

SENATE AMENDMENTS

2nd Printing

By: Christian, Lucio III, Zedler, Rodriguez

H.B. No. 1043

A BILL TO BE ENTITLED

AN ACT

1

2 relating to creating an offense for engaging in certain conduct
3 relating to cockfighting.

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

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

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

8 (1) "Bridle" means a leather device designed to fit
9 over the head and beak of a cock to prevent the cock from injuring
10 another cock.

11 (2) "Cock" means the male of any type of domestic fowl.

12 (3) "Cockfighting" means any situation in which one
13 cock attacks or fights with another cock.

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

17 (5) "Slasher" means a steel weapon resembling a curved
18 knife blade designed to attach to the foot of a cock.

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

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

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

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

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

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

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

9 (c) It is an affirmative defense to prosecution under this
10 section that the actor's conduct:

11 (1) occurred solely for the purpose of or in support of
12 breeding cocks for poultry shows in which a cock is judged by the
13 cock's physical appearance; or

14 (2) was incidental to collecting bridles, gaffs, or
15 slashers.

16 (d) An affirmative defense to prosecution is not available
17 under Subsection (c) if evidence shows that the actor is also
18 engaging in use of the cocks for cockfighting.

19 (e) It is a defense to prosecution for an offense under this
20 section that:

21 (1) the actor was engaged in bona fide experimentation
22 for scientific research; or

23 (2) the conduct engaged in by the actor is a generally
24 accepted and otherwise lawful animal husbandry or agriculture
25 practice involving livestock animals.

26 (f) An offense under Subsection (b)(1), (2), (3), or (5) is
27 a state jail felony. An offense under Subsection (b)(4) is a Class

1 A misdemeanor. An offense under Subsection (b)(6) is a Class C
2 misdemeanor, except that the offense is a Class A misdemeanor if it
3 is shown on the trial of the offense that the person has been
4 previously convicted of an offense under that subdivision.

5 SECTION 2. This Act takes effect September 1, 2011.

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 24 2011

BY: 


Secretary of the Senate

1 Amend HB 1043 (Senate committee Printing) as follows:

- 2 (1) In added Section 42.105, Penal Code (page 1, lines 27-
3 28), strike "or operates a facility used for
4 cockfighting" and substitute "a cockfight".
- 5 (2) In added Section 42.105, Penal Code (page 1, line 56),
6 strike "(b)(1), (2), (3), or (5)" and substitute
7 "(b)(1) or (2)".
- 8 (3) In added Section 42.105, Penal Code (page 1, line 57),
9 strike "(b)(4)" and substitute "(b)(3), (4), or (5)".
- 10 (4) In added Section 42.105, Penal Code (page 1, between
11 lines 55 and 56), insert the following new subsection
12 (f) and renumber the subsequent subsections of added
13 Section 42.105, Penal Code, accordingly:
- 14 (f) It is an exception to the application of
15 Subsection (b)(6) that the actor is 15 years of age or
16 younger at the time of the offense.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 25, 2011

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

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

IN RE: HB1043 by Christian (Relating to creating an offense for engaging in certain conduct relating to cockfighting.), **As Passed 2nd House**

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 take effect on September 1, 2011.

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:

LBB Staff: JOB, SD, GG, LM, ADM, ESi, KKR

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 20, 2011

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

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

IN RE: HB1043 by Christian (Relating to creating an offense for engaging in certain conduct relating to cockfighting.), **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 a state jail felony, a Class A Misdemeanor, or a Class C misdemeanor depending on provisions specified by the bill. The bill would take effect on September 1, 2011.

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:

LBB Staff: JOB, ADM, ESi, GG, LM, KKR

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 18, 2011

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

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

IN RE: HB1043 by Christian (Relating to creating an offense for engaging in certain conduct relating to cockfighting.), **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 a state jail felony, a Class A Misdemeanor, or a Class C misdemeanor depending on provisions specified by the bill. The bill would take effect on September 1, 2011.

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:

LBB Staff: JOB, ADM, ESi, GG, LM, KKR

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 25, 2011

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

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

IN RE: HB1043 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 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.

The bill would take effect on September 1, 2011 and apply to offenses committed on or after that date.

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:

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

82ND LEGISLATIVE REGULAR SESSION

May 25, 2011

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

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

IN RE: HB1043 by Christian (Relating to creating an offense for engaging in certain conduct relating to cockfighting.), **As Passed 2nd House**

The bill would amend the Penal Code by creating the offense of cockfighting. The offense would be punishable as a state jail felony if the person causes a cock to fight with another cock, or participates in the earnings of a cockfight. The offense would be punishable as a Class A Misdemeanor if the person uses or permits another to use certain property for cockfighting, owns or trains a cock with the intent that the cock be used in an exhibition of cockfighting, or involves certain implements used in cockfighting. The offense would be punishable as a Class C or a Class A Misdemeanor if the person is of certain age and attends as a spectator an exhibition of cockfighting.

A Class C Misdemeanor is punishable by a fine not to exceed \$500 (up to 180 days of deferred disposition; no confinement). A Class A Misdemeanor is punishable by confinement in county jail for a term not to exceed one year and/or a fine not to exceed \$4,000. A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years and, in addition to confinement, an optional fine not to exceed \$10,000 or Class A Misdemeanor punishment (mandatory post conviction community supervision).

Expanding the list of behaviors for which a penalty is applied for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or longer terms of confinement in county jail, state jail or prison. However, in the case of this bill, it is assumed that the number of offenders convicted under this statute 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. It is expected that individuals who would be affected by the provisions of this bill are currently being sentenced for other offenses.

Source Agencies:

LBB Staff: JOB, ADM, GG, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

82ND LEGISLATIVE REGULAR SESSION

May 20, 2011

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

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

IN RE: HB1043 by Christian (Relating to creating an offense for engaging in certain conduct relating to cockfighting.), **As Engrossed**

The bill would amend the Penal Code by creating the offense of cockfighting. The offense would be punishable as a state jail felony if the person causes a cock to fight with another cock, participates in the earnings of or operates a facility used for cockfighting, uses or permits another to use certain property for cockfighting, or involves certain implements used in cockfighting. The offense would be punishable as a Class A Misdemeanor if the person owns or trains a cock with the intent that the cock be used in an exhibition of cockfighting. The offense would be punishable as a Class C or a Class A Misdemeanor if the person attends as a spectator an exhibition of cockfighting.

A Class C Misdemeanor is punishable by a fine not to exceed \$500 (up to 180 days of deferred disposition; no confinement). A Class A Misdemeanor is punishable by confinement in county jail for a term not to exceed one year and/or a fine not to exceed \$4,000. A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years and, in addition to confinement, an optional fine not to exceed \$10,000 or Class A Misdemeanor punishment (mandatory post conviction community supervision).

Expanding the list of behaviors for which a penalty is applied for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. However, in the case of this bill, it is assumed that the number of offenders convicted under this statute 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. It is expected that individuals who would be affected by the provision of this bill are currently being sentenced for other offenses.

Source Agencies:

LBB Staff: JOB, ADM, GG, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

82ND LEGISLATIVE REGULAR SESSION

April 18, 2011

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

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

IN RE: HB1043 by Christian (Relating to creating an offense for engaging in certain conduct relating to cockfighting.), **Committee Report 1st House, Substituted**

The bill would amend the Penal Code by creating the offense of cockfighting. The offense would be punishable as a state jail felony if the person causes a cock to fight with another cock, participates in the earnings of or operates a facility used for cockfighting, uses or permits another to use certain property for cockfighting, or involves certain implements used in cockfighting. The offense would be punishable as a Class A Misdemeanor if the person owns or trains a cock with the intent that the cock be used in an exhibition of cockfighting. The offense would be punishable as a Class C or a Class A Misdemeanor if the person attends as a spectator an exhibition of cockfighting.

A Class C Misdemeanor is punishable by a fine not to exceed \$500 (up to 180 days of deferred disposition; no confinement). A Class A Misdemeanor is punishable by confinement in county jail for a term not to exceed one year and/or a fine not to exceed \$4,000. A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years and, in addition to confinement, an optional fine not to exceed \$10,000 or Class A Misdemeanor punishment (mandatory post conviction community supervision).

Expanding the list of behaviors for which a penalty is applied for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. However, in the case of this bill, it is assumed that the number of offenders convicted under this statute 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. It is expected that individuals who would be affected by the provision of this bill are currently being sentenced for other offenses.

Source Agencies:

LBB Staff: JOB, ADM, GG, LM

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

82ND LEGISLATIVE REGULAR SESSION

March 26, 2011

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

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

IN RE: HB1043 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 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.

Expanding the list of behaviors for which a penalty is applied for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. However, in the case of this bill, it is assumed that the number of offenders convicted under this statute 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. It is expected that individuals who would be affected by the provision of this bill are currently being sentenced for other offenses.

Source Agencies:

LBB Staff: JOB, GG, LM