

By: Alvarado

H.B. No. 1087

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the offense of bestiality.

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

SECTION 1. Section 21.07(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if the person [~~he~~] knowingly engages in any of the following acts in a public place or, if not in a public place, the person [~~he~~] is reckless about whether another is present who will be offended or alarmed by the person's [~~his~~]:

(1) act of sexual intercourse;

(2) act of deviate sexual intercourse; or

(3) act of sexual contact [~~; or~~

~~[(4) act involving contact between the person's mouth or genitals and the anus or genitals of an animal or fowl].~~

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

1 animal, including touching through clothing;

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

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

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

9 (6) organizes, promotes, conducts, or participates as  
10 an observer of conduct described by Subdivision (1), (2), (3), or  
11 (4);

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

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

16 (9) engages in conduct described by Subdivision (1),  
17 (2), (3), or (4) in the presence of a child younger than 18 years of  
18 age; or

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

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

26 (c) It is a defense to prosecution under this section that  
27 the conduct engaged in by the actor is a generally accepted and

1 otherwise lawful animal husbandry or veterinary practice.

2 SECTION 3. Article 42A.511, Code of Criminal Procedure, is  
3 amended to read as follows:

4 Art. 42A.511. COMMUNITY SUPERVISION FOR CERTAIN OFFENSES  
5 INVOLVING ANIMALS. (a) If a judge grants community supervision to  
6 a defendant convicted of an offense under Section 42.09, 42.091,  
7 42.092, or 42.10, Penal Code, the judge may require the defendant to  
8 attend a responsible pet owner course sponsored by a municipal  
9 animal shelter, as defined by Section 823.001, Health and Safety  
10 Code, that:

11 (1) receives federal, state, county, or municipal  
12 funds; and

13 (2) serves the county in which the court is located.

14 (b) If a judge grants community supervision to a defendant  
15 convicted of an offense under Section 21.09, Penal Code, the judge  
16 may:

17 (1) require the defendant to relinquish custody of any  
18 animals in the defendant's possession;

19 (2) prohibit the defendant from possessing or  
20 exercising control over any animals or residing in a household  
21 where animals are present; or

22 (3) require the defendant to participate in  
23 psychological counseling or other appropriate treatment program  
24 for a period to be determined by the court.

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

27 (5) "Reportable conviction or adjudication" means a

1 conviction or adjudication, including an adjudication of  
2 delinquent conduct or a deferred adjudication, that, regardless of  
3 the pendency of an appeal, is a conviction for or an adjudication  
4 for or based on:

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

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

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

16 (C) a violation of Section 20.04(a)(4)  
17 (Aggravated kidnapping), Penal Code, if the actor committed the  
18 offense or engaged in the conduct with intent to violate or abuse  
19 the victim sexually;

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

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

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

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

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

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

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

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

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

27 (K) a violation of Section 20A.02(a)(3), (4),

1 (7), or (8) (Trafficking of persons), Penal Code.

2 SECTION 5. Section 821.021(1), Health and Safety Code, is  
3 amended to read as follows:

4 (1) "Cruelly treated" includes tortured, seriously  
5 overworked, unreasonably abandoned, unreasonably deprived of  
6 necessary food, care, or shelter, cruelly confined, ~~or~~ caused to  
7 fight with another animal, or subjected to conduct prohibited by  
8 Section 21.09, Penal Code.

9 SECTION 6. Section 821.023, Health and Safety Code, is  
10 amended by adding Subsection (a-1) and amending Subsection (b) to  
11 read as follows:

12 (a-1) A finding in a court of competent jurisdiction that a  
13 person is guilty of an offense under Section 21.09, Penal Code, is  
14 prima facie evidence at a hearing authorized by Section 821.022  
15 that any animal in the person's possession has been cruelly  
16 treated, regardless of whether the animal was subjected to conduct  
17 prohibited by Section 21.09, Penal Code.

18 (b) A statement of an owner made at a hearing provided for  
19 under this subchapter is not admissible in a trial of the owner for  
20 an offense under Section 21.09, 42.09, or 42.092, Penal Code.

21 SECTION 7. The change in law made by this Act applies only  
22 to an offense committed on or after the effective date of this Act.  
23 An offense committed before the effective date of this Act is  
24 governed by the law in effect on the date the offense was committed,  
25 and the former law is continued in effect for that purpose. For  
26 purposes of this section, an offense was committed before the  
27 effective date of this Act if any element of the offense occurred

1 before that date.

2 SECTION 8. This Act takes effect September 1, 2017.