

AN ACT

relating to increasing the punishment for certain conduct constituting the offense of criminal trespass.

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

SECTION 1. Section 30.05(b), Penal Code, is amended by adding Subdivision (12) to read as follows:

(12) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

SECTION 2. Section 30.05, Penal Code, is amended by amending Subsection (d) and adding Subsections (d-1) and (d-2) 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 (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

(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

1 (iii) on or in a critical infrastructure
2 facility; ~~[or]~~

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

6 (i) an offense under this section relating
7 to entering or remaining on or in property of an institution of
8 higher education; or

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

12 (C) the person carries a deadly weapon during the
13 commission of the offense.

14 (d-1) For the purposes of Subsection (d)(3)(B), a person has
15 previously been convicted of an offense described by that paragraph
16 if the person was adjudged guilty of the offense or entered a plea
17 of guilty or nolo contendere in return for a grant of deferred
18 adjudication community supervision, regardless of whether the
19 sentence for the offense was ever imposed or whether the sentence
20 was probated and the person was subsequently discharged from
21 deferred adjudication community supervision.

22 (d-2) At the punishment stage of a trial in which the
23 attorney representing the state seeks the increase in punishment
24 provided by Subsection (d)(3)(B), the defendant may raise the issue
25 as to whether, at the time of the instant offense or the previous
26 offense, the defendant was engaging in speech or expressive conduct
27 protected by the First Amendment to the United States Constitution

1 or Section 8, Article I, Texas Constitution. If the defendant
2 proves the issue in the affirmative by a preponderance of the
3 evidence, the increase in punishment provided by Subsection
4 (d)(3)(B) does not apply.

5 SECTION 3. The change in law made by this Act applies only
6 to an offense committed on or after the effective date of this Act.
7 An offense committed before the effective date of this Act is
8 governed by the law in effect on the date the offense was committed,
9 and the former law is continued in effect for that purpose. For
10 purposes of this section, an offense was committed before the
11 effective date of this Act if any element of the offense occurred
12 before that date.

13 SECTION 4. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1649 passed the Senate on May 10, 2017, by the following vote: Yeas 25, Nays 5; and that the Senate concurred in House amendment on May 26, 2017, by the following vote: Yeas 25, Nays 6.

Secretary of the Senate

I hereby certify that S.B. No. 1649 passed the House, with amendment, on May 23, 2017, by the following vote: Yeas 105, Nays 40, three present not voting.

Chief Clerk of the House

Approved:

Date

Governor