforcement agency or attorney

1 representing the state holds an elective office and:

2 (A) the deadline for filing an application for a  
3 place on the ballot as a candidate for reelection to that office in  
4 the general primary election has passed and the person did not file  
5 an application for a place on that ballot; or

6 (B) during the person's current term of office,  
7 the person was a candidate in a primary, general, or runoff election  
8 for reelection to that office and was not the prevailing candidate  
9 in that election; or

10 (7) [~~the existence of an award to~~] increase a salary,  
11 expense, or allowance for an employee of the law enforcement agency  
12 or attorney representing the state [~~or agency~~] who is budgeted by  
13 the commissioners court or governing body of the municipality  
14 unless the commissioners court or governing body first approves the  
15 increase [~~expenditure~~].

16 (d-2) The head of a law enforcement agency or an attorney  
17 representing the state may use as an official purpose of the agency  
18 or attorney proceeds or property received under this chapter to  
19 make a donation to an entity that assists in:

20 (1) the detection, investigation, or prosecution of:

21 (A) criminal offenses; or

22 (B) instances of abuse, as defined by Section  
23 261.001, Family Code;

24 (2) the provision of:

25 (A) mental health, drug, or rehabilitation  
26 services; or

27 (B) services for victims or witnesses of criminal  
28 offenses or instances of abuse described by Subdivision (1); or

29 (3) the provision of training or education related to  
30 duties or services described by Subdivision (1) or (2).

31 (g)(1) All law enforcement agencies and attorneys



1 representing the state who receive proceeds or property under this  
2 chapter shall account for the seizure, forfeiture, receipt, and  
3 specific expenditure of all the [~~such~~] proceeds and property in an  
4 audit, which is to be performed annually by the commissioners court  
5 or governing body of a municipality, as appropriate. The annual  
6 period of the audit for a law enforcement agency is the fiscal year  
7 of the appropriate county or municipality and the annual period for  
8 an attorney representing the state is the state fiscal year. The  
9 audit must [~~shall~~] be completed on a form provided by the attorney  
10 general and must include a detailed report and explanation of all  
11 expenditures, including salaries and overtime pay, officer  
12 training, investigative equipment and supplies, and other items.  
13 Certified copies of the audit shall be delivered by the law  
14 enforcement agency or attorney representing the state to [~~the~~  
15 ~~comptroller's office and~~] the attorney general not later than the  
16 60th day after the date on which the annual period that is the  
17 subject of the audit ends.

18 (2) If a copy of the audit is not delivered to the  
19 attorney general within the period required by Subdivision (1),  
20 within five days after the end of the period the attorney general  
21 shall notify the law enforcement agency or the attorney  
22 representing the state of that fact. On a showing of good cause,  
23 the attorney general may grant an extension permitting the agency  
24 or attorney to deliver a copy of the audit after the period required  
25 by Subdivision (1) and before the 76th day after the date on which  
26 the annual period that is the subject of the audit ends. If the law  
27 enforcement agency or the attorney representing the state fails to  
28 establish good cause for not delivering the copy of the audit within  
29 the period required by Subdivision (1) or fails to deliver a copy of  
30 an audit within the extension period, the attorney general shall  
31 notify the comptroller of that fact.

1           (3) On notice under Subdivision (2) [~~this~~  
2 ~~subdivision~~], the comptroller shall perform the audit otherwise  
3 required by Subdivision (1). At the conclusion of the audit, the  
4 comptroller shall forward a copy of the audit to the attorney  
5 general. The law enforcement agency or attorney representing the  
6 state is liable to the comptroller for the costs of the comptroller  
7 in performing the audit.

8           SECTION \_\_\_\_ . Chapter 59, Code of Criminal Procedure, is  
9 amended by adding Articles 59.061 and 59.062 to read as follows:

10           Art. 59.061. AUDITS AND INVESTIGATIONS. (a) The state  
11 auditor may at any time perform an audit or conduct an  
12 investigation, in accordance with this article and Chapter 321,  
13 Government Code, related to the seizure, forfeiture, receipt, and  
14 specific expenditure of proceeds and property received under this  
15 chapter.

16           (b) The state auditor is entitled at any time to access any  
17 book, account, voucher, confidential or nonconfidential report, or  
18 other record of information, including electronic data, maintained  
19 under Article 59.06, except that if the release of the applicable  
20 information is restricted under state or federal law, the state  
21 auditor may access the information only with the approval of a court  
22 or federal administrative agency, as appropriate.

23           (c) If the results of an audit or investigation under this  
24 article indicate that a law enforcement agency or attorney  
25 representing the state has knowingly violated or is knowingly  
26 violating a provision of this chapter relating to the disposition  
27 of proceeds or property received under this chapter, the state  
28 auditor shall promptly notify the attorney general for the purpose  
29 of initiating appropriate enforcement proceedings under Article  
30 59.062.

31           Art. 59.062. ENFORCEMENT. (a) In the name of the state,

1 the attorney general may institute in a district court in Travis  
2 County or in a county served by the law enforcement agency or  
3 attorney representing the state, as applicable, a suit for  
4 injunctive relief, to recover a civil penalty, or for both  
5 injunctive relief and a civil penalty if the results of an audit or  
6 investigation under Article 59.061 indicate that the law  
7 enforcement agency or attorney representing the state has knowingly  
8 violated or is knowingly violating a provision of this chapter  
9 relating to the disposition of proceeds or property received under  
10 this chapter.

11 (b) On application for injunctive relief and a finding that  
12 the law enforcement agency or attorney representing the state is  
13 knowingly violating a provision of this chapter relating to the  
14 disposition of proceeds or property received under this chapter,  
15 the district court shall grant the injunctive relief the facts may  
16 warrant, without requirement for bond.

17 (c) A law enforcement agency or attorney representing the  
18 state who knowingly commits a violation described by Subsection (a)  
19 is liable to the state for a civil penalty in an amount not to exceed  
20 \$100,000 as determined by the district court to be appropriate for  
21 the nature and seriousness of the violation. In determining an  
22 appropriate penalty for the violation, the court shall consider:

23 (1) any previous violations committed by the agency or  
24 attorney;

25 (2) the seriousness of the violation, including the  
26 nature, circumstances, extent, and gravity of the violation;

27 (3) the demonstrated good faith of the agency or  
28 attorney; and

29 (4) the amount necessary to deter future violations.

30 (d) If the attorney general brings a suit under this article  
31 and an injunction is granted or a civil penalty is imposed, the

1 attorney general may recover reasonable expenses, court costs,  
2 investigative costs, and attorney's fees.

3 (e) Notwithstanding any other provision of this article, a  
4 law enforcement agency or attorney representing the state ordered  
5 to pay a civil penalty, expense, cost, or fee under this article  
6 shall make the payment out of money available in any fund  
7 established by the agency or attorney, as applicable, for the  
8 purpose of administering proceeds or property received under this  
9 chapter. If sufficient money is not available to make payment in  
10 full at the time the court enters an order requiring payment, the  
11 agency or attorney shall continue to make payments out of money  
12 available in any fund described by this subsection until the  
13 payment is made in full.

14 (f) A civil penalty collected under this article shall be  
15 deposited to the credit of the drug court account in the general  
16 revenue fund to help fund drug court programs established under  
17 Chapter 469, Health and Safety Code.

18 (g) A law enforcement agency or attorney representing the  
19 state is immune from liability under this article if the agency or  
20 attorney reasonably relied on:

21 (1) the advice, consent, or approval of an entity that  
22 conducts an audit of the agency or attorney under this chapter; or

23 (2) a written opinion of the attorney general relating  
24 to:

25 (A) the statute or other provision of law the  
26 agency or attorney is alleged to have knowingly violated; or

27 (B) a fact situation that is substantially  
28 similar to the fact situation in which the agency or attorney is  
29 involved.

30 SECTION \_\_\_\_\_. The changes in law made by this Act in amending  
31 Article 59.03, Code of Criminal Procedure, apply only to property

1 seized on or after the effective date of this Act. Property seized  
2 before the effective date of this Act is covered by the law in  
3 effect when the property was seized, and the former law is continued  
4 in effect for that purpose. For purposes of this section, property  
5 was seized before the effective date of this Act if any portion of  
6 the property was seized before that date.

7 SECTION \_\_\_\_\_. (a) Except as provided by Subsection (b) of  
8 this section, the changes in law made by this Act in amending  
9 Article 59.06, Code of Criminal Procedure, apply to the disposition  
10 or use, on or after the effective date of this Act, of proceeds or  
11 property received by a law enforcement agency or attorney  
12 representing the state under Chapter 59, Code of Criminal  
13 Procedure, regardless of whether the receipt of the proceeds or  
14 property occurred before, on, or after the effective date of this  
15 Act.

16 (b) The changes in law made by this Act in amending  
17 Subsection (g), Article 59.06, Code of Criminal Procedure, and  
18 adding Articles 59.061 and 59.062, Code of Criminal Procedure,  
19 apply to any audit performed on or after the effective date of this  
20 Act.



**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 28, 2009**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

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

**IN RE: HB1320** by Christian (Relating to creating an offense for engaging in certain conduct relating to cockfighting and to the criminal and civil consequences of committing that offense. ), As Passed 2nd House

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
--

The bill would amend the Penal Code by creating the offense of cockfighting. The offense would be punishable as either a state jail felony, a Class A misdemeanor, or a Class C misdemeanor depending on provisions specified by the bill. The bill would amend the Penal Code by including the offense of cockfighting in the list of offenses for which the engaging in organized criminal activity provision is applied. The bill would amend the Code of Criminal Procedure by specifying the destruction or forfeiture of cockfighting equipment following the final conviction of a person for the offense of cockfighting, and in adding to property defined as contraband. The bill would also amend the Code of Criminal Procedure relating to the forfeiture of property and the jurisdiction of the attorney representing the state involving such cases. It is estimated implementation of these provisions of the bill would not have a significant impact on the costs of state or local government.

The bill would also amend the Code of Criminal Procedure and provide that the State Auditor may conduct audits and investigations on forfeited proceeds by certain governmental entities and permits the Attorney General to file suit for injunctive relief or recover a civil penalty on violations of criminal asset forfeiture law. According to the Comptroller's office, depending on the number and amount of civil penalties collected, there would be an indeterminate amount of revenue to the state. However, the amount of revenue is not anticipated to be significant. The Office of the Attorney General and the State Auditor's Office indicate that costs associated with implementation of these provisions of the bill could be absorbed within existing state resources.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

**Local Government Impact**

The bill would require all law enforcement agencies who receive proceeds or property from seizures to account for the specific expenditures in an audit on a form provided by the attorney general, including a detailed report and explanation of all expenditures, salaries and overtime pay, training, and equipment and supplies. The audit must be performed annually by the auditing entity of the commissioners court or the governing body of a municipality.

According to the Texas District and County Attorney's Association, and Harris and Ward counties, the fiscal impact is not anticipated to be significant, but would depend on the specifications of the form provided by the attorney general, and the financial reporting systems used by local entities.

**Source Agencies:** 696 Department of Criminal Justice





**LBB Staff:** JOB, ESi, GG, LM



**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 22, 2009**

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

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

**IN RE: HB1320** by Christian (Relating to creating an offense for engaging in certain conduct relating to cockfighting and to the criminal and civil consequences of committing that offense. ),  
**Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Penal Code by creating the offense of cockfighting. The offense would be punishable as either a state jail felony, a Class A misdemeanor, or a Class C misdemeanor depending on provisions specified by the bill. The bill would amend the Penal Code by including the offense of cockfighting in the list of offenses for which the engaging in organized criminal activity provision is applied. The bill would amend the Code of Criminal Procedure by specifying the destruction or forfeiture of cockfighting equipment following the final conviction of a person for the offense of cockfighting, and in adding to property defined as contraband. The bill would also amend the Code of Criminal Procedure relating to the forfeiture of property and the jurisdiction of the attorney representing the state involving such cases. It is estimated implementation of the bill would not have a significant impact on the costs of state or local government.

**Local Government Impact**

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

**Source Agencies:** 696 Department of Criminal Justice

**LBB Staff:** JOB, ESi, GG, LM



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 21, 2009**

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

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

**IN RE: HB1320** by Christian (Relating to creating an offense for engaging in certain conduct relating to cockfighting and to the criminal and civil consequences of committing that offense.), As Engrossed

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Penal Code by creating the offense of cockfighting. The offense would be punishable as either a state jail felony, a Class A misdemeanor, or a Class C misdemeanor depending on provisions specified by the bill. The bill would amend the Penal Code by including the offense of cockfighting in the list of offenses for which the engaging in organized criminal activity provision is applied. The bill would also amend the Code of Criminal Procedure by specifying the destruction or forfeiture of cockfighting equipment following the final conviction of a person for the offense of cockfighting, and in adding to property defined as contraband. It is estimated implementation of the bill would not have a significant impact on the costs of state or local government.

**Local Government Impact**

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

**Source Agencies:** 696 Department of Criminal Justice

**LBB Staff:** JOB, ESi, GG, LM



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**March 26, 2009**

**TO:** Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

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

**IN RE: HB1320** by Christian (Relating to creating an offense for engaging in certain conduct relating to cockfighting and to the criminal and civil consequences of committing that offense. ),  
**Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Penal Code by creating the offense of cockfighting. The offense would be punishable as either a state jail felony or a Class A misdemeanor depending on provisions specified by the bill. The bill would amend the Penal Code by including the offense of cockfighting in the list of offenses for which the engaging in organized criminal activity provision is applied. The bill would also amend the Code of Criminal Procedure by specifying the destruction or forfeiture of cockfighting equipment following the final conviction of a person for the offense of cockfighting, and in adding to property defined as contraband. It is estimated that implementation of the bill would not have a significant impact on the costs of state or local government.

**Local Government Impact**

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

**Source Agencies:** 696 Department of Criminal Justice

**LBB Staff:** JOB, ESi, GG





**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**March 12, 2009**

**TO:** Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

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

**IN RE: HB1320** by Christian (Relating to the creation of offenses relating to cockfighting and to the forfeiture of cockfighting equipment.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Penal Code by creating the offense of cockfighting. The offense would be punishable as a state jail felony, a Class A misdemeanor, or a Class C misdemeanor depending on provisions specified by the bill. The bill would also amend the Code of Criminal Procedure by specifying the destruction or forfeiture of cockfighting equipment following the final conviction of a person for the offense of cockfighting. It is estimated that implementation of the bill would not have a significant impact on the costs of state or local government.

**Local Government Impact**

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

**Source Agencies:** 696 Department of Criminal Justice

**LBB Staff:** JOB, ESi, GG



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**81ST LEGISLATIVE REGULAR SESSION**

**May 22, 2009**

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

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

**IN RE: HB1320** by Christian (Relating to creating an offense for engaging in certain conduct relating to cockfighting and to the criminal and civil consequences of committing that offense. ),  
**Committee Report 2nd House, Substituted**

The bill would amend the Penal Code by creating the offense of cockfighting. The offense would be punishable as either a state jail felony, a Class A misdemeanor, or a Class C misdemeanor depending on provisions specified by the bill. The bill would amend the Penal Code by including the offense of cockfighting in the list of offenses for which the engaging in organized criminal activity provision is applied.

A state jail felony is punishable by confinement in a state jail for any term of not more than two years or less than 180 days, or, in addition to confinement, a fine not to exceed \$10,000.

It is assumed the bill would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

**Source Agencies:**

**LBB Staff:** JOB, GG, LM



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**81ST LEGISLATIVE REGULAR SESSION**

**May 21, 2009**

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

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

**IN RE: HB1320** by Christian (Relating to creating an offense for engaging in certain conduct relating to cockfighting and to the criminal and civil consequences of committing that offense.), As **Engrossed**

The bill would amend the Penal Code by creating the offense of cockfighting. The offense would be punishable as either a state jail felony, a Class A misdemeanor, or a Class C misdemeanor depending on provisions specified by the bill. The bill would amend the Penal Code by including the offense of cockfighting in the list of offenses for which the engaging in organized criminal activity provision is applied.

A state jail felony is punishable by confinement in a state jail for any term of not more than two years or less than 180 days, or, in addition to confinement, a fine not to exceed \$10,000.

It is assumed the bill would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

**Source Agencies:**

**LBB Staff:** JOB, GG, LM



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**81ST LEGISLATIVE REGULAR SESSION**

**March 26, 2009**

**TO:** Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

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

**IN RE: HB1320** by Christian (Relating to creating an offense for engaging in certain conduct relating to cockfighting and to the criminal and civil consequences of committing that offense. ),  
**Committee Report 1st House, Substituted**

The bill would amend the Penal Code by creating the offense of cockfighting. The offense would be punishable as either a state jail felony or a Class A misdemeanor depending on provisions specified by the bill. The bill would amend the Penal Code by including the offense of cockfighting in the list of offenses for which the engaging in organized criminal activity provision is applied.

A state jail felony is punishable by confinement in a state jail for any term of not more than two years or less than 180 days, or, in addition to confinement, a fine not to exceed \$10,000.

It is assumed that the bill would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

**Source Agencies:**

**LBB Staff:** JOB, GG





**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**81ST LEGISLATIVE REGULAR SESSION**

**March 12, 2009**

**TO:** Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

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

**IN RE: HB1320** by Christian (Relating to the creation of offenses relating to cockfighting and to the forfeiture of cockfighting equipment.), **As Introduced**

The provision of the bill that is the subject of this analysis would amend the Penal Code by creating the offense of cockfighting. The offense would be punishable as a state jail felony, a Class A misdemeanor, or a Class C misdemeanor depending on provisions specified by the bill.

A state jail felony is punishable by confinement in a state jail for any term of not more than two years or less than 180 days, or, in addition to confinement, a fine not to exceed \$10,000.

It is assumed that the bill would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

**Source Agencies:**

**LBB Staff:** JOB, GG

