

BILL ANALYSIS

Senate Research Center

S.B. 1649
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Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Colleges and universities across the state are unique environments that seek to ensure teaching, scholarship, and innovation. The natures of these environments make them attractive places for many, but it also attracts some with malicious and dangerous intentions. Crime on campus in 2016 highlighted the problem of criminally transient individuals who come to campus on multiple occasions without a legitimate educational purpose. These individuals defied multiple law enforcement warnings against trespassing on university property, are often engaged in other illicit or criminal activities, and are not deterred by the current law against criminal trespass.

S.B. 1649 seeks to improve campus safety by giving police and prosecutors an additional tool to address individuals who habitually trespass on university campuses. S.B. 1649 enhances the penalty for those who have been previously convicted of trespassing on a university property from a Class B misdemeanor to a Class A misdemeanor. This would treat colleges and universities similar to shelter centers and critical infrastructure facilities, which currently have enhanced penalties for criminal trespass in state law. (Original Author's / Sponsor's Statement of Intent)

S.B. 1649 amends current law relating to increasing the punishment for certain conduct constituting the offense of criminal trespass.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 30.05(b), Penal Code, by adding Subdivision (12) to define “institution of higher education.”

SECTION 2. Amends Section 30.05, Penal Code, by amending Subsection (d) and adding Subsections (d-1) and (d-2), as follows:

(d) Provides that an offense under this section (Criminal Trespass) is a Class A misdemeanor if the offense is committed on or in property of an institution of higher education (IHE) and it is shown on the trial of the offense that the person has previously been convicted of an offense under this section relating to entering or remaining on or in property of an IHE or an offense under Section 51.204(b)(1) (relating to providing that it is unlawful for any person to trespass on the grounds of a public, private, or independent IHE), Education Code, relating to trespassing on the grounds of an IHE. Makes nonsubstantive changes.

(d-1) Provides that for the purposes of Subsection (d)(3)(B) (relating to providing that an offense is a Class A misdemeanor if it is committed on or in an IHE's property), a person has previously been convicted of an offense described by that paragraph if the person was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication community supervision, regardless of whether the

sentence for the offense was ever imposed or whether the sentence was probated and the person was subsequently discharged from deferred adjudication community supervision.

(d-2) Authorizes the defendant, at the punishment stage of a trial in which the attorney representing the state seeks the increase in punishment provided by Subsection (d)(3)(B), to raise the issue as to whether, at the time of the instant offense or the previous offense, the defendant was engaging in speech or expressive conduct protected by the First Amendment to the United States Constitution or Section 8 (Freedom of Speech and Press; Libel), Article I (Bill of Rights), Texas Constitution. Provides that if the defendant proves the issue in the affirmative by a preponderance of the evidence, the increase in punishment provided by Subsection (d)(3)(B) does not apply.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2017.