

By: Menéndez

S.B. No. 762

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the prosecution of offenses involving cruelty to
3 animals and to the inclusion of related conduct in the definition of
4 family violence; increasing a criminal penalty.

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

6 SECTION 1. Article [42.013](#), Code of Criminal Procedure, is
7 amended to read as follows:

8 Art. 42.013. FINDING OF FAMILY VIOLENCE. In the trial of an
9 offense under Title 5 or Section [42.092](#), Penal Code, if the court
10 determines that the offense involved family violence, as defined by
11 Section [71.004](#), Family Code, the court shall make an affirmative
12 finding of that fact and enter the affirmative finding in the
13 judgment of the case.

14 SECTION 2. Section [71.004](#), Family Code, is amended to read
15 as follows:

16 Sec. 71.004. FAMILY VIOLENCE. (a) "Family violence"
17 means:

18 (1) an act by a member of a family or household against
19 another member of the family or household that is intended to result
20 in physical harm, bodily injury, assault, or sexual assault or that
21 is a threat that reasonably places the member in fear of imminent
22 physical harm, bodily injury, assault, or sexual assault, but does
23 not include defensive measures to protect oneself;

24 (2) abuse, as that term is defined by Sections

1 261.001(1)(C), (E), (G), (H), (I), (J), and (K), by a member of a
2 family or household toward a child of the family or household; ~~[or]~~

3 (3) dating violence, as that term is defined by
4 Section 71.0021; or

5 (4) an act that constitutes an offense, or an attempt
6 or threat to commit an offense, under Section 42.092, Penal Code:

7 (A) against an animal owned or possessed by a
8 member of the actor's family or household or by a person with whom
9 the actor has or has had a dating relationship; and

10 (B) with the intent to coerce, control, punish,
11 or intimidate the member or person.

12 (b) For purposes of Subsection (a)(4):

13 (1) coercion, as defined by Section 1.07, Penal Code,
14 includes the use of force or a threat of force to compel a person to:

15 (A) engage in conduct from which the person has
16 the right or privilege to abstain; or

17 (B) abstain from conduct in which the person has
18 the right or privilege to engage; and

19 (2) possession of an animal by a person means:

20 (A) actual care, custody, control, or management
21 of an animal by the person; or

22 (B) constructive possession of an animal owned by
23 the person or for which the person has been the primary caregiver.

24 SECTION 3. Section 42.092, Penal Code, is amended by
25 amending Subsections (c) and (f) and adding Subsections (c-1) and
26 (c-2) to read as follows:

27 (c) An offense under Subsection (b)(3), (4), (5), (6), or

1 (9) is a Class A misdemeanor, except that the offense is a state
2 jail felony if the person has previously been convicted [~~two times~~
3 under this section[~~, two times under Section 42.09,~~] or [~~one time~~
4 ~~under this section and one time~~] under Section 42.09.

5 (c-1) An offense under Subsection (b)(1) or[~~7~~] (2) is a
6 felony of the third degree, except that the offense is a felony of
7 the second degree if the person has previously been convicted under
8 Subsection (b)(1), (2), (7), or (8) or under Section 42.09.

9 (c-2) An offense under Subsection (b)(7)[~~, (7),~~] or (8) is a
10 state jail felony, except that the offense is a felony of the third
11 degree if the person has previously been convicted [~~two times~~
12 under this section[~~, two times under Section 42.09,~~] or [~~one time~~
13 under this section and one time] under Section 42.09.

14 (f) It is a defense to prosecution under [~~an exception to~~
15 ~~the application of~~] this section that the conduct engaged in by the
16 actor is a generally accepted and otherwise lawful:

17 (1) form of conduct occurring solely for the purpose
18 of or in support of:

19 (A) fishing, hunting, or trapping; or

20 (B) wildlife management, wildlife or depredation
21 control, or shooting preserve practices as regulated by state and
22 federal law; or

23 (2) animal husbandry or agriculture practice
24 involving livestock animals.

25 SECTION 4. Section 822.013, Health and Safety Code, is
26 amended by adding Subsection (f) to read as follows:

27 (f) It is not a defense to prosecution under Section 42.092,

1 Penal Code, that the actor's conduct was authorized under this
2 section.

3 SECTION 5. Section 821.023(b), Health and Safety Code, is
4 repealed.

5 SECTION 6. The changes in law made by this Act apply only to
6 an offense committed on or after the effective date of this Act. An
7 offense committed before the effective date of this Act is governed
8 by the law in effect on the date the offense was committed, and the
9 former law is continued in effect for that purpose. For purposes of
10 this section, an offense was committed before the effective date of
11 this Act if any element of the offense occurred before that date.

12 SECTION 7. This Act takes effect September 1, 2017.