

BILL ANALYSIS

Senate Research Center

S.B. 1232
By: Huffman
Criminal Justice
6/2/2017
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1232 creates an offense in the Penal Code for the crime of "bestiality." Current law only classifies sexual crimes against animals as "public lewdness" (Section 21.07, Penal Code).

Bestiality is generally defined as an act that involves the touching of the mouth or genital region of a person to the mouth or genital region of an animal. A person also commits an offense if they cause that activity, promote that activity, allow the activity to occur on their premises, or buy/sell an animal for the purpose of that activity.

An offense of this nature is a state jail felony. If the animal is seriously harmed or killed in the commission of the offense, the offense is a second degree felony. If community supervision is ordered, a judge may cause a defendant to surrender all animals in their possession, prohibit a defendant from owning/possessing an animal, or require counseling or other treatment.

A conviction of this offense is also prima facie evidence of a "cruelly treated" animal under the Health and Safety Code. (Original Author's / Sponsor's Statement of Intent)

S.B. 1232 amends current law relating to inappropriate conduct between a person and an animal, and creates a criminal 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 Section 21.07(a), Penal Code, as follows:

(a) Deletes existing text including an act involving contact between the person's mouth or genitals and the anus or genitals of an animal or fowl in the list of certain acts that constitute an offense of public lewdness. Makes nonsubstantive changes.

SECTION 2. Amends Chapter 21, Penal Code, by adding Section 21.09, as follows:

Sec. 21.09. BESTIALITY. (a) Provides that a person commits an offense if the person knowingly:

- (1) engages in an act involving contact between the person's mouth, anus, or genitals and the anus or genitals of an animal or contact between the person's anus or genitals and the mouth of the animal;
- (2) fondles or touches the anus or genitals of an animal in a manner that is not generally accepted and otherwise lawful animal husbandry or veterinary practice, including touching through clothing;
- (3) causes an animal to contact the seminal fluid of the person;

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

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

(6) organizes, promotes, conducts, or participates as an observer of described conduct;

(7) causes a person to engage or aids a person in engaging in described conduct;

(8) permits described conduct to occur on any premises under the person's control;

(9) engages in described conduct in the presence of a child younger than 18 years of age; or

(10) advertises, offers, or accepts the offer of an animal with the intent that the animal be used in this state for described conduct.

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

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

SECTION 3. Amends Section 42.092, Penal Code, by amending Subsection (c) and adding Subsections (c-1) and (c-2), as follows:

(c) Creates Subsections (c-1) and (c-2) from existing text of Subsection (c) and makes no further changes to the language of this subsection.

(c-1) Creates this subsection from existing text. Provides that an offense under Subsection (b)(1) (relating to a person committing an offense if the person commits certain harmful acts to an animal) or (b)(2) (relating to a person committing an offense if the person commits certain harmful acts to an animal without the owner's effective consent) is a felony of the third degree, except that the offense is a felony of the second degree if the person has previously been convicted under certain statutes.

(c-2) Creates this subsection from existing text. Provides that an offense under Subsection (b)(7) (relating to a person committing an offense if the person causes non-dog animals to fight) or (b)(8) (relating to a person committing an offense if the person uses a live animal as a lure in certain circumstances) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted under this section or Section 42.09 (Cruelty to Livestock Animals). Deletes existing text of Subsection (c) providing that an offense under Subsection (7) or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09. Makes a conforming change.

SECTION 4. Amends Article 42A.511, Code of Criminal Procedure, as follows:

Sec. 42A.511. COMMUNITY SUPERVISION FOR CERTAIN OFFENSES INVOLVING ANIMALS. (a) Creates this subsection from existing text and makes no further changes to this subsection.

(b) Authorizes a judge, if the judge grants community supervision to a defendant convicted of an offense under Section 21.09, Penal Code, to:

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

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

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

SECTION 5. Amends Article 62.001(5), Code of Criminal Procedure, to redefine "reportable conviction or adjudication."

SECTION 6. Amends Section 821.021(1), Health and Safety Code, to redefine "cruelly treated."

SECTION 7. Amends Section 821.023, Health and Safety Code, by adding Subsection (a-1), as follows:

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

SECTION 8. Repealer: Section 821.023(b) (relating to the admissibility of certain statements made by animal owners during the order of disposition or return of an animal), Health and Safety Code.

SECTION 9. Makes application of this Act prospective.

SECTION 10. Effective date: September 1, 2017.