

## **BILL ANALYSIS**

Senate Research Center  
81R32299 GCB-F

C.S.H.B. 1320  
By: Christian et al. (Ellis)  
Criminal Justice  
5/22/2009  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Cockfighting is banned in all 50 states. It has been a crime in Texas for more than 100 years—since 1907. Also the U.S. Congress made it a felony to transport any animal across state lines to be used in an animal fighting venture. Cockfighting is still rampant throughout Texas and is almost always accompanied by gambling, alcohol, drugs, and firearms. Often, children are present and exposed to the sport. Moreover, it is common for individuals to transport cocks across international boundaries. Because the animals are often used in cockfighting, they do not receive proper veterinary care, such as vaccinations. As they are transported back into the U.S., some cocks bring back transmittable poultry diseases. When the birds interact, it facilitates the spread of said diseases, thus placing Texas' poultry stock at a high risk for animal diseases.

The reason cockfighting is so prevalent in Texas is because the only way to prosecute a cockfighting offense is to witness two people fighting their birds. When cockfighting raids are held, law enforcement generally are generally able to prosecute only one or two persons for cockfighting since only one fighting event occurs at a time. Unlike most other states, it is not a crime in Texas to own or operate a facility for cockfighting, own cockfighting equipment, train a cock to fight, or attend a cockfight.

C.S.H.B. 1320 relates to creating an offense for engaging in certain conduct relating to cockfighting and to the criminal and civil consequences of committing that offense.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 42, Penal Code, by adding Section 42.105, as follows:

Sec. 42.105. COCKFIGHTING. Defines "cock," "cockfighting," "gaff," and "slasher."

- (b) Provides that a person commits an offense if the person knowingly:
- (1) causes a cock to fight with another cock;
  - (2) participates in the earnings of or operates a facility used for cockfighting;
  - (3) uses or permits another to use any real estate, building, room, tent, arena, or other property for cockfighting;
  - (4) owns or trains a cock with the intent that the cock be used in an exhibition of cockfighting;
  - (5) manufactures, buys, sells, barter, exchanges, possesses, advertises, or otherwise offers a gaff, slasher, or other sharp implement designed for attachment to a cock with the intent that the implement be used in cockfighting; or

(6) attends as a spectator an exhibition of cockfighting.

(c) Provides that an offense under Subsection (b)(1), (2), (3), or (5) is a state jail felony. Provides that an offense under Subsection (b)(4) is a Class A misdemeanor. Provides that an offense under Subsection (b)(6) is a Class C misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that the person has been previously convicted of an offense under that subsection.

SECTION 2. Amends Section 71.02(a), Penal Code, as follows:

(a) Provides that a person commits an offense, if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, he commits or conspires to commit one or more of certain crimes, including any offense under Section 42.105. Makes nonsubstantive changes.

SECTION 3. Amends Article 14.06(d), Code of Criminal Procedure, as follows:

(d) Provides that Subsection (c) (relating to authorizing a peace officer who is charging a person with committing an offense that is a Class A or B Misdemeanor to, instead of taking the person before a magistrate, issue a citation to the person that contains certain information, if the person resides in the county where the offense occurred) applies only to a person charged with committing an offense under certain sections, including Section 42.105, Penal Code, if the offense is punishable as a Class A misdemeanor. Makes nonsubstantive changes.

SECTION 4. Amends Articles 18.18(a), (b), (e), and (f), Code of Criminal Procedure, as follows:

(a) Requires the court entering the judgment of conviction, following the final conviction of a person for an offense involving dog fighting or cockfighting, to order that any dog-fighting or cockfighting equipment be destroyed or forfeited to the state. Requires that the destruction of dogs and cocks, if necessary, be carried out by a veterinarian licensed in this state or, if one is not available, by trained personnel of a humane society or animal shelter.

(b) Makes a conforming change.

(e) Makes a conforming change.

(f) Makes a conforming change.

SECTION 5. Amends Article 18.18(g), Code of Criminal Procedure, as effective April 1, 2009, to define "cockfighting equipment," "gaff," and "slasher."

SECTION 6. Reenacts Article 59.01(2), Code of Criminal Procedure, as amended by Chapters 127 (S.B. 1694), 822 (H.B. 73), and 855 (H.B. 2278), Acts of the 80th Legislature, Regular Session, 2007, and amends it to redefine "contraband."

SECTION 7. Amends Chapter 59, Code of Criminal Procedure, by adding Article 59.011, as follows:

Art. 59.011. Authorizes the attorney representing the state, if property described by Article 59.01(2)(B)(x) (relating to certain property that is used or intended to be used in the commission of any offense under Section 42.105, Penal Code) is subject to forfeiture under this chapter and Article 18.18 (Disposition of Gambling Paraphernalia, Prohibited Weapon, Criminal Instrument, and Other Contraband), to proceed under either provision.

SECTION 8. Makes application of this Act prospective.

SECTION 9. Effective date: September 1, 2009.