

BILL ANALYSIS

C.S.S.B. 1232
By: Huffman
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties assert that current law should punish acts of animal sexual abuse more severely. C.S.S.B. 1232 seeks to address this issue by creating the offense of bestiality.

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.S.B. 1232 amends the Penal Code to create the state jail felony offense of bestiality for a person who knowingly engages in certain specified conduct with an animal as described by the bill; possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent that the animal be used for such conduct; organizes, promotes, conducts, or participates as an observer of such conduct; causes a person to engage or aids a person in engaging in such conduct; permits such conduct to occur on any premises under the person's control; engages in such conduct in the presence of a child younger than 18 years of age; or advertises, offers, or accepts the offer of an animal with the intent that the animal be used in Texas for such conduct. The bill enhances the penalty to a second degree felony if the actor engages in such conduct in the presence of a child younger than 18 years of age or if the offense results in serious bodily injury or death of the animal. The bill excepts from the application of the offense conduct engaged in by the actor that is a generally accepted and otherwise lawful animal husbandry or veterinary practice. The bill removes engaging in an act involving certain contact with an animal or fowl from the conduct that constitutes public lewdness.

C.S.S.B. 1232 amends the Code of Criminal Procedure to authorize a judge who grants community supervision to a defendant convicted of an offense of bestiality to require the defendant to relinquish custody of any animals in the defendant's possession, prohibit the defendant from possessing or exercising control over any animals or residing in a household where animals are present, or require the defendant to participate in a psychological counseling or another appropriate treatment program for a period to be determined by the court. The bill includes a conviction or adjudication of an offense of bestiality as a reportable conviction or adjudication for purposes of the sex offender registration program.

C.S.S.B. 1232 amends the Health and Safety Code to extend the applicability of statutory provisions governing the disposition of a cruelly treated animal to an animal subjected to

conduct constituting an offense of bestiality. The bill establishes that a finding in a court of competent jurisdiction that a person is guilty of an offense of bestiality is prima facie evidence at a hearing relating to the seizure of a cruelly treated animal that any animal in the person's possession has been cruelly treated, regardless of whether the animal was subjected to conduct constituting the offense of bestiality. The bill makes a statement of an owner made at such a hearing inadmissible in a trial of the owner for an offense of bestiality.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1232 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Section 21.07(a), Penal Code, is amended.

SECTION 2. Chapter 21, Penal Code, is amended by adding Section 21.09 to read as follows:

Sec. 21.09. BESTIALITY. (a) A person commits an offense if the person knowingly: (1) engages in an act involving contact between:

(A) the person's mouth, anus, or genitals and the anus or genitals of an animal; or

(B) the person's anus or genitals and the mouth of the animal;

(2) fondles or touches the anus or genitals of an animal,

including touching through clothing;

(3) causes an animal to contact the seminal fluid of the person;

(4) inserts any part of a person's body or any object into the anus or genitals of an animal;

(5) possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent that the animal be used for conduct described by Subdivision (1), (2), (3), or (4);

(6) organizes, promotes, conducts, or participates as an observer of conduct described by Subdivision (1), (2), (3), or (4);

(7) causes a person to engage or aids a person in engaging in conduct described by Subdivision (1), (2), (3), or (4);

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as engrossed version.

SECTION 2. Chapter 21, Penal Code, is amended by adding Section 21.09 to read as follows:

Sec. 21.09. BESTIALITY. (a) A person commits an offense if the person knowingly: (1) engages in an act involving contact between:

(A) the person's mouth, anus, or genitals and the anus or genitals of an animal; or

(B) the person's anus or genitals and the mouth of the animal;

(2) fondles or touches the anus or genitals of an animal in a manner that is not a generally accepted and otherwise lawful animal husbandry or veterinary practice, including touching through clothing;

(3) causes an animal to contact the seminal fluid of the person;

(4) inserts any part of a person's body or any object into the anus or genitals of an animal in a manner that is not a generally accepted and otherwise lawful animal husbandry or veterinary practice;

(5) possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent that the animal be used for conduct described by Subdivision (1), (2), (3), or (4);

(6) organizes, promotes, conducts, or participates as an observer of conduct described by Subdivision (1), (2), (3), or (4);

(7) causes a person to engage or aids a person in engaging in conduct described by Subdivision (1), (2), (3), or (4);

(8) permits conduct described by Subdivision (1), (2), (3), or (4) to occur on any premises under the person's control;

(9) engages in conduct described by Subdivision (1), (2), (3), or (4) in the presence of a child younger than 18 years of age; or

(10) advertises, offers, or accepts the offer of an animal with the intent that the animal be used in this state for conduct described by Subdivision (1), (2), (3), or (4).

(b) An offense under this section is a state jail felony, unless the offense is committed under Subsection (a)(9) or results in serious bodily injury or death of the animal, in which event the offense is a felony of the third degree.

(c) It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful animal husbandry or veterinary practice.

SECTION 3. Article 42A.511, Code of Criminal Procedure, is amended.

No equivalent provision.

(8) permits conduct described by Subdivision (1), (2), (3), or (4) to occur on any premises under the person's control;

(9) engages in conduct described by Subdivision (1), (2), (3), or (4) in the presence of a child younger than 18 years of age; or

(10) advertises, offers, or accepts the offer of an animal with the intent that the animal be used in this state for conduct described by Subdivision (1), (2), (3), or (4).

(b) An offense under this section is a state jail felony, unless the offense is committed under Subsection (a)(9) or results in serious bodily injury or death of the animal, in which event the offense is a felony of the second degree.

(c) It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful animal husbandry or veterinary practice.

SECTION 3. Substantially the same as engrossed version.

SECTION 4. Article 62.001(5), Code of Criminal Procedure, is amended to read as follows:

(5) "Reportable conviction or adjudication" means a conviction or adjudication, including an adjudication of delinquent conduct or a deferred adjudication, that, regardless of the pendency of an appeal, is a conviction for or an adjudication for or based on:

(A) a violation of Section 21.02 (Continuous sexual abuse of young child or children), 21.09 (Bestiality), 21.11 (Indecency with a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct), Penal Code;

(B) a violation of Section 43.05 (Compelling prostitution), 43.25 (Sexual performance by a child), or 43.26 (Possession or promotion of child pornography), Penal Code;

(B-1) a violation of Section 43.02 (Prostitution), Penal Code, if the offense is punishable under Subsection (c)(3) of that section;

(C) a violation of Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the actor committed the offense or engaged in

the conduct with intent to violate or abuse the victim sexually;

(D) a violation of Section 30.02 (Burglary), Penal Code, if the offense or conduct is punishable under Subsection (d) of that section and the actor committed the offense or engaged in the conduct with intent to commit a felony listed in Paragraph (A) or (C);

(E) a violation of Section 20.02 (Unlawful restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping), Penal Code, if, as applicable:

(i) the judgment in the case contains an affirmative finding under Article 42.015; or

(ii) the order in the hearing or the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age;

(F) the second violation of Section 21.08 (Indecent exposure), Penal Code, but not if the second violation results in a deferred adjudication;

(G) an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense or engage in conduct listed in Paragraph (A), (B), (C), (D), (E), or (K);

(H) a violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (B-1), (C), (D), (E), (G), (J), or (K), but not if the violation results in a deferred adjudication;

(I) the second violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of the offense of indecent exposure, but not if the second violation results in a deferred adjudication;

(J) a violation of Section 33.021 (Online solicitation of a minor), Penal Code; or

(K) a violation of Section 20A.02(a)(3), (4), (7), or (8) (Trafficking of persons), Penal Code.

SECTION 4. Section 821.021(1), Health and Safety Code, is amended.

SECTION 5. Same as engrossed version.

SECTION 5. Section 821.023, Health and Safety Code, is amended.

SECTION 6. The change in law made by this Act applies 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 6. Same as engrossed version.

SECTION 7. Same as engrossed version.

SECTION 8. Same as engrossed version.