

Chapter 602

S.B. No. 1649

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

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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

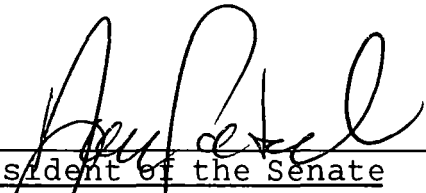
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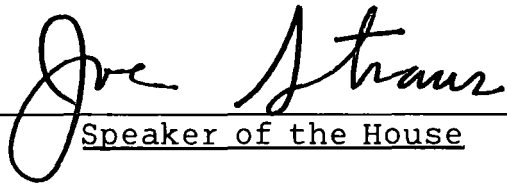
1 or Section 8, Article I, Texas Constitution. If the defendant
2 proves the issue in the affirmative by a preponderance of the
3 evidence, the increase in punishment provided by Subsection
4 (d)(3)(B) does not apply.

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.

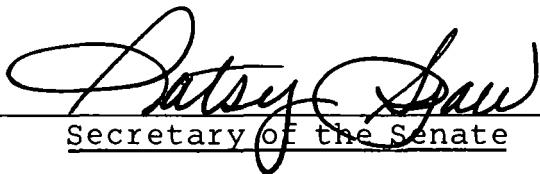
13 SECTION 4. This Act takes effect September 1, 2017.

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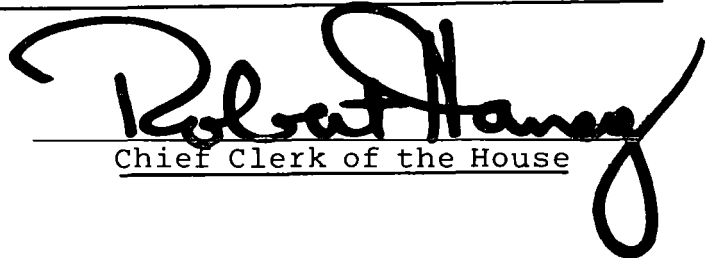

President of the Senate


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. _____

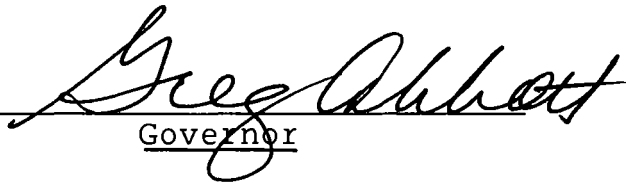

Secretary of the Senate

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:

6-9-2017
Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
7:00 PM O'CLOCK

JUN 09 2017


Secretary of State

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 23, 2017

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1649 by Watson (Relating to increasing the punishment for certain conduct constituting the offense of criminal trespass.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code enhancing the penalty for repeated criminal trespassing on the property of a public institution of higher education. The penalty would be punishable as a Class A misdemeanor.

According to the Office of Court Administration no significant impact to the state or local court system is anticipated.

The bill would take effect September 1, 2017.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, GG, BM, JGA

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 3, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1649 by Watson (Relating to increasing the punishment for certain conduct constituting the offense of criminal trespass.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code enhancing the penalty for repeated criminal trespassing on the property of a public institution of higher education. The penalty would be punishable as a Class A misdemeanor.

According to the Office of Court Administration no significant impact to the state or local court system is anticipated.

The bill would take effect September 1, 2017.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, GG, BM, JGA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 2, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1649 by Watson (Relating to an enhanced penalty for repeated criminal trespass on or in the property of a public institution of higher education.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code enhancing the penalty for repeated criminal trespassing on the property of a public institution of higher education. The penalty would be punishable as a Class A misdemeanor.

According to the Office of Court Administration no significant impact to the state or local court system is anticipated.

The bill would take effect September 1, 2017.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, GG, BM, JGA