



Texas Animal Control Association

TACA is an association committed to the advancement of all animal control and animal welfare professionals through education, leadership, and advocacy

CRUELTY INVESTIGATIONS 301



Texas Laws

Jamey Cantrell

Agenda

- * Civil Seizure Laws
- * Criminal Laws
- * Other Pertinent Laws

IMPORTANT

Texas Code of Criminal Procedure Article 1.04: Due Course of Law

No citizen of this State shall be deprived of life, liberty, **property**, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

Animals are considered property in the State of Texas.
Animals are not contraband and cannot be seized as such.

Pursuing Animal Cruelty Cases

1) Civil - determine ownership of animal

- * Sections 821.021 through 821.026 of the Health and Safety Code
- * Used to obtain temporary custody of animals from individuals until a court hearing can be held to determine permanent ownership
- * Ownership of the animals can be determined relatively quickly
- * Judgment is based on the preponderance of the evidence (more than 50%)

2) Criminal - hold offenders responsible for their actions

- * Texas Penal Code 42.09 - 42.105 and City/ County Ordinances
- * Law enforcement officers may seek the arrest and criminal prosecution of the owner of the animal
- * District Attorney is responsible for prosecuting all criminal charges in animal cruelty cases
- * Animals are evidence and must be held until the final outcome of the charges
- * Conviction of the defendant requires proof beyond a reasonable doubt (98%-99%)

Civil Remedies to Animal Cruelty

Texas Health and Safety Code

Title 10. Health and Safety of Animals

Chapter 821. Treatment and Disposition of Animals

- * Subchapter B. Disposition of Cruelly Treated Animals

- * Sections 821.021 - 821.025
 - * Used to obtain temporary custody of animals from individuals until a court hearing can be held to determine permanent ownership

Civil Remedies to Animal Cruelty

Sec. 821.021. Definitions.

(1) “Cruelly treated” includes tortured, **seriously** overworked, **unreasonably** abandoned, **unreasonably** deprived of necessary food, care, or shelter, cruelly confined, caused to fight with another animal, **or subjected to conduct prohibited by Section 21.09, Penal Code***.

(2) “Nonprofit animal welfare organization” means a nonprofit organization that has as its purpose:

- (A) the prevention of cruelty to animals; or
- (B) the sheltering of, caring for, and providing homes for lost, stray, and abandoned animals.

(3) “Owner” includes a person who owns or has custody or control of an animal.

***Became law on 09/01/17**

Civil Remedies to Animal Cruelty

Sec. 821.0211. Additional Definition.

In this subchapter, “magistrate” means any officer as defined in Article 2.09, Code of Criminal Procedure, except that the term does not include justices of the supreme court, judges of the court of criminal appeals, or courts of appeals, judges or masters of statutory probate courts, or judges or masters of district courts that give preference to family law matters or family district courts under Subchapter D, Chapter 24, Government Code.

Civil Remedies to Animal Cruelty

Magistrates that can sign cruelty seizure warrants

County judges

Judges of the county courts at law

Judges of the county criminal courts

Justices of the peace

Mayors* and recorders and the judges of the municipal courts of incorporated cities or towns

**Mayors are considered judges only in incorporated general law cities that do not have ordinances that require the election or appointment of a judge*

Civil Remedies to Animal Cruelty

Sec. 821.022. Seizure of a Cruelly Treated Animal

(a) If a **peace officer** or an **officer who has responsibility for animal control** in a county or municipality has reason to believe that an animal has been or is being cruelly treated, the officer may apply to a justice court or magistrate in the county or to a municipal court in the municipality in which the animal is located for a warrant to seize the animal.

Civil Remedies to Animal Cruelty

Sec. 821.022. Seizure of a Cruelly Treated Animal

(b) On a showing of probable cause to believe that the animal has been or is being cruelly treated, the court or magistrate shall issue the warrant and set a time **within 10 calendar days of the date of issuance** for a hearing in the appropriate justice court or municipal court to determine whether the animal has been cruelly treated.

Probable cause is established by the affidavit filed with the application for the warrant.

Civil Remedies to Animal Cruelty

Sec. 821.022. Seizure of a Cruelly Treated Animal

(c) The officer executing the warrant shall cause the animal to be impounded and shall give written notice to the owner of the animal of the time and place of the hearing.

Notice can be given by personal delivery to the owner or an individual in care, custody, or control of the location. Posting the seizure warrant and affidavit in plain view is acceptable if the owner cannot be located.

Civil Remedies to Animal Cruelty

Sec. 821.023. Hearing: Order of Disposition or Return of Animal

(a) A finding in a court of competent jurisdiction that the owner of an animal is guilty of an offense under Section 42.09 or 42.092, Penal Code, involving the animal is prima facie evidence at a hearing authorized by Section 821.022 that the animal has been cruelly treated.

This should not be an issue since the animal(s) should always be seized using the civil process before criminal charges are filed.

Civil Remedies to Animal Cruelty

Sec. 821.023. Hearing: Order of Disposition or Return of Animal

(b) A statement of an owner made at a hearing provided for under this subchapter is not admissible in a trial of the owner for an offense under Section 42.09 or 42.092, Penal Code.

(c) Each interested party is entitled to an opportunity to present evidence at the hearing.

Civil Remedies to Animal Cruelty

Sec. 821.023. Hearing: Order of Disposition or Return of Animal

(d) If the court finds that the animal's owner has cruelly treated the animal, the owner shall be divested of ownership of the animal, and the court shall:

- (1) order a public sale of the animal by auction
- (2) order the animal given to a municipal or county animal shelter or a nonprofit animal welfare organization; or
- (3) order the animal humanely destroyed if the court decides that the best interests of the animal or that the public health and safety would be served by doing so.

Create a list of recommendations for each animal's disposition prior to the hearing and provide it to the judge.

Civil Remedies to Animal Cruelty

Sec. 821.023. Hearing: Order of Disposition or Return of Animal

...continued

(2) the costs incurred by a municipal or county animal shelter or a nonprofit animal welfare organization in:

(A) housing and caring for the animal during its impoundment; and

(B) humanely destroying the animal if destruction is ordered by the court

Civil Remedies to Animal Cruelty

Sec. 821.023. Hearing: Order of Disposition or Return of Animal

(e-1) After a court finds that an animal's owner has cruelly treated the animal, the court shall determine the estimated costs likely to be incurred by a municipal or county animal shelter or a nonprofit animal welfare organization to house and care for the impounded animal during the appeal process.

Civil Remedies to Animal Cruelty

Sec. 821.023. Hearing: Order of Disposition or Return of Animal

(e-2) After making the determination under Subsection (e-1), the court at the time of entering the judgment shall set the amount of bond for an appeal equal to the sum of:

- (1) the amount of the court costs ordered under Subsection (e); and
- (2) the amount of the estimated costs determined under Subsection (e-1).

Keep detailed records of staff time, veterinary costs, board fees, and any other charges and provide an itemized list to the court at the hearing. Also provide a cost per day to board all animals during the appeal period so that the judge can estimate a total.

Civil Remedies to Animal Cruelty

Sec. 821.023. Hearing: Order of Disposition or Return of Animal

(e-4) Notwithstanding any other law, the amount of court costs that a court may order under Subsection (e) and the amount of bond that a court determines under Subsection (e-2) are excluded in determining the court's jurisdiction under Subtitle A, Title 2, Government Code.

Courts are limited in which cases they can handle by dollar amount. This section allows justice and municipal courts to handle these cases even if the expected amount exceeds their limit.

Civil Remedies to Animal Cruelty

Sec. 821.023. Hearing: Order of Disposition or Return of Animal

(f) The court may order that an animal disposed of under Subsection (d)(1) or (d)(2) be spayed or neutered at the cost of the receiving party.

(g) The court shall order the animal returned to the owner if the court does not find that the animal's owner has cruelly treated the animal.

Civil Remedies to Animal Cruelty

Sec. 821.024. Sale or Disposition of Cruelly Treated Animal

- (a) Must provide public notice of any auction. The former owner or their representatives may not bid on the animals.
- (b) Proceeds from the auction must first be applied to the charges the owner must pay according to 821.023(e). Any excess proceeds must be turned over to the court so that it can be given to the former owner.
- (c) If the animal is not sold at auction, it may be euthanized or given to a municipal, county, or nonprofit animal shelter.

Civil Remedies to Animal Cruelty

Sec. 821.025. Appeal

(a) An owner divested of ownership of an animal under Section 821.023 may appeal the order to a county court or county court at law in the county in which the justice or municipal court is located.

(b) As a condition of perfecting an appeal, not later than the 10th calendar day after the date the order is issued, the owner must file a notice of appeal and a cash bond or surety bond in an amount set by the court under Section 821.023(e-2).

Owners can file a “pauper’s bond” which can allow them to appeal the ruling without having to pay a bond.

Civil Remedies to Animal Cruelty

Sec. 821.025. Appeal

(c) The original court must turn over its records of the case to the county court to which the appeal is made within five days of the appeal being filed.

(d) The county court must hold a *trial de novo* within ten days. Either party may request a jury trial.

(e) The decision of the county court is final and may not be appealed.

Civil Remedies to Animal Cruelty

Sec. 821.025. Appeal

(f) A person filing an appeal does not have to file a motion for a new trial.

(g) County courts are expressly given jurisdiction over appeals.

(h) Until the appeal process is finalized, the animal(s) involved may not be sold, given away, or euthanized. Euthanasia is allowed if it is to “prevent undue pain to or suffering of the animal.”*

** Only euthanize on advice of a veterinarian and make sure you get the vet’s order in writing.*

Civil Remedies to Animal Cruelty

Sec. 821.026. Conflict of Laws

In the event of a conflict between this subchapter and another provision of any other law relating to an appeal of a disposition regarding a cruelly treated animal, including the bond required for that appeal, this subchapter controls.

Civil Seizure vs. Owner Surrender

- Ownership is in question until judge decides
 - Animals must be held until case is finalized
 - 10 days for first hearing
 - 10 day appeal period
 - 10 days for final appeal
 - Owners may be ordered to pay costs
 - Can follow up with criminal charges
- Ownership is determined immediately
 - Animals can be processed for adoption or euthanasia immediately
 - May claim animals were surrendered under duress or may not be the actual owner
 - Can follow up with criminal charges

Criminal Remedies to Animal Cruelty

Texas Penal Code

Chapter 42. Disorderly Conduct and Related Offenses

Sections 42.09 - 42.105

Sec. 42.09 - Cruelty to Livestock Animals

Sec. 42.091 - Attack on Assistance Animal

Sec. 42.092 - Cruelty to Nonlivestock Animals

Sec. 42.10 - Dog Fighting

Sec. 42.105 - Cockfighting

Criminal Remedies to Animal Cruelty

Section 42.09. Cruelty to Livestock Animals.

- (a) A person commits an offense if the person **intentionally** or **knowingly**:
- (1) tortures a livestock animal; **(SJF)**
 - (2) fails **unreasonably** to provide necessary food, water, or care for a livestock animal in the person's custody; **(M "A")**
 - (3) abandons **unreasonably** a livestock animal in the person's custody **(M "A")**
 - (4) transports or confines a livestock animal in a cruel and unusual manner; **(M "A")**
 - (5) administers poison to a livestock animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent; **(SJF)**
 - (6) causes one livestock animal to fight with another livestock animal or with an animal as defined by Section 42.092; **(SJF)**
 - (7) uses a live livestock animal as a lure in dog race training or in dog coursing on a racetrack; **(SJF)**
 - (8) trips a horse; or **(SJF)**
 - (9) **seriously** overworks a livestock animal. **(M "A")**

Other Laws

Texas Penal Code

Title 2. General Principles of Criminal Responsibility

Chapter 6. Culpability Generally

Section 6.02. Requirement of Culpability

(a) Except as provided in Subsection (b), a person does not commit an offense unless he intentionally, knowingly, recklessly, or with criminal negligence engages in conduct as the definition of the offense requires.

(b) If the definition of an offense does not prescribe a culpable mental state, a culpable mental state is nevertheless required unless the definition plainly dispenses with any mental element.

(c) If the definition of an offense does not prescribe a culpable mental state, but one is nevertheless required under Subsection (b), intent, knowledge, or recklessness suffices to establish criminal responsibility.

(d) Culpable mental states are classified according to relative degrees, from highest to lowest, as follows:

- (1) intentional;
- (2) knowing;
- (3) reckless;
- (4) criminal negligence.

Other Laws

Texas Penal Code

Title 2. General Principles of Criminal Responsibility Chapter 6. Culpability Generally

Section 6.03. Definitions of Culpable Mental States.

- (a) A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.
- (b) A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.
- (c) A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.
- (d) A person acts with criminal negligence, or is criminally negligent, with respect to circumstances surrounding his conduct or the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that he circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

Criminal Remedies to Animal Cruelty

Section 42.09. Cruelty to Livestock Animals.

(b) In this section:

- (1) “Abandon” includes abandoning a livestock animal in the person’s custody without making **reasonable** arrangements for assumption of custody by another person.
- (2) “Cruel manner” includes a manner that causes or permits **unjustified** or **unwarranted** pain or suffering.
- (3) “Custody” includes responsibility for the health, safety, and welfare of a livestock animal subject to the person’s care and control, regardless of ownership of the livestock animal.
- (4) “Depredation” has the meaning assigned by Section 71.001, Parks and Wildlife Code.

Criminal Remedies to Animal Cruelty

Section 42.09. Cruelty to Livestock Animals.

(b) In this section:

5) “Livestock Animal” means:

(A) cattle, sheep, swine, goats, ratites, or poultry commonly raised for human consumption

(B) a horse, pony, mule, donkey, or hinny;

(C) native or nonnative hoofstock raised under agricultural practices; or

(D) native or nonnative fowl commonly raised under agricultural practices.

(6) “Necessary food, water, or care” includes food, water, or care provided to the extent required to maintain the livestock animal in a state of good health.

(7) “Torture” includes any act that causes **unjustifiable** pain or suffering.

(8) “Trip” means to use an object to cause a horse to fall or lose its balance.

Criminal Remedies to Animal Cruelty

Section 42.09. Cruelty to Livestock Animals.

(c) Lists the punishment for offenses - Class A misdemeanor or state jail felony

Any combination of two previous convictions for Class A Misdemeanors under this section or 42.092 upgrades the charges to State Jail Felony

(d) It is a defense to prosecution under Subsection (a)(8) that the actor tripped the horse for the purpose of identifying the ownership of the horse or giving veterinary care to the horse.

(e) It is a defense to prosecution for an offense under this section that the actor was engaged in bona fide experimentation for scientific research.

Criminal Remedies to Animal Cruelty

Section 42.09. Cruelty to Livestock Animals.

(f) 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:

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

(A) fishing, hunting, or trapping; or

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

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

(g) This section does not create a civil cause of action for damages or enforcement of this section.

Criminal Remedies to Animal Cruelty

Section 42.091. Attack on Assistance Animal.

- (a) A person commits an offense if the person **intentionally, knowingly, or recklessly** attacks, injures, or kills an assistance animal.

- (b) A person commits an offense if the person **intentionally, knowingly, or recklessly** incites or permits an animal owned by or otherwise in the custody of the actor to attack, injure, or kill an assistance animal and, as a result of the person's conduct, the assistance animal is attacked, injured, or killed.

- (c) An offense under this section is a:
 - (1) Class A misdemeanor if the actor or an animal owned by or otherwise in the custody of the actor attacks an assistance animal;
 - (2) state jail felony if the actor or an animal owned by or otherwise in the custody of the actor injures an assistance animal; or
 - (3) felony of the third degree if the actor or an animal owned by or otherwise in the custody of the actor kills an assistance animal;

Criminal Remedies to Animal Cruelty

Section 42.091. Attack on Assistance Animal.

- (d) A court shall order a defendant convicted of an offense under Subsection (a) to make restitution to the owner of the assistance animal for:
 - (1) related veterinary or medical bills;
 - (2) the cost of:
 - (A) replacing the assistance animal; or
 - (B) retraining an injured assistance animal by an organization generally recognized by agencies involved in the rehabilitation of persons with disabilities as reputable and competent to provide special equipment for or special training to an animal to help a person with a disability; and
 - (3) any other expense reasonably incurred as a result of the offense.

- (e) In this section:
 - (1) “Assistance animal” and has the meaning assigned by [Section 121.002, Human Resources Code](#).
 - (2) “Custody” has the meaning assigned by Section 42.09

Criminal Remedies to Animal Cruelty

Texas Human Resources Code

Chapter 121. Participation in Social and Economic Activities

Section 121.002. Definitions

- (1) “Assistance animal” and “service animal” mean a **canine** that is **specially trained or equipped** to help a person with a disability and that is **used by a person with a disability**.
- (4) “Person with a disability” means a person who has:
- (A) a mental or physical disability;
 - (B) an intellectual or developmental disability;
 - (C) a hearing impairment;
 - (D) deafness;
 - (E) a speech impairment;
 - (F) a visual impairment;
 - (G) post-traumatic stress disorder; or
 - (H) any health impairment that requires special ambulatory devices or services.

If a person’s disability is not readily apparent, the only questions that can be asked are whether the service animal is required because the person has a disability and what type of work or task the service animal is trained to perform.

Criminal Remedies to Animal Cruelty

Section 42.092. Cruelty to Nonlivestock Animals.

(a) In this section:

(1) "Abandon" includes abandoning an animal in the person's custody without making **reasonable** arrangements for assumption of custody by another person.

(2) "Animal" means a domesticated living creature, including any stray or feral cat or dog, and a wild living creature previously captured. The term does not include an uncaptured wild living creature or a livestock animal.

(3) "Cruel manner" includes a manner that causes or permits **unjustified** or **unwarranted** pain or suffering.

(4) "Custody" includes responsibility for the health, safety, and welfare of an animal subject to the person's care and control, regardless of ownership of the animal.

Criminal Remedies to Animal Cruelty

Section 42.092. Cruelty to Nonlivestock Animals.

(a) In this section:

(5) "Depredation" has the meaning assigned by Section 71.001, Parks and Wildlife Code.

(6) "Livestock animal" has the meaning assigned by Section 42.09.

(7) "Necessary food, water, care, or shelter" includes food, water, care, or shelter provided to the extent required to maintain the animal in a state of good health.

(8) "Torture" includes any act that causes **unjustifiable** pain or suffering.

Criminal Remedies to Animal Cruelty

Section 42.092. Cruelty to Nonlivestock Animals.

(a) In this section:

(9) “Trap-Neuter-Return Program” means a nonlethal population control practice in which an animal is:

- (A) trapped;
- (B) evaluated by a veterinarian;
- (C) if unvaccinated, vaccinated by a veterinarian;
- (D) if unsterilized, sterilized by a veterinarian;
- (E) marked by a veterinarian, whether by notching or tipping one ear or otherwise; and
- (F) returned to the trap location.

(10) “Veterinarian“ shall have the same meaning as set forth in Section 801.002, Occupations Code.*

*Became law in 2023

Criminal Remedies to Animal Cruelty

Section 42.092. Cruelty to Nonlivestock Animals.

(b) A person commits an offense if the person **intentionally, knowingly or recklessly**:

- (1) tortures an animal or in a cruel manner kills or causes serious bodily injury to an animal; ~~(SJF)~~ 3rd Degree Felony*
- (2) without the owner's effective consent, kills, administers poison to, or causes serious bodily injury to an animal; ~~(SJF)~~ 3rd Degree Felony*
- (3) fails **unreasonably** to provide necessary food, water, care, or shelter for an animal in the person's custody; (M "A")
- (4) abandons **unreasonably** an animal in the person's custody; (M "A")
- (5) transports or confines an animal in a cruel manner; (M "A")
- (6) without the owner's effective consent, causes bodily injury to an animal; (M "A")
- (7) causes one animal to fight with another animal, if either animal is not a dog; (SJF)
- (8) uses a live animal as a lure in dog race training or in dog coursing on a racetrack; or (SJF)
- (9) **seriously** overworks an animal. (M "A")

*Became law in 2017

Criminal Remedies to Animal Cruelty

Section 42.092. Cruelty to Nonlivestock Animals.

(c) Lists the punishment for offenses under (b) (3), (4), (5), (6), and (9) as a Class A misdemeanor that is upgraded to state jail felony for any combination of two previous convictions for class A misdemeanors under this section or 42.09.

(c-1) Lists the punishment for offenses under (b) (1) or (2) as a third degree felony that is upgraded to second degree felony for any previous conviction for 42.09 (b) (1), (2), (7), or (8) or under 42.09.

(c-2) Lists the punishment for offenses under (b) (7) or (8) as a state jail felony that is upgraded to third degree felony for any previous conviction under this section or 42.09.

(d) It is a defense to prosecution under this section that:

(1) the actor had a reasonable fear of bodily injury to the actor or to another person by a dangerous wild animal as defined by Section 822.101, Health and Safety Code; or

(2) the actor was engaged in bona fide experimentation for scientific research.

Criminal Remedies to Animal Cruelty

Section 42.092. Cruelty to Nonlivestock Animals.

(e) It is a defense to prosecution under Subsection (b)(2) or (6) that:

(1) the animal was discovered on the person's property in the act of or after injuring or killing the person's livestock animals or damaging the person's crops and that the person killed or injured the animal at the time of this discovery; or

(2) the person killed or injured the animal within the scope of the person's employment as a public servant or in furtherance of activities or operations associated with electricity transmission or distribution, electricity generation or operations associated with the generation of electricity, or natural gas delivery.

(e-1) It is a defense to prosecution under Subsection (b)(4) that the actor released or returned a stray or feral animal which is not a wild living creature pursuant to a Trap-Neuter-Return Program.*

*Became law in 2023

Criminal Remedies to Animal Cruelty

Section 42.092. Cruelty to Nonlivestock Animals.

(e-2) It is a defense to prosecution under Subsection (b)(4) that the actor released or returned a previously trapped wild living creature in accordance with Texas wildlife laws and regulations.*

(f) Exempts people engaged in generally accepted and otherwise lawful fishing, hunting, trapping, wildlife management, animal husbandry or agricultural practices.

(g) This section does not create a civil cause of action for damages or enforcement of the section.

*Became law in 2023

Cruelty to Livestock vs. Nonlivestock

Section 42.09. Cruelty to Livestock Animals.

(a) A person commits an offense if the person intentionally or knowingly:

- (1) tortures a livestock animal;
- (2) fails unreasonably to provide necessary food, water, or care for a livestock animal in the person's custody;
- (4) transports or confines a livestock animal in a cruel **and unusual** manner;

Section 42.092. Cruelty to Nonlivestock Animals.

(a) A person commits an offense if the person intentionally, knowingly or recklessly:

- (1) tortures an animal **or in a cruel manner kills or causes serious bodily injury to an animal**;
- (3) fails unreasonably to provide necessary food, water, care, **or shelter** for an animal in the person's custody;
- (5) transports or confines an animal in a cruel manner;

Criminal Remedies to Animal Cruelty

Section 42.10. Dog Fighting.

- (a) A person commits an offense if the person **intentionally or knowingly**:
- (1) causes a dog to fight with another dog; **(SJF)**
 - (2) participates in the earnings of or operates a facility used for dog fighting; **(SJF)**
 - (3) uses or permits another to use any real estate, building, room, tent, arena, or other property for dog fighting; **(SJF)**
 - (4) owns or possesses dog-fighting equipment with the intent that the equipment be used to train a dog for dog fighting or in furtherance of dog fighting; **(M “A”)**
 - (5) owns or trains a dog with the intent that the dog be used in an exhibition of dog fighting; or **(M “A”)**
 - (6) attends as a spectator an exhibition of dog fighting. **(M “A”)**

Criminal Remedies to Animal Cruelty

Section 42.10. Dog Fighting.

(b) In this section:

(1) “Dog fighting” means any situation in which one dog attacks or fights with another dog.

(2) “Dog-fighting equipment” has the meaning assigned by Article 18.18(g), Code of Criminal Procedure.

(c) A conviction under Subsection (a)(2) or (3) may be had upon the uncorroborated testimony of a party to the offense.

(d) It is a defense to prosecution under Subsection (a)(1) that the actor caused a dog to fight with another dog to protect livestock, other property, or a person from the other dog, and for no other purpose.

(e) Lists the punishment for offenses - Class A misdemeanor or state jail felony

Criminal Remedies to Animal Cruelty

Code of Criminal Procedure. Article 18.18(g)

(4) “dog-fighting equipment” means:

(A) 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;

(B) 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;

(C) equipment used to promote or advertise an exhibition of dog fighting, including a printing press or similar equipment, paper, ink, or photography equipment; or

(D) a dog trained, being trained, or intended to be used to fight with another dog;

Criminal Remedies to Animal Cruelty

Code of Criminal Procedure. Article 18.18

(a) ...Following the final conviction of a person for an offense involving dog fighting, the court entering the judgment of conviction shall order that any dog-fighting equipment be destroyed or forfeited to the state. Destruction of dogs, if necessary, must be carried out by a veterinarian licensed in this state or, if one is not available, by trained personnel of a humane society or an animal shelter. If forfeited, the court shall order the contraband delivered to the state, any political subdivision of the state, or to any state institution or agency.

(b) If there is not prosecution or conviction following seizure, the magistrate to whom the return was made shall notify in writing the person found in possession of the alleged... dog-fighting equipment to show cause why the property seized should not be destroyed or the proceeds forfeited.

(f) ...Unless the person proves by a preponderance of the evidence that the property or proceeds is not... dog-fighting equipment and that he is entitled to possession, the magistrate shall dispose of the property or proceeds in accordance with Paragraph (a) of this article.

Criminal Remedies to Animal Cruelty

Section 42.105. Cockfighting.

(a) In this section:

- (1) “Bridle” means a leather device designed to fit over the head and beak of a cock to prevent the cock from injuring another cock.
- (2) “Cock” means the male of any type of domestic fowl.
- (3) “Cockfighting” means any situation in which one cock attacks or fights with another cock.
- (4) “Gaff” means an artificial steel spur designed to attach to the leg of a cock or to replace or supplement the cock’s natural spur.
- (5) “Slasher” means a steel weapon resembling a curved knife blade designed to attach to the foot of a cock.

Criminal Remedies to Animal Cruelty

Section 42.105. Cockfighting.

(b) A person commits an offense if the person knowingly:

(1) causes a cock to fight with another cock; (SJF)

(2) participates in the earnings of a cockfight; (SJF)

(3) uses or permits another to use any real estate, building, room, tent, arena, or other property for cockfighting; (M "A")

(4) owns or trains a cock with the intent that the cock be used in an exhibition of cockfighting; (M "A")

(5) manufactures, buys, sells, barter, exchanges, possesses, advertises, or otherwise offers a gaff, slasher, or other sharp implement designed for attachment to a cock with the intent that the implement be used in cockfighting; or (M "A")

(6) attends as a spectator an exhibition of cockfighting. (M "C")

Criminal Remedies to Animal Cruelty

Section 42.105. Cockfighting.

(c) It is an affirmative defense to prosecution under this section that the actor's conduct:

(1) occurred solely for the purpose of or in support of breeding cocks for poultry shows in which a cock is judged by the cock's physical appearance; or

(2) was incidental to collecting bridles, gaffs, or slashers.

(d) An affirmative defense to prosecution is not available under Subsection (c) if evidence shows that the actor is also engaging in use of the cocks for cockfighting.

(e) It is a defense to prosecution for an offense under this section that:

(1) the actor was engaged in bona fide experimentation for scientific research; or

(2) the conduct engaged in by the actor is generally accepted and otherwise lawful animal husbandry or agriculture practice involving livestock animals.

Criminal Remedies to Animal Cruelty

Section 42.105. Cockfighting.

(f) It is an exception to the application of Subsection (b)(6) that the actor is 15 years of age or younger at the time of the offense.

(g) Lists the punishment for offenses - Class C or A Misdemeanors or State Jail Felony

An offense under (b)(6) is a Class C misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that the person has been previously convicted of an offense under that subdivision.

Unlawful Restraint of a Dog

Texas Health and Safety Code

Title 10. Health and Safety of Animals

Chapter 821. Treatment of Animals

Section 821.101. Definitions*

- (1) “Adequate shelter” means a sturdy structure:
 - (A) that provides the dog protection from inclement weather; and
 - (B) with dimensions that allow the dog while in the shelter to stand erect, sit, turn around, and lie down in a normal position.
- (2) “Collar” means a band of material specifically designed to be placed around the neck of a dog
- (3) “Harness” means a set of straps constructed of nylon, leather, or similar material, specifically designed to restrain or control a dog
- (4) “Inclement weather” includes rain, hail, sleet, snow, high winds, extreme low temperatures, or extreme high temperatures.
- (5) “Owner” means a person who owns or has custody or control of a dog.

**Becomes law on January 18, 2022*

Unlawful Restraint of a Dog

Texas Health and Safety Code

Title 10. Health and Safety of Animals

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**Becomes law on January 18, 2022*

Unlawful Restraint of a Dog

Texas Health and Safety Code

Title 10. Health and Safety of Animals

Chapter 821. Treatment of Animals

Section 821.101. Definitions*

(6) “Properly fitted” means, with respect to a collar or harness, a collar or harness that:

(A) is appropriately sized for the dog based on the dog’s measurements and body weight;

(B) does not choke the dog or impede the dog’s normal breathing or swallowing; and

(C) does not cause pain or injury to the dog.

(7) “Restraint” means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

**Becomes law on January 18, 2022*

Unlawful Restraint of a Dog

Texas Health and Safety Code

Title 10. Health and Safety of Animals

Chapter 821. Treatment of Animals

Section 821.102. Unlawful restraint of dog; Offense*

(a) An owner may not leave a dog outside and unattended by use of a restraint unless the owner provides the dog access to:

- (1) adequate shelter;
- (2) an area that allows the dog to avoid standing water and exposure to excessive animal waste;
- (3) shade from direct sunlight; and
- (4) potable water.

**Becomes law on January 18, 2022*

Unlawful Restraint of a Dog

Texas Health and Safety Code

Title 10. Health and Safety of Animals

Chapter 821. Treatment of Animals

Section 821.102. Unlawful restraint of dog; Offense*

(b) An owner may not restrain a dog outside and unattended by use of a restraint that:

(1) is a chain;

(2) has weights attached;

(3) is shorter in length than the greater of:

(A) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or

(B) 10 feet; or

(4) is attached to a collar or harness not properly fitted.

(c) A person commits an offense if the person knowingly violates this section. The restraint of each dog that is in violation is a separate offense.

**Becomes law on January 18, 2022*

Unlawful Restraint of a Dog

Texas Health and Safety Code

Title 10. Health and Safety of Animals

Chapter 821. Treatment of Animals

(3) is shorter in length than the greater of:

(A) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or

(B) 10 feet;

If the dog measures 24" or less from the tip of the nose to the base of the tail, the restraint must be at least ten feet long.

(Length in inches x 5) ÷ 12 = Minimum length of restraint in feet

example: dog measures 38 inches from nose to base of tail

36 x 5 = 180 180 ÷ 12 = 15 so restraint must be at least 15 feet

Unlawful Restraint of a Dog

Texas Health and Safety Code

Title 10. Health and Safety of Animals

Chapter 821. Treatment of Animals

Section 821.102. Unlawful restraint of dog; Offense*

(d) An offense under this section is a Class C misdemeanor, except that the offense is a class B misdemeanor if the person has previously been convicted under this section.

(e) If conduct constituting an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under the section, the other law, or both.

**Becomes law on January 18, 2022*

Unlawful Restraint of a Dog

Texas Health and Safety Code

Title 10. Health and Safety of Animals

Chapter 821. Treatment of Animals

Section 821.103. Exceptions*

(a) Section 821.102 does not apply to:

- (1) the use of a restraint on a dog in a public camping or recreational area as defined by a federal, state, or local authority or jurisdiction;

- (2) the use of a restraint on a dog while the owner and dog engage in, or actively train for, an activity conducted under a valid license issued by this state provided the activity is associated with the use or presence of a dog;

**Becomes law on January 18, 2022*

Unlawful Restraint of a Dog

Texas Health and Safety Code

Title 10. Health and Safety of Animals

Chapter 821. Treatment of Animals

Section 821.103. Exceptions*

(a) Section 821.102 does not apply to:

(3) the use of a restraint on a dog while the owner and dog while the owner and dog engage in conduct directly related to the business of shepherding or herding cattle or livestock;

(4) the use of a restraint on a dog while the owner and dog engage in conduct directly related to the business of cultivating agricultural products;

**Becomes law on January 18, 2022*

Unlawful Restraint of a Dog

Texas Health and Safety Code

Title 10. Health and Safety of Animals

Chapter 821. Treatment of Animals

Section 821.103. Exceptions*

(a) Section 821.102 does not apply to:

(5) a dog left unattended in an open-air truck bed only for the time reasonably necessary for the owner to complete a temporary task that requires the dog to be left unattended in the truck bed;

(6) a dog taken by the owner, or another person with the owner's permission, from the owner's residence or property and restrained by the owner or the person for not longer than the time necessary for the owner to engage in an activity that requires the dog to be temporarily restrained; or

(7) a dog restrained while the owner and dog are engaged in, or actively training for, hunting or field trailing.

**Becomes law on January 18, 2022*

Unlawful Restraint of a Dog

Texas Health and Safety Code

Title 10. Health and Safety of Animals

Chapter 821. Treatment of Animals

Section 821.103. Exceptions*

(b) Section 821.102(b)(3) does not apply to a restraint attached to a trolley system that allows a dog to move along a running line for a distance equal to or greater than the lengths specified under that subdivision.

(c) This subchapter does not prohibit a person from walking a dog with a handheld leash.

**Becomes law on January 18, 2022*

Unlawful Restraint of a Dog

Texas Health and Safety Code

Title 10. Health and Safety of Animals

Chapter 821. Treatment of Animals

Section 821.104. Effect of subchapter on other law*

This subchapter does not preempt a local regulation relating to the restraint of a dog or affect the authority of a political subdivision to adopt or enforce an ordinance or requirement relating to the restraint of a dog if the regulation, ordinance, or requirement:

- (1) is compatible with and equal to or more stringent than a requirement prescribed by this subchapter; or
- (2) relates to an issue not specifically addressed by this subchapter.

**Becomes law on January 18, 2022*

Other Laws

Texas Penal Code

Title 5. Offenses Against the Person

Chapter 21. Sexual Offenses

Sec. 21.09. BESTIALITY.*

(a) A person commits an offense if the person knowingly:

(1) engages in an act involving contact between:

(A) the person's mouth, anus, or genitals and the anus or genitals of an animal; or

(B) 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 a 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 a 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);

*Became law on 09/01/17

Other Laws

Texas Penal Code

Title 5. Offenses Against the Person

Chapter 21. Sexual Offenses

Sec. 21.09. BESTIALITY.*

- (6) organizes, promotes, conducts, or participates as an observer of conduct described by Subdivision (1), (2), (3), or (4);
- (7) causes a person to engage or aids a person in engaging in conduct described by Subdivision (1), (2), (3), or (4);
- (8) permits conduct described by Subdivision (1), (2), (3), or (4) to occur on any premises under the person's control;
- (9) engages in conduct described by Subdivision (1), (2), (3), or (4) 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 conduct described by Subdivision (1), (2), (3), or (4).

(b) 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) 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.

*Became law on 09/01/17

Other Laws

Texas Health and Safety Code

Title 10. Health and Safety of Animals

Chapter 821. Treatment and Disposition of Animals

Sec. 821.023. Hearing; Order of Disposition or Return of Animal*

(a-1) 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 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.

*Became law on 09/01/17

Other Laws

Code of Criminal Procedure

Title 1. Code of Criminal Procedure

Chapter 42A. Community Supervision

Article 42A.511. Community Supervision for Certain Offenses Involving Animals*

(a) If a judge grants community supervision to a defendant convicted of an offense under Section 42.09, 42.091, 42.092, or 42.10, Penal Code, the judge may require the defendant to:

- (1) complete an online responsible pet owner course approved and certified by the Texas Department of Licensing and Regulation; or
- (2) attend a responsible pet owner course sponsored by a municipal animal shelter, as defined by Section 823.001, Health and Safety Code, that:
 - (A) receives federal, state, county, or municipal funds; and
 - (B) serves the county in which the court is located.

(b) ... states the TDLR or the Texas Commission of Licensing and Regulation is responsible for approving online courses...

*Became law on 09/01/17

Other Laws

Code of Criminal Procedure

Title 1. Code of Criminal Procedure

Chapter 42A. Community Supervision

Article 42A.511. Community Supervision for Certain Offenses Involving Animals

(c) If a judge grants community supervision to a defendant convicted of an offense under Section 21.09, **42.091, 42.092, 42.10, or 42.105**, Penal Code, the judge may:

- (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.*

*Became law on 09/01/17, red text was added on 09/01/21

Other Laws

Texas Family Code

Title 3. Juvenile Justice Code

Chapter 54. Judicial Proceedings

Section 54.0407. Cruelty to Animals: Counseling Required

If a child is found to have engaged in delinquent conduct constituting an offense under Section 42.09 or 42.092, Penal Code, the juvenile court shall order the child to participate in psychological counseling for a period to be determined by the court.

Other Laws

Texas Family Code

Title 4. Protective Orders and Family Violence

Subtitle B. Protective Orders

Chapter 85. Issuance of Protective Order

Subchapter A. Findings and Orders

Section 85.021. Requirements of order applying to any party.

In a protective order, the court may:

(1) prohibit a party from:

(C) removing a pet, companion animal, or assistance animal, as defined by Section 121.002, Human Resources Code, from the possession or actual or constructive care of a person named in the order;

Other Laws

Texas Family Code

Chapter 85. Issuance of Protective Order

Section 85.022. Requirements of order applying person who committed family violence.

(b) In a protective order, the court may prohibit the person found to have committed family violence from:

(7) harming, threatening, or interfering with the care, custody, or control of a pet, companion animal, or assistance animal, as defined by Section 121.002, Human Resources Code, that is possessed by or is in the actual or constructive care of a person protected by an order or by a member of the family or household of a person protected by an order.

Other Laws

Texas Penal Code

Chapter 25. Offenses Against the Family

Section 25.07. Violation of certain court orders or conditions of bond in a family violence case.

(a) A person commits an offense if, in violation of a condition of bond set in a family violence case...:

(5) harms, threatens, or interferes with the care, custody, or control of a pet, companion animal, or assistance animal that is possessed by a person protected by the order. (M “A” or 3rd degree felony if they’ve been convicted under this section two or more previous times)

(a-1) For purposes of Subsection (a)(5), possession of a pet, companion animal, or assistance animal by a person means:

- (1) actual care, custody, control, or management of a pet, companion animal, or assistance animal by the person; or
- (2) constructive possession of a pet, companion animal, or assistance animal owned by the person or for which the person has been the primary caregiver.

Other Laws

Texas Occupations Code

Title 4. Professions Related to Animals

Chapter 801. Veterinarians

Section 801.3585. Liability for Reporting Animal Cruelty; Immunity

A veterinarian who in good faith and in the normal course of business reports to the appropriate governmental entity a suspected incident of animal cruelty under Section 42.09 or 42.092, Penal Code, is immune from liability in a civil or criminal action brought against the veterinarian for reporting the incident.

Chapter 1702. Private Security

Section 17.02.238. Cruelty to Animals

A person who has been convicted of cruelty to animals under Section 42.09 or 42.092, Penal Code:

- (1) is ineligible for a license as a guard dog company or for endorsement as a dog trainer; and
- (2) may not be employed to work with dogs as a security officer by a security services contractor or security department of a private business that uses dogs to protect individuals or property or to conduct investigations.

Things to Consider

Is it legal for an owner to kill their own animal?

Yes. Section 42.092(b)(2) says “**without the owner’s effective consent**, kills, administers poison to, or causes serious bodily injury to an animal.”

Things to Consider

Can an owner kill their own animal in any way they choose?

No. Section 42.092(b)(1) says it is a violation if a person “tortures** an animal or in a **cruel manner** kills or causes serious bodily injury to an animal”**

Things to Consider

Are feral cats and/or unowned animals protected by cruelty laws?

Yes. Section 42.092(a)(2) defines “Animal” as “a domesticated living creature, including any stray or feral cat or dog”

Things to Consider

Are wild animals protected by cruelty laws?

Yes, but only in specific situations. The definition of “Animal” in Section 42.092(a)(2) includes “a wild living creature **previously captured.”**

Things to Consider

Is it illegal to be in possession of a fighting cock?

Depends on intent. Section 42.105 says it is a violation for a person to own or train a cock “with the intent that the cock be used in an exhibition of cockfighting.”

Things to Consider

A person is filmed striking a dog repeatedly, leaving the dog with injuries. The person is the owner's roommate. Is this situation a violation of the law?

Yes, unless the roommate had the owner's permission to injure the animal.

TX Penal Code 42.092 (b) (6)

(6) without the owner's effective consent, causes bodily injury to an animal;

Things to Consider

A person is filmed striking a dog repeatedly, leaving the dog with injuries. The person is the owner of the dog. Is this situation a violation of the law?

Depends on the severity of the injuries and how the injuries were inflicted.

TX Penal Code 42.092 (b)

(1) tortures an animal or in a cruel manner kills or causes serious bodily injury to an animal;

Link to State Laws

Texas Constitution and Statutes

<http://www.statutes.legis.state.tx.us/>

Texas Administrative Code

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=4&ti=25&pt=1&ch=169](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=25&pt=1&ch=169)

Texas Infectious Disease Control Rules

<http://www.dshs.state.tx.us/idcu/health/zoonosis/laws/rules/>

Thank ~~Questions?~~ your time.

* Jamey Cantrell
Animal Services Director, City of Plano
(972) 769-4226
JameyC@plano.gov