

BILL ANALYSIS

S.B. 18
By: Huffman
Higher Education
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The U.S. Constitution and the Texas Constitution guarantee the right to free speech and expression. Higher education campuses have recently become the focus of many concerned with the protection of free speech rights, and S.B. 18 seeks to affirm state policy to protect expressive constitutional rights of individuals by recognizing freedom of speech and assembly as central to the mission of public institutions of higher education.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 18 amends the Education Code to establish that it is state policy to protect the expressive rights of persons guaranteed by the constitutions of the United States and of Texas by recognizing freedom of speech and assembly as central to the mission of public institutions of higher education and ensuring that all persons may assemble peaceably on the campuses of those institutions of higher education for expressive activities.

S.B. 18 requires an institution to ensure that the common outdoor areas of the institution's campus are deemed traditional public forums and permit any person to engage in expressive activities in those areas freely, as long as the person's conduct is not unlawful and does not materially and substantially disrupt the functioning of the institution. The bill authorizes an institution to adopt a policy that imposes reasonable restrictions on the time, place, and manner of expressive activities in those areas if those restrictions meet certain prescribed criteria. The bill establishes that these provisions do not limit the right of student expression at other campus locations.

S.B. 18 requires each institution, not later than August 1, 2020, to adopt a policy detailing students' rights and responsibilities regarding expressive activities at the institution and sets out requirements for the policy. The bill prohibits an institution from taking action against a student organization or denying the organization any benefit generally available to other student organizations at the institution on the basis of a political, religious, philosophical, ideological, or academic viewpoint expressed by the organization or on the basis of any expressive activities of the organization.

S.B. 18 restricts the factors an institution may consider, in determining whether to approve a

speaker to speak on campus or in determining the amount of a fee to be charged for use of the institution's facilities for purposes of engaging in expressive activities, to content-neutral and viewpoint-neutral criteria related to the needs of the event and prohibits the institution from considering any anticipated controversy related to the event.

S.B. 18 requires each institution to make the institution's policies regarding expressive activities available to students enrolled at and employees of the institution by certain publication methods. The bill requires each institution to develop materials, programs, and procedures to ensure that the institution's employees responsible for educating or disciplining students understand the requirements of the bill's provisions and all policies adopted by the institution in accordance with those provisions.

S.B. 18 requires each public institution of higher education, not later than December 1, 2020, to prepare, post on the institution's website, and submit to the governor and the members of the legislature a report regarding the institution's implementation of the requirements imposed by the bill. This provision expires September 1, 2021.

EFFECTIVE DATE

September 1, 2019.