

By: Huffman, et al.
(Alvarado)

S.B. No. 1232

Substitute the following for S.B. No. 1232:

By: Moody

C.S.S.B. No. 1232

A BILL TO BE ENTITLED

AN ACT

relating to inappropriate conduct between a person and an animal;
creating a criminal offense.

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;

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

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

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

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

14 (6) organizes, promotes, conducts, or participates as
15 an observer of conduct described by Subdivision (1), (2), (3), or
16 (4);

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

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

21 (9) engages in conduct described by Subdivision (1),
22 (2), (3), or (4) in the presence of a child younger than 18 years of
23 age; or

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

27 (b) An offense under this section is a state jail felony,

1 unless the offense is committed under Subsection (a)(9) or results
2 in serious bodily injury or death of the animal, in which event the
3 offense is a felony of the second degree.

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

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

9 Art. 42A.511. COMMUNITY SUPERVISION FOR CERTAIN OFFENSES
10 INVOLVING ANIMALS. (a) If a judge grants community supervision to
11 a defendant convicted of an offense under Section 42.09, 42.091,
12 42.092, or 42.10, Penal Code, the judge may require the defendant to
13 attend a responsible pet owner course sponsored by a municipal
14 animal shelter, as defined by Section 823.001, Health and Safety
15 Code, that:

16 (1) receives federal, state, county, or municipal
17 funds; and

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

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

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

24 (2) prohibit the defendant from possessing or
25 exercising control over any animals or residing in a household
26 where animals are present; or

27 (3) require the defendant to participate in a

1 psychological counseling or other appropriate treatment program
2 for a period to be determined by the court.

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

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

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

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

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

21 (C) a violation of Section 20.04(a)(4)
22 (Aggravated kidnapping), Penal Code, if the actor committed the
23 offense or engaged in the conduct with intent to violate or abuse
24 the victim sexually;

25 (D) a violation of Section 30.02 (Burglary),
26 Penal Code, if the offense or conduct is punishable under
27 Subsection (d) of that section and the actor committed the offense

1 or engaged in the conduct with intent to commit a felony listed in
2 Paragraph (A) or (C);

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

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

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

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

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

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

24 (I) the second violation of the laws of another
25 state, federal law, the laws of a foreign country, or the Uniform
26 Code of Military Justice for or based on the violation of an offense
27 containing elements that are substantially similar to the elements

1 of the offense of indecent exposure, but not if the second violation
2 results in a deferred adjudication;

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

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

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

9 (1) "Cruelly treated" includes tortured, seriously
10 overworked, unreasonably abandoned, unreasonably deprived of
11 necessary food, care, or shelter, cruelly confined, ~~or~~ caused to
12 fight with another animal, or subjected to conduct prohibited by
13 Section 21.09, Penal Code.

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

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

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

26 SECTION 7. The change in law made by this Act applies only
27 to an offense committed on or after the effective date of this Act.

1 An offense committed before the effective date of this Act is
2 governed by the law in effect on the date the offense was committed,
3 and the former law is continued in effect for that purpose. For
4 purposes of this section, an offense was committed before the
5 effective date of this Act if any element of the offense occurred
6 before that date.

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