

**TEXAS PENAL CODE**  
**TITLE 9. OFFENSES AGAINST PUBLIC ORDER AND DECENCY**  
**CHAPTER 42. DISORDERLY CONDUCT AND RELATED OFFENSES**

**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;
  - (3) abandons unreasonably a livestock animal in the person's custody;
  - (4) transports or confines a livestock animal in a cruel and unusual manner;
  - (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;
  - (6) causes one livestock animal to fight with another livestock animal or with an animal as defined by Section 42.092;
  - (7) uses a live livestock animal as a lure in dog race training or in dog coursing on a racetrack;
  - (8) trips a horse; or
  - (9) seriously overworks a livestock animal.
- (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.

(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 agriculture 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.

(c) An offense under Subsection (a)(2), (3), (4), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section 42.092, or one time under this section and one time under Section 42.092. An offense under Subsection (a)(1), (5), (6), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.092, or one time under this section and one time under Section 42.092.

(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.

(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.

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1975, 64th Leg., p. 917, ch. 342, § 12, eff. Sept. 1, 1975; Acts 1985, 69th Leg., ch. 549, § 1, eff. Sept. 1, 1985; Acts 1991, 72nd Leg., ch. 78, § 1, eff. Aug. 26, 1991. Renumbered from V.T.C.A., Penal Code § 42.11 and amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 318, § 15, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1283, § 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 54, § 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 450, § 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1275, § 2(116), eff. Sept. 1, 2003.

### **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.

(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" has the meaning assigned by Section 121.002, Human Resources Code.

(2) "Custody" has the meaning assigned by Section 42.09.

Added by Acts 2003, 78th Leg., ch. 710, § 2, eff. Sept. 1, 2003.

### **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.

(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.

(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;

(2) without the owner's effective consent, kills, administers poison to, 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;

- (4) abandons unreasonably an animal in the person's custody;
- (5) transports or confines an animal in a cruel manner;
- (6) without the owner's effective consent, causes bodily injury to an animal;
- (7) causes one animal to fight with another animal, if either animal is not a dog;
- (8) uses a live animal as a lure in dog race training or in dog coursing on a racetrack; or
- (9) seriously overworks an animal.

(c) An offense under Subsection (b)(3), (4), (5), (6), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09. An offense under Subsection (b)(1), (2), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 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.

(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.

(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 the section.

### **Section 42.10. Dog Fighting**

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

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

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

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

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

(5) attends as a spectator an exhibition of dog fighting.

(b) In this section, “dog fighting” means any situation in which one dog attacks or fights with another dog.

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

Added by Acts 1983, 68th Leg., p. 1610, ch. 305, § 1, eff. Sept. 1, 1983. Renumbered from V.T.C.A., Penal Code § 42.111 and amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994.

Legislative update (HB 2328: effective September 1, 2007) inserted by Department of State Health Services Zoonosis Control: amended Section 42.09 and added Section 42.092.

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