

By: Crockett

H.B. No. 1503

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for the offense of criminal trespass.

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

SECTION 1. Sections 30.05(d), (d-1), (d-2), and (h), Penal Code, are amended to read as follows:

(d) An offense under this section is:

(1) ~~[a Class B misdemeanor, except as provided by Subdivisions (2) and (3),~~

~~[(2)]~~ a Class C misdemeanor, except as provided by Subdivision (2) ~~[(3), if the offense is committed:~~

~~[(A) on agricultural land and within 100 feet of the boundary of the land; or~~

~~[(B) on residential land and within 100 feet of a protected freshwater area]; and~~

(2) ~~[(3)]~~ a Class A misdemeanor if:

(A) the offense is committed:

(i) in a habitation or a shelter center;

(ii) on a Superfund site; or

(iii) on or in a critical infrastructure facility;

(B) the offense is committed on or in property of an institution of higher education and it is shown on the trial of the offense that the person has previously been convicted of:

(i) an offense under this section relating

1 to entering or remaining on or in property of an institution of
2 higher education; or

3 (ii) an offense under Section 51.204(b)(1),
4 Education Code, relating to trespassing on the grounds of an
5 institution of higher education; or

6 (C) the person carries a deadly weapon during the
7 commission of the offense.

8 (d-1) For the purposes of Subsection (d)(2)(B) [~~(d)(3)(B)~~],
9 a person has previously been convicted of an offense described by
10 that paragraph if the person was adjudged guilty of the offense or
11 entered a plea of guilty or nolo contendere in return for a grant of
12 deferred adjudication community supervision, regardless of whether
13 the sentence for the offense was ever imposed or whether the
14 sentence was probated and the person was subsequently discharged
15 from deferred adjudication community supervision.

16 (d-2) At the punishment stage of a trial in which the
17 attorney representing the state seeks the increase in punishment
18 provided by Subsection (d)(2)(B) [~~(d)(3)(B)~~], the defendant may
19 raise the issue as to whether, at the time of the instant offense or
20 the previous offense, the defendant was engaging in speech or
21 expressive conduct protected by the First Amendment to the United
22 States Constitution or Section 8, Article I, Texas Constitution.
23 If the defendant proves the issue in the affirmative by a
24 preponderance of the evidence, the increase in punishment provided
25 by Subsection (d)(2)(B) [~~(d)(3)(B)~~] does not apply.

26 (h) At the punishment stage of a trial in which the attorney
27 representing the state seeks the increase in punishment provided by

1 Subsection (d)(2)(A)(iii) [~~(d)(3)(A)(iii)~~], the defendant may
2 raise the issue as to whether the defendant entered or remained on
3 or in a critical infrastructure facility as part of a peaceful or
4 lawful assembly, including an attempt to exercise rights guaranteed
5 by state or federal labor laws. If the defendant proves the issue
6 in the affirmative by a preponderance of the evidence, the increase
7 in punishment provided by Subsection (d)(2)(A)(iii)
8 [~~(d)(3)(A)(iii)~~] does not apply.

9 SECTION 2. The change in law made by this Act applies only
10 to an offense committed on or after the effective date of this Act.
11 An offense committed before the effective date of this Act is
12 governed by the law in effect on the date the offense was committed,
13 and the former law is continued in effect for that purpose. For
14 purposes of this section, an offense was committed before the
15 effective date of this Act if any element of the offense occurred
16 before that date.

17 SECTION 3. This Act takes effect September 1, 2021.