

SUBJECT: Conduct constituting and consequences of the offense of dog fighting

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Gallego, Fletcher, Kent, Miklos, Moody, Pierson, Vaught, Vo

0 nays

1 present not voting — Hodge

2 absent — Christian, Riddle

WITNESSES: For — Bill Gleason; Kelly Heitkamp; Jacqueline Lynch; Belinda Harris, Harris County District Attorney's Office; (*Registered, but did not testify*: Dan Adams; Laura Andersen, San Antonio Police Department; Joe Black; John Chancellor, Texas Police Chiefs Association; Marc Chavez, Lubbock County District Attorney's Office; Katrina Daniels, Bexar County Criminal District Attorney's Office; Cile Holloway, Texas Human Legislation Network; John Hubbard; John Paul Urban, Harris County)

Against — Samuel England, ACLU of Texas

On — Scott Davis; Cliff Manning

BACKGROUND: Under Penal Code, sec. 42.10, a person commits the offense of dog fighting by intentionally or knowingly:

- causing a dog to fight with another dog;
- participating in the earnings of or operates a facility used for dog fighting; or
- using or permitting another to use any real estate, building, room, tent, arena, or other property for dog fighting.

The offense is punishable as a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000). It is also an offense to intentionally or knowingly:

- own or train a dog with the intent that the dog be used in an exhibition of dog fighting; or
- attend as a spectator an exhibition of dog fighting.

These acts are punishable as a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

DIGEST:

HB 1147 would amend Penal Code, sec. 42.10 to make the ownership or possession of dog-fighting equipment with the intent that the equipment be used to train a dog for dog fighting or in furtherance of dog fighting a class A misdemeanor. The bill would define “dog-fighting equipment” to mean:

- equipment used for training or handling a fighting dog, including a harness, treadmill, cage, decoy, pen, house for keeping a fighting dog, feeding apparatus, or training pen;
- equipment used for transporting a fighting dog, including any automobile, or other vehicle, and its appurtenances which are intended to be used as a vehicle for transporting a fighting dog;
- equipment used to promote or advertise an exhibition of dog fighting, including a printing press or similar equipment, paper, ink, or photography equipment; or
- a dog trained, being trained, or intended to be used to fight with another dog.

HB 1147 also would amend sec. 71.02(a) to make dog fighting eligible for a penalty enhancement if the offense of dog fighting was committed or conspired to 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.

HB 1147 also would amend the Code of Criminal Procedure, art. 59.01(2), to make property of any nature that was used in the commission of dog fighting “contraband” and subject to forfeiture to or destruction by the state. If property was subject to forfeiture under art. 59.01(2)(B)(x) or art. 18.18 of the Code of Criminal Procedure, the prosecutor would be allowed to proceed under either provision.

The bill would take effect on September 1, 2009.

**SUPPORTERS
SAY:**

Modern-day dog fighting is an organized criminal activity. HB 1147 would help law enforcement officials to crack down on this cruel blood sport by allowing dog fighting to be punished as organized criminal activity and would allow for the seizure of dog fighting equipment and paraphernalia. These enhancements would allow law enforcement to punish more effectively and shut down dog-fighting rings.

Allowing for an organized-crime enhancement and the seizure of equipment, paraphernalia, and proceeds would have a deterrent effect on people who engage in dog-fighting as a business. This is critical because it is the entrance fees and gambling proceeds that fuel dog-fighting and make it an attractive criminal enterprise. It is difficult to deter criminals from dog fighting because of its attractive potential as a money-generating enterprise. Seizing the equipment and funds that make the sport possible would be the best way to shut dog-fighting concerns down.

HB 1147 is not intended to allow for the seizure of dogs simply because they were found on the same property where other dog fighting activities and paraphernalia were located. The state still would have to prove that the dog was being trained or was intended to be used to fight with another dog before it could be seized.

**OPPONENTS
SAY:**

HB 1147 is not needed. Existing laws on dog-fighting are sufficient to punish those who participate. Penalty enhancements rarely have a deterrent effect, and the resources spent on additional law enforcement and corrections efforts mean there are less available resources for worthwhile programs that focus on education and diversion.