

BILL ANALYSIS

C.S.H.B. 1357
By: Moody
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties believe that the punishment for cruelty to a nonlivestock animal is inadequate and that the existing penalty enhancement framework for such an offense is overly complicated. C.S.H.B. 1357 seeks to address these concerns by increasing certain related punishments and simplifying related penalty enhancements.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 1357 amends the Penal Code to change the circumstances that trigger the enhancement of the penalty for a Class A misdemeanor cruelty to a nonlivestock animal offense to a state jail felony from the actor having previously been convicted two times of cruelty to a nonlivestock animal, convicted two times of cruelty to a livestock animal, or convicted one time of cruelty to a nonlivestock animal and one time of cruelty to a livestock animal to the actor having previously been convicted of either such offense. The bill increases from a state jail felony to a third degree felony the penalty for a cruelty to a nonlivestock animal offense that involves torturing an animal, in a cruel manner killing or causing serious bodily injury to an animal, or killing, administering poison to, or causing serious bodily injury to an animal without the owner's effective consent and further enhances the penalty for such an offense to a second degree felony if the person has previously been convicted of such an offense, of causing one animal to fight with another animal if either animal is not a dog, of using a live animal as a lure in dog race training or in dog coursing on a racetrack, or of cruelty to a livestock animal. The bill changes the circumstances that trigger the enhancement of the penalty for a state jail felony cruelty to a nonlivestock animal offense involving such an unlawful animal fight or lure to a third degree felony from the actor having previously been convicted two times of cruelty to a nonlivestock animal, convicted two times of cruelty to a livestock animal, or convicted one time of cruelty to a nonlivestock animal and one time of cruelty to a livestock animal to the actor having previously been convicted of either such offense. The bill replaces the exception for certain conduct from the application of the offense of cruelty to a nonlivestock animal with a defense to prosecution for such conduct.

C.S.H.B. 1357 amends the Health and Safety Code to establish that it is not a defense to prosecution for cruelty to a nonlivestock animal that the actor's conduct was authorized under

statutory provisions relating to dogs or coyotes that attack animals.

C.S.H.B. 1357 repeals Section 821.023(b), Health and Safety Code, which makes a statement of an owner made at a hearing regarding the disposition or return of an allegedly cruelly treated animal inadmissible in a criminal trial of the owner for cruelty to a livestock or nonlivestock animal.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1357 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 42.013, Code of Criminal Procedure, is amended to read as follows:

No equivalent provision.

Art. 42.013. FINDING OF FAMILY VIOLENCE. In the trial of an offense under Title 5 or Section 42.092, Penal Code, if the court determines that the offense involved family violence, as defined by Section 71.004, Family Code, the court shall make an affirmative finding of that fact and enter the affirmative finding in the judgment of the case.

SECTION 2. Section 71.004, Family Code, is amended to read as follows:

No equivalent provision.

Sec. 71.004. FAMILY VIOLENCE. (a) "Family violence" means:

(1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself;

(2) abuse, as that term is defined by Sections 261.001(1)(C), (E), (G), (H), (I), (J), and (K), by a member of a family or household toward a child of the family or household; [øf]

(3) dating violence, as that term is defined by Section 71.0021; or

(4) an act that constitutes an offense, or an attempt or threat to commit an offense,

under Section 42.092, Penal Code:
(A) against an animal owned or possessed by a member of the actor's family or household or by a person with whom the actor has or has had a dating relationship;
and
(B) with the intent to coerce, control, punish, or intimidate the member or person.
(b) For purposes of Subsection (a)(4):
(1) coercion, as defined by Section 1.07, Penal Code, includes the use of force or a threat of force to compel a person to:
(A) engage in conduct from which the person has the right or privilege to abstain;
or
(B) abstain from conduct in which the person has the right or privilege to engage;
and
(2) possession of an animal by a person means:
(A) actual care, custody, control, or management of an animal by the person; or
(B) constructive possession of an animal owned by the person or for which the person has been the primary caregiver.

SECTION 3. Section 42.092, Penal Code, is amended.

SECTION 4. Section 822.013, Health and Safety Code, is amended.

SECTION 5. Section 821.023(b), Health and Safety Code, is repealed.

SECTION 6. The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 7. This Act takes effect September 1, 2017.

SECTION 1. Same as introduced version.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.