

## **BILL ANALYSIS**

S.B. 11  
By: Birdwell  
Homeland Security & Public Safety  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

To be eligible to obtain a license to carry a concealed handgun in Texas, an applicant must meet certain age, residency, and character requirements and be fully qualified under applicable federal and state law to purchase a handgun. Additionally, the applicant cannot have been convicted of certain offenses within a certain time frame and cannot be currently charged with the commission of those offenses, be chemically dependent, be delinquent in payments of state or local taxes or child support, or be subject to certain protective or restraining orders. Interested parties note that law-abiding concealed handgun license holders who have satisfied the background check process and successfully completed appropriate education and training courses should be able to protect themselves in the event of a situation that threatens innocent lives on certain educational campuses, and the parties raise concern that state law is not currently sufficient in this regard. S.B. 11 seeks to provide protection that may be necessary in life-threatening situations.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to a public institution of higher education in SECTION 1 of this bill.

### **ANALYSIS**

S.B. 11 amends the Government Code to authorize a concealed handgun license holder to carry a concealed handgun on or about the license holder's person while on the campus of a public, private, or independent institution of higher education in Texas. The bill prohibits a public, private, or independent institution of higher education in Texas from adopting any rule, regulation, or other provision prohibiting license holders from carrying handguns on the campus of the institution but authorizes such an institution to establish rules, regulations, or other provisions concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and located on the campus of the institution. The bill authorizes a private or independent institution of higher education in Texas, after consulting with students, staff, and faculty of the institution, to establish rules, regulations, or other provisions prohibiting license holders from carrying handguns on the campus of the institution, any grounds or building on which an activity sponsored by the institution is being conducted, or a passenger transportation vehicle owned by the institution.

S.B. 11 prohibits a court from holding a public institution of higher education or an officer or employee of such a public institution or a private or independent institution of higher education

that has not adopted rules prohibiting a license holder from carrying a handgun on the institution's premises or an officer or employee of such a private or independent institution of higher education from carrying a handgun on the institution's premises liable for damages caused by an action authorized under statutory provisions relating to concealed handgun licensing, by a failure to perform a duty imposed by such provisions, or by the actions of a concealed handgun license holder or applicant that occur after the applicant has received or been denied a license. The bill prohibits the bringing of a cause of action in damages against such an institution, officer, or employee for any damage caused by the actions of a concealed handgun license applicant or license holder. The bill makes such immunities from liability for damages and from a cause of action in damages inapplicable if such an institution's, officer's, or employee's act or failure to act was capricious or arbitrary. The bill excludes from those immunities such an institution's officer or employee who possesses a handgun on the institution's campus and whose conduct with regard to the handgun is made the basis of a claim for personal injury or property damage.

S.B. 11 amends the Penal Code to create an exception to the offense of intentionally, knowingly, or recklessly possessing or going with a firearm, illegal knife, club, or other prohibited weapon on the physical premises of a school or educational institution, any grounds or building on which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a school or educational institution, if the person possesses or goes with a concealed handgun that the person is licensed by the Department of Public Safety to carry and no other prohibited weapon on such premises, grounds, building, or a passenger transportation vehicle of a public, private, or independent institution of higher education.

S.B. 11 makes it a Class A misdemeanor offense for a concealed handgun license holder to carry a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the license holder's person and intentionally or knowingly display the handgun in plain view of another person on the premises of a public, private, or independent institution of higher education or on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of such an institution. The bill establishes a defense to prosecution for that offense if the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force and makes the offense inapplicable to a historical reenactment performed in compliance with Texas Alcoholic Beverage Commission (TABC) rules. The bill establishes that the offense involving a concealed handgun license holder intentionally, knowingly, or recklessly carrying a handgun on certain premises does not apply on the premises where a collegiate sporting event is taking place if the actor was not given effective notice under statutory provisions relating to trespass by a concealed handgun license holder that entering or remaining on the property with a concealed handgun was forbidden.

S.B. 11 makes it a Class A misdemeanor offense for a concealed handgun license holder to carry a handgun on the campus of a private or independent institution of higher education in Texas that has established rules, regulations, or other provisions prohibiting license holders from carrying handguns on the campus of the institution, any grounds or building on which an activity sponsored by such an institution is being conducted, or in a passenger transportation vehicle of such an institution, regardless of whether the handgun is concealed, provided the institution gives effective notice under statutory provisions relating to trespass by a concealed handgun license holder that entering or remaining on the property with a concealed handgun was forbidden. The bill establishes a defense to prosecution for such offense if the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force and makes the offense inapplicable to a historical reenactment performed in compliance with TABC rules.

S.B. 11 amends the Government Code and Penal Code to establish that the bill's provisions do not permit a person to possess a concealed handgun, or go with a concealed handgun, on the premises of a hospital maintained or operated by, or on the premises of a preschool, elementary school, or secondary school that is located on the premises of, a public, private, or independent

institution of higher education if the hospital or institution, as applicable, gives effective notice under statutory provisions relating to trespass by a concealed handgun license holder that entering or remaining on the property with a concealed handgun was forbidden.

**EFFECTIVE DATE**

September 1, 2015.