A BILL TO BE ENTITLED

AN ACT

relating to the protection of expressive activities at public
institutions of higher education.

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

SECTION 1. Subchapter Z, Chapter 51, Education Code, is
amended by adding Section 51.9315 to read as follows:

Sec. 51.9315. PROTECTED EXPRESSION ON CAMPUS. (a) In this
section:

(1) "Expressive activities" means any speech or
expressive conduct protected by the First Amendment to the United
States Constitution or Section 8, Article I, Texas Constitution,
and includes assemblies, protests, speeches, the distribution of
written material, the carrying of signs, and the circulation of
petitions. The term does not include commercial speech.

(2) "Institution of higher education" has the meaning
assigned by Section 61.003.

(b) It is the policy of this state to protect the expressive
rights of persons guaranteed by the constitutions of the United
States and of this state by ensuring that:

(1) all persons may assemble peaceably on the campuses
of institutions of higher education for expressive activities; and

(2) the expressive rights of persons on the campuses
of institutions of higher education are not unnecessarily
restricted or impeded by rules or policies adopted by the
institutions.

(c) An institution of higher education shall:

(1) ensure that the common outdoor areas of the institution's campus are deemed traditional public forums; and

(2) permit any person to engage in expressive activities on those areas of the institution's campus freely, as long as the person's conduct:

(A) is not unlawful; and

(B) does not materially and substantially disrupt the functioning of the institution.

(d) Notwithstanding Subsection (c), an institution of higher education by rule may maintain and enforce reasonable restrictions on the time, place, and manner of expressive activities on the common outdoor areas of the institution's campus if those restrictions:

(1) serve a significant institutional interest;

(2) employ clear, published, content-neutral, and viewpoint-neutral criteria;

(3) provide for ample alternative means of expression; and

(4) allow members of the university community to spontaneously and contemporaneously assemble or distribute written material without a permit or other permission from the institution.

(e) Subsections (c) and (d) do not limit the right of student expression at other campus locations.

(f) The protections under this section apply equally to students and to student groups and organizations, regardless of
whether the group or organization is recognized by or registered with the institution of higher education.

(g) Not later than the first anniversary of the date that a violation of this section is alleged to have occurred at an institution of higher education, the attorney general or a person whose expressive rights have been violated under this section may bring an action for injunctive relief to compel the institution to comply with this section or to recover compensatory damages, court costs, and reasonable attorney's fees. For purposes of computing the limitation period under this subsection, each day of a continuing violation of this section, including each day that a rule or policy of the institution that violates this section remains in effect, constitutes a separate violation.

(h) In addition to the cause of action under Subsection (g), a person whose expressive rights are affected by a rule or policy adopted by an institution of higher education may file suit against the institution for declaratory judgment in the manner provided by Chapter 37, Civil Practice and Remedies Code.

SECTION 2. This Act takes effect September 1, 2017.