

## **BILL ANALYSIS**

Senate Research Center  
85R5390 KJE-F

S.B. 762  
By: Menéndez  
State Affairs  
4/20/2017  
As Filed

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

Violent animal cruelty crimes such as torturing, cruelly killing, or causing serious bodily injury to an animal or killing, poisoning, or causing serious bodily injury to another person's animal without the owner's consent occurs at an alarming rate in Texas. Research has shown that animal cruelty is a precursor to human violence. In fact, these studies make a direct correlation between the two. S.B. 762 seeks to increase the punishment for violent animal cruelty offenses and to address certain loopholes in current statute.

S.B. 762 increases the current penalty for violent animal cruelty offenses described above. S.B. 762 also cleans up language to make the activities such as hunting, fishing, trapping, wildlife management, or animal husbandry a defense to the prosecution rather than an exception. Further, S.B. 762 will allow a defendant's sworn testimony in a civil hearing to also be utilized in a criminal hearing. Lastly, S.B. 762 adds clarity in stating that the defense in damages of a domestic animal to an owner of livestock in civil cases is not a defense to the prosecution, unlike a criminal offense.

As proposed, S.B. 762 amends current law relating to the prosecution of offenses involving cruelty to animals and to the inclusion of related conduct in the definition of family violence and increases a criminal penalty.

### **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 Article 42.013, Code of Criminal Procedure, to require a court, in the trial of an offense under Title 5 (Offenses Against the Person) or Section 42.092 (Cruelty to Nonlivestock Animals), Penal Code, rather than Title 5, Penal Code only, to make an affirmative finding after making certain determinations and enter that affirmative finding in the judgment of the case.

SECTION 2. Amends Section 71.004, Family Code, as follows:

Sec. 71.004. FAMILY VIOLENCE. (a) Creates this subsection from existing text and redefines "family violence."

(b) Defines "coercion" and "possession of an animal by a person" for purposes of Subsection (a)(4) (relating to defining "family violence" by certain offenses under the Penal Code).

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

(c) Provides that certain offenses are Class A misdemeanors, except that the offenses are state jail felonies if the person has previously been convicted under this section or under Section 42.09 (Cruelty to Livestock Animals), rather than two times under this section,

two times under Section 42.09 or one time under this section and one time under Section 42.09.

(c-1) Provides that certain offenses are 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 Subsection (b)(1) (relating to the torture of an animal), (2) (relating to killing or harming an animal without the owner's consent), (7) (relating to causing animals that are not dogs to fight), or (8) (relating to using a live animal as a lure in dog racing) or under Section 42.09. Creates this subsection from existing text.

(c-2) Provides that an offense under Subsection (b)(7) or (8) is a state jail felony, except the offense is a felony of the third degree if the person has previously been convicted under this section or Section 42.09. Creates this subsection from existing text. Makes conforming changes.

(f) Provides that it is a defense to prosecution under, rather than an exception to the application of, this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful form of certain activities or practices.

SECTION 4. Amends Section 822.013, Health and Safety Code, by adding Subsection (f), to provide that it is not a defense to prosecution under Section 42.092, Penal Code, that the actor's conduct was authorized under this section.

SECTION 5. Repealer: Section 821.023(b) (relating to the inadmissibility of certain statements), Health and Safety Code.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 2017.