

By: Cain

H.B. No. 2527

A BILL TO BE ENTITLED

AN ACT

relating to the protection of expressive activities at public institutions of higher education.

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

SECTION 1. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9315 to read as follows:

Sec. 51.9315. PROTECTED EXPRESSION ON CAMPUS. (a) In this section:

(1) "Expressive activities" means any speech or expressive conduct protected by the First Amendment to the United States Constitution or Section 8, Article I, Texas Constitution, and includes assemblies, protests, speeches, the distribution of written material, the carrying of signs, and the circulation of petitions. The term does not include commercial speech.

(2) "Institution of higher education" has the meaning assigned by Section 61.003.

(b) It is the policy of this state to protect the expressive rights of persons guaranteed by the constitutions of the United States and of this state by ensuring that:

(1) all persons may assemble peaceably on the campuses of institutions of higher education for expressive activities; and

(2) the expressive rights of persons on the campuses of institutions of higher education are not unnecessarily restricted or impeded by rules or policies adopted by the

1 institutions.

2 (c) An institution of higher education shall:

3 (1) ensure that the common outdoor areas of the  
4 institution's campus are deemed traditional public forums; and

5 (2) permit any person to engage in expressive  
6 activities on those areas of the institution's campus freely, as  
7 long as the person's conduct:

8 (A) is not unlawful; and

9 (B) does not materially and substantially  
10 disrupt the functioning of the institution.

11 (d) Notwithstanding Subsection (c), an institution of  
12 higher education by rule may maintain and enforce reasonable  
13 restrictions on the time, place, and manner of expressive  
14 activities on the common outdoor areas of the institution's campus  
15 if those restrictions:

16 (1) serve a significant institutional interest;

17 (2) employ clear, published, content-neutral, and  
18 viewpoint-neutral criteria;

19 (3) provide for ample alternative means of expression;

20 and

21 (4) allow members of the university community to  
22 spontaneously and contemporaneously assemble or distribute written  
23 material without a permit or other permission from the institution.

24 (e) Subsections (c) and (d) do not limit the right of  
25 student expression at other campus locations.

26 (f) The protections under this section apply equally to  
27 students and to student groups and organizations, regardless of

1 whether the group or organization is recognized by or registered  
2 with the institution of higher education.

3 (g) Not later than the first anniversary of the date that a  
4 violation of this section is alleged to have occurred at an  
5 institution of higher education, the attorney general or a person  
6 whose expressive rights have been violated under this section may  
7 bring an action for injunctive relief to compel the institution to  
8 comply with this section or to recover compensatory damages, court  
9 costs, and reasonable attorney's fees. For purposes of computing  
10 the limitation period under this subsection, each day of a  
11 continuing violation of this section, including each day that a  
12 rule or policy of the institution that violates this section  
13 remains in effect, constitutes a separate violation.

14 (h) In addition to the cause of action under Subsection (g),  
15 a person whose expressive rights are affected by a rule or policy  
16 adopted by an institution of higher education may file suit against  
17 the institution for declaratory judgment in the manner provided by  
18 Chapter 37, Civil Practice and Remedies Code.

19 SECTION 2. This Act takes effect September 1, 2017.