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SB-748 Trespass: private universities. (2021-2022)

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Senate Bill No. 748

CHAPTER 134

An act to amend Sections 626, 626.2, 626.4, and 626.6 of the Penal Code, relating to trespass, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 2022. Filed with Secretary of State July 19, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 748, Portantino. Trespass: private universities.

Existing law prohibits students or employees who have been suspended or dismissed and certain persons who have been directed to leave a school campus or facility from entering the school campus or facility, as specified. Existing law specifies a minimum and maximum term of imprisonment in a county jail for a violation of these provisions and increases those terms for a 2nd or subsequent offense, as specified.

This bill would make those provisions prohibiting specified persons from entering school campuses or facilities applicable to independent institutions of higher education, as defined. The bill would eliminate the minimum term of imprisonment for violations of these provisions and would make a violation of these provisions punishable by a fine, by imprisonment in a county jail for a period of not more than 6 months, or by both that fine and imprisonment in all cases, without regard to prior offenses. Because this bill would expand the scope of existing crimes, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 626 of the Penal Code is amended to read:

626. (a) As used in this chapter, the following definitions apply:

- (1) "University" means the University of California, and includes any affiliated institution thereof and any campus or facility owned, operated, or controlled by the Regents of the University of California.

(2) "State university" means any California state university, and includes any campus or facility owned, operated, or controlled by the Trustees of the California State University.

(3) "Community college" means any public community college established pursuant to the Education Code.

(4) "Independent institutions of higher education" means nonpublic higher education institutions that grant undergraduate degrees, graduate degrees, or both, and that are formed as nonprofit corporations in this state and are accredited by an agency recognized by the United States Department of Education.

(5) "School" means any public or private elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, or technical school or any public right-of-way situated immediately adjacent to school property or any other place if a teacher and one or more pupils are required to be at that place in connection with assigned school activities.

(6) "Chief administrative officer" means either of the following:

(A) The president of the university, a state university, or an independent institution of higher education, or an officer designated by the president, the Chancellor of the California State University, or the officer designated by the Regents of the University of California or pursuant to authority granted by the Regents of the University of California to administer and be the officer in charge of a campus or other facility owned, operated, or controlled by the Regents of the University of California, or the superintendent of a community college district.

(B) For a school, the principal of the school, a person who possesses a standard supervision credential or a standard administrative credential and who is designated by the principal, or a person who carries out the same functions as a person who possesses a credential and who is designated by the principal.

(b) For the purpose of determining the penalty to be imposed pursuant to this chapter, the court may consider a written report from the Department of Justice containing information from its records showing prior convictions; and that communication is prima facie evidence of the convictions, if the defendant admits them, regardless of whether or not the complaint commencing the proceedings has alleged prior convictions.

(c) As used in this code, the following definitions apply:

(1) "Pupil currently attending school" means a pupil enrolled in a public or private school who has been in attendance or has had an excused absence, for purposes of attendance accounting, for a majority of the days for which the pupil has been enrolled in that school during the school year.

(2) "Safe school zone" means an area that encompasses any of the following places during regular school hours or within 60 minutes before or after the schoolday or 60 minutes before or after a school-sponsored activity at the schoolsite:

(A) Within 100 feet of a bus stop, whether or not a public transit bus stop, that has been publicly designated by the school district as a schoolbus stop. This definition applies only if the school district has chosen to mark the bus stop as a schoolbus stop.

(B) Within 1,500 feet of a school, as designated by the school district.

SEC. 2. Section 626.2 of the Penal Code is amended to read:

626.2. Every student or employee who, after a hearing or institutional process, has been suspended or dismissed from a community college, a state university, the university, an independent institution of higher education, or a public or private school for disrupting the orderly operation of the campus or facility of the institution, and as a condition of the suspension or dismissal has been denied access to the campus or facility, or both, of the institution for the period of the suspension or in the case of dismissal for a period not to exceed one year; who has been served by registered or certified mail, at the last address given by that person, with a written notice of the suspension or dismissal and condition; and who willfully and knowingly enters upon the campus or facility of the institution to which that person has been denied access, without the express written permission of the chief administrative officer of the campus or facility, is guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars (\$500), by imprisonment in a county jail for a period of not more than six months, or by both that fine and imprisonment.

Knowledge shall be presumed if notice has been given as prescribed in this section. The presumption established by this section is a presumption affecting the burden of proof.

SEC. 3. Section 626.4 of the Penal Code is amended to read:

626.4. (a) The chief administrative officer of a campus or other facility of a community college, a state university, the university, an independent institution of higher education, or a school, or an officer or employee designated by the chief administrative officer to maintain order on such campus or facility, may notify a person that consent to remain on the campus or other facility under the control of the chief administrative officer has been withdrawn whenever there is reasonable cause to believe that such person has willfully disrupted the orderly operation of such campus or facility.

(b) Whenever consent is withdrawn by any authorized officer or employee, other than the chief administrative officer, the officer or employee shall as soon as is reasonably possible submit a written report to the chief administrative officer or designee. The report shall contain all of the following:

- (1) The description of the person from whom consent was withdrawn, including, if available, the person's name, address, and phone number.
- (2) A statement of the facts giving rise to the withdrawal of consent.

If the chief administrative officer or, in the chief administrative officer's absence, a person designated by the chief administrative officer for this purpose, upon reviewing the report, finds that there was reasonable cause to believe that such person has willfully disrupted the orderly operation of the campus or facility, the chief administrative officer may enter written confirmation upon the report of the action taken by the officer or employee. If the chief administrative officer or, in the chief administrative officer's absence, the person designated by the chief administrative officer, does not confirm the action of the officer or employee within 24 hours after the time that consent was withdrawn, the action of the officer or employee shall be deemed void and of no force or effect, except that any arrest made during such period shall not for this reason be deemed not to have been made for probable cause.

(c) Consent shall be reinstated by the chief administrative officer whenever they have reason to believe that the presence of the person from whom consent was withdrawn will not constitute a substantial and material threat to the orderly operation of the campus or facility. In no case shall consent be withdrawn for longer than 14 days from the date upon which consent was initially withdrawn. The person from whom consent has been withdrawn may submit a written request for a hearing on the withdrawal within the two-week period. The written request shall state the address to which notice of hearing is to be sent. The chief administrative officer shall grant such a hearing not later than seven days from the date of receipt of the request and shall immediately mail a written notice of the time, place, and date of such hearing to such person.

(d) Any person who has been notified by the chief administrative officer of a campus or other facility of a community college, a state university, the university, an independent institution of higher education, or a school, or by an officer or employee designated by the chief administrative officer to maintain order on such campus or facility, that consent to remain on the campus or facility has been withdrawn pursuant to subdivision (a); who has not had such consent reinstated; and who willfully and knowingly enters or remains upon such campus or facility during the period for which consent has been withdrawn is guilty of a misdemeanor. This subdivision does not apply to any person who enters or remains on such campus or facility for the sole purpose of applying to the chief administrative officer for the reinstatement of consent or for the sole purpose of attending a hearing on the withdrawal.

(e) This section shall not affect the power of the duly constituted authorities of a community college, a state university, an independent institution of higher education, the university, or a school, to suspend, dismiss, or expel any student or employee at the college, state university, university, an independent institution of higher education, or school.

(f) Any person convicted under this section shall be punished by a fine not exceeding five hundred dollars (\$500), by imprisonment in a county jail for a period of not more than six months, or by both that fine and imprisonment.

(g) This section shall not affect the rights of representatives of employee organizations to enter, or remain upon, school grounds while actually engaged in activities related to representation, as provided for in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

SEC. 4. Section 626.6 of the Penal Code is amended to read:

626.6. (a) If a person who is not a student, officer, or employee of a college, or university, or an independent institution of higher education, and who is not required by their employment to be on the campus or any other facility owned, operated, or controlled by the governing board of that college, university, or an independent institution of higher education enters a campus or facility, and it reasonably appears to the chief administrative officer of the campus or facility, or to an officer or employee designated by the chief administrative officer to maintain order on the campus or facility, that the person is committing any act likely to interfere with the peaceful conduct of the activities of the campus or facility, or has entered the campus or facility for the purpose of committing any such act, the chief administrative officer or their designee may direct the person to leave the campus or facility. If that person fails to do so or if the person willfully and knowingly reenters upon the campus or facility within seven days after being directed to leave, the person is guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars (\$500), by imprisonment in a county jail for a period of not more than six months, or by both that fine and imprisonment.

(b) The provisions of this section shall not be utilized to impinge upon the lawful exercise of constitutionally protected rights of freedom of speech or assembly.

(c) When a person is directed to leave pursuant to subdivision (a), the individual directing the person to leave shall inform the person that if the person reenters the campus or facility within seven days the person will be guilty of a crime.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect public safety on campuses as campuses continue to reopen following widespread and prolonged school closures as a result of the COVID-19 pandemic at the earliest time possible, it is necessary for this act to take effect immediately.