

By: Whitmire

S. B. No. 554

A BILL TO BE ENTITLED

# 1 AN ACT

2 relating to conduct constituting the offense of dog fighting and to  
3 the criminal and civil consequences of committing that offense.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 42.10(a), (b), and (e), Penal Code, are  
6 amended to read as follows:

7 (a) A person commits an offense if the person [he]  
8 intentionally or knowingly:

9 (1) causes a dog to fight with another dog;

10 (2) participates in the earnings of or operates a  
11 facility used for dog fighting;

12 (3) uses or permits another to use any real estate,  
13 building, room, tent, arena, or other property for dog fighting;

14 (4) owns or possesses dog-fighting equipment with the  
15 intent that the equipment be used to train a dog for dog fighting or  
16 in furtherance of dog fighting;

17                           (5)   owns or trains a dog with the intent that the dog  
18   be used in an exhibition of dog fighting; or

19 (6) [(-)] attends as a spectator an exhibition of dog  
20 fighting.

21 (b) In this section:

24 (2) "Dog-fighting equipment" has the meaning assigned

1 by Article 18.18(g), Code of Criminal Procedure.

2 (e) An offense under Subsection (a)(4), ~~(5)~~, or (6) is  
3 a Class A misdemeanor. An offense under Subsection (a)(1), (2), or  
4 (3) is a state jail felony.

5 SECTION 2. Section 71.02(a), Penal Code, is amended to read  
6 as follows:

7 (a) A person commits an offense if, with the intent to  
8 establish, maintain, or participate in a combination or in the  
9 profits of a combination or as a member of a criminal street gang,  
10 he commits or conspires to commit one or more of the following:

11 (1) murder, capital murder, arson, aggravated  
12 robbery, robbery, burglary, theft, aggravated kidnapping,  
13 kidnapping, aggravated assault, aggravated sexual assault, sexual  
14 assault, forgery, deadly conduct, assault punishable as a Class A  
15 misdemeanor, burglary of a motor vehicle, or unauthorized use of a  
16 motor vehicle;

17 (2) any gambling offense punishable as a Class A  
18 misdemeanor;

19 (3) promotion of prostitution, aggravated promotion  
20 of prostitution, or compelling prostitution;

21 (4) unlawful manufacture, transportation, repair, or  
22 sale of firearms or prohibited weapons;

23 (5) unlawful manufacture, delivery, dispensation, or  
24 distribution of a controlled substance or dangerous drug, or  
25 unlawful possession of a controlled substance or dangerous drug  
26 through forgery, fraud, misrepresentation, or deception;

27 (6) any unlawful wholesale promotion or possession of

1 any obscene material or obscene device with the intent to wholesale  
2 promote the same;

3 (7) any offense under Subchapter B, Chapter 43,  
4 depicting or involving conduct by or directed toward a child  
5 younger than 18 years of age;

6 (8) any felony offense under Chapter 32;

7 (9) any offense under Chapter 36;

8 (10) any offense under Chapter 34 or 35;

9 (11) any offense under Section 37.11(a);

10 (12) any offense under Chapter 20A; ~~[or]~~

11 (13) any offense under Section 37.10; or

12 (14) any offense under Section 42.10.

13 SECTION 3. Article 59.01(2), Code of Criminal Procedure, as  
14 amended by Chapters 127 (S.B. 1694), 822 (H.B. 73), and 885 (H.B.  
15 2278), Acts of the 80th Legislature, Regular Session, 2007, is  
16 reenacted and amended to read as follows:

17 (2) "Contraband" means property of any nature,  
18 including real, personal, tangible, or intangible, that is:

19 (A) used in the commission of:

20 (i) any first or second degree felony under  
21 the Penal Code;

22 (ii) any felony under Section 15.031(b),  
23 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30,  
24 31, 32, 33, 33A, or 35, Penal Code;

25 (iii) any felony under The Securities Act  
26 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

27 (iv) any offense under Chapter 49, Penal

1 Code, that is punishable as a felony of the third degree or state  
2 jail felony, if the defendant has been previously convicted three  
3 times of an offense under that chapter;

4 (B) used or intended to be used in the commission  
5 of:

6 (i) any felony under Chapter 481, Health  
7 and Safety Code (Texas Controlled Substances Act);

8 (ii) any felony under Chapter 483, Health  
9 and Safety Code;

10 (iii) a felony under Chapter 153, Finance  
11 Code;

12 (iv) any felony under Chapter 34, Penal  
13 Code;

14 (v) a Class A misdemeanor under Subchapter  
15 B, Chapter 365, Health and Safety Code, if the defendant has been  
16 previously convicted twice of an offense under that subchapter;

17 (vi) any felony under Chapter 152, Finance  
18 Code;

19 (vii) any felony under Chapter 32, Human  
20 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that  
21 involves the state Medicaid program;

22 (viii) a Class B misdemeanor under Chapter  
23 522, Business & Commerce Code; ~~or~~

24 (ix) a Class A misdemeanor under Section  
25 35.153, Business & Commerce Code; or

26 (x) any offense under Section 42.10, Penal  
27 Code;

1 (C) the proceeds gained from the commission of a  
2 felony listed in Paragraph (A) or (B) of this subdivision, a  
3 misdemeanor listed in Paragraph (B)(viii) or (x) of this  
4 subdivision, or a crime of violence;

5 (D) acquired with proceeds gained from the  
6 commission of a felony listed in Paragraph (A) or (B) of this  
7 subdivision, a misdemeanor listed in Paragraph (B)(viii) or (x) of  
8 this subdivision, or a crime of violence; or

9 (E) used to facilitate or intended to be used to  
10 facilitate the commission of a felony under Section 15.031 or  
11 43.25, Penal Code.

12 SECTION 4. Chapter 59, Code of Criminal Procedure, is  
13 amended by adding Article 59.011 to read as follows:

14        Art. 59.011. If property described by Article  
15    59.01(2)(B)(x) is subject to forfeiture under this chapter and  
16    Article 18.18, the attorney representing the state may proceed  
17    under either provision.

18 SECTION 5. The changes in law made by this Act apply only to  
19 an offense committed on or after the effective date of this Act or  
20 to the forfeiture of property used in the commission of that  
21 offense. An offense committed before the effective date of this  
22 Act, or the forfeiture of property used in the commission of that  
23 offense, is governed by the law in effect when the offense was  
24 committed, and the former law is continued in effect for that  
25 purpose. For purposes of this section, an offense was committed  
26 before the effective date of this Act if any element of the offense  
27 occurred before that date.

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1 SECTION 6. This Act takes effect September 1, 2009.