

BILL ANALYSIS

H.B. 3854
By: Perez
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Community organizations have raised concerns regarding the possession of animals by animal cruelty offenders. Currently, in civil cases in which a person is found to have been cruel to animals, the judge has discretion to require the defendant to relinquish custody of any animals in the defendant's possession or to prohibit the defendant from possessing or exercising control over any animals or from residing in a household where animals are present. H.B. 3854 seeks to keep animals out of the custody of individuals who have repeated offenses of animal cruelty by providing for the permanent relinquishment of animals for these individuals.

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

H.B. 3854 amends the Penal Code to create a Class C misdemeanor offense for a person who possesses or exercises control over an animal or resides in a household in which an animal is present and the person has been previously convicted two or more times of any of the following offenses:

- attack on an assistance animal;
- cruelty to nonlivestock animals;
- dog fighting;
- cockfighting; or
- an offense under federal law or a penal law of another state containing elements that are substantially similar to the elements of these offenses.

The bill enhances the penalty for a subsequent conviction of the offense to a Class B misdemeanor.

H.B. 3854 amends the Code of Criminal Procedure to require a court, as a condition of punishment for a defendant convicted of the offense, to require the defendant to permanently relinquish custody of any animals in the defendant's possession. The bill replaces the authorization for a judge who grants community supervision to a defendant convicted of bestiality, attack on an assistance animal, cruelty to nonlivestock animals, dog fighting, or cockfighting to require the defendant to relinquish custody of any animals in the defendant's possession or prohibit the defendant from possessing or exercising control over any animals or

from residing in a household where animals are present with a requirement for the judge to take those actions.

H.B. 3854 applies only to an offense committed on or after the bill's effective date. The bill provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

EFFECTIVE DATE

September 1, 2023.