

- SUBJECT:** Expanding offenses for participating in cockfighting
- COMMITTEE:** Criminal Jurisprudence — committee substitute recommended
- VOTE:** 9 ayes — Gallego, Hartnett, Aliseda, Burkett, Carter, Christian, Y. Davis, Rodriguez, Zedler
- 0 nays
- WITNESSES:** For — Alfred Nunez, Dallas Police Department; Fred Sanderson, Texas Animal Control Association; Belinda Smith, Harris County D.A’s Office; John Fleming; (*Registered, but did not testify*: Delvin Goss, Montopolis Neighborhood Association; Monica Hardy, Texas Humane Legislation Network; Patt Nordyke, Texas Federation of Animal Care Societies; Nicole Paquette, The Humane Society of the United States; Alan Spence, Texas Academy of Animal Control Officers; Lisa Starr, Austin Humane Society; Lori Teller, Texas Veterinary Medical Association; Robert “Skip” Trimble, Dallas Animal Shelter Commission; Bob Turner, Texas Poultry Federation; and 14 others representing themselves).
- Against — Rick Benningfield, Chris Bradford, Bobby Jones, Javier Lopez, Steve Perry, Danny Rogers Jr., Lynny Thomas, and Bobby Williamson, Texas Gamefowl Breeders Association; Dwain White, Citizens for the Preservation of Rural Lifestyle; and 8 others; (*Registered, but did not testify*: James Baxter, Citizens for the Preservation of Rural Lifestyle, Gamefowl Fanciers of Texas; Bobby Smith, Texas Gamefowl Breeders Association; Zanonía White, Gamefowl Fanciers of Texas, Citizens for Preservation of Rural Lifestyle; and 28 others representing themselves)
- BACKGROUND:** Under Penal Code, sec. 49.02, a person commits the offense of cruelty to animals if, among other things, the person causes one animal to fight with another. The offense is punishable as state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000), except that the offense is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if the person has previously been convicted of animal cruelty two or more times.

DIGEST:

CSHB 1043 would expand offenses in the Penal Code for cockfighting. The bill would create a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) for a person who knowingly:

- caused a cock to fight with another;
- operated or received earnings from a facility used for cockfighting;
- used or permitted another to use any real estate, building, room, tent, arena, or other property for cockfighting; or
- made, bought, sold, exchanged, possessed, or advertised an implement used in cockfighting, such as a gaff or slasher.

The bill would create a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) for owning or training a cock with an intent to use it in a cockfight. Attending a cockfight as a spectator would be punishable as a class C misdemeanor (maximum fine of \$500) for a first conviction and a class A misdemeanor for subsequent convictions.

An affirmative defense to prosecution would apply to conduct that occurred only for the purpose of breeding cocks for poultry shows or was incidental to collecting bridles, gaffs, or slashers.

CSHB 1043 would define “cockfighting” as any situation in which one cock attacked or fought with another. “Gaff” would mean an artificial steel spur designed to attach to the leg of a cock to replace or supplement the cock’s natural spur. “Slasher” would mean a steel weapon resembling a curved knife blade designed to attach to a cock’s foot.

The bill would take effect September 1, 2011.

SUPPORTERS  
SAY:

CSHB 1043 would align penalties for participating in cockfighting in Texas with all but a handful of states. Cockfighting is an inhumane blood sport that often is associated with other criminal activities such as gambling, alcohol and drug abuse, and trading in illegal firearms.

Cockfighting rings exist in both rural and urban areas of Texas, and they are much more common than often thought. Some recent high-profile busts illustrate the cruelty and satellite illegal activities that revolve around the rings. A cockfight raided in December 2010 in Dallas turned up abandoned cars, boxes of razor blades, syringes, liquor bottles, marijuana, and dozens of dead and dying roosters. Evidence recently compiled by the Drug Enforcement Administration and federal prosecutors also shows that

some Mexican cartels have been using cockfights to network and further their criminal enterprises.

Public policy on cockfighting has been settled in Texas since it became a crime in 1907. While current law punishes those in the ring forcing the birds to fight, it does not ban the equipment required for cockfighting nor does it penalize spectators, whose entrance fees and gambling activities are the economic engines that drive this blood sport. Under current law, a witness or officer must actually see two people forcing cocks to fight. This has hampered enforcement efforts, as it is difficult to find witnesses willing to come forward. Enforcement of cockfighting laws currently is costly, often unproductive, and takes time away from officers' and prosecutors' other duties.

Expanding offenses for cockfighting would reconcile Texas law with laws banning dog fighting that penalize possession of necessary equipment and spectators. It also would help elevate Texas to similar standards with surrounding states, especially Louisiana, Oklahoma, and Arkansas. Omissions in current Texas law draw cockfighting rings to the state from surrounding areas. Comparisons of cockfighting to other types of animal treatment do not pass muster — the state roundly prohibits the mistreatment and abuse of animals for entertainment.

**OPPONENTS  
SAY:**

CSHB 1320 would further crack down on a culturally significant activity that likely stems from when fowl were first domesticated. People around the world partake in cockfighting, and cocks bred for fighting are the results of centuries of selective breeding practices. Cockfighting should not be targeted specifically for eradication when other perfectly legal practices of rearing and keeping animals may be considered just as cruel. Cocks specifically raised for fighting often are treated better than their counterparts in commercial operations. Further, there has been a great deal of exaggeration regarding illegal activities associated with cockfighting rings. Current law provides ample means to pursue and punish anyone for illegal activities unrelated to a cockfight.

The state-jail felony offense authorized by the bill for being involved in a cockfight would be unreasonable. State jail felony offenses include arson, theft with a firearm, fraud, driving while intoxicated (DWI) with a passenger child, and criminally negligent homicide. These offenses are much more severe than being involved with cockfighting.

OTHER  
OPPONENTS  
SAY:

CSHB 1043 would apply penalties to cockfighting at variance with existing penalties for dog fighting. An offense for owning equipment associated with dog fighting is a class A misdemeanor, whereas CSHB 1043 would make a comparable offense for cockfighting a state jail felony. An offense for being a spectator to a dogfight is a class A misdemeanor, whereas comparable offenses for cockfighting would be a Class C misdemeanor. The bill should be amended to make equivalent penalties for the two.

NOTES:

Last session, the 82nd Legislature considered HB 1320 by Christian, which would have applied similar penalties to cockfighting. The bill was approved by both houses, but died in conference committee.