
SENATE COMMITTEE ON PUBLIC SAFETY
Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: SB 748 **Hearing Date:** April 6, 2021
Author: Portantino
Version: March 10, 2021
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Trespass: private universities*

HISTORY

Source: Association of Independent California Colleges and Universities

Prior Legislation: SB 1666 (Calderon), Ch. 726, Stats. 2008
AB 2593 (Pacheco), Ch. 343, Stats. 2002
AB 1344 (Sweeney), Ch.163, Stats. 1995

Support: California Baptist University; California College and University Police Chiefs Association; California District Attorneys Association; California Institute of Technology; Chapman University; Equal Rights Advocates; La Sierra University; Santa Clara University; Simpson University; Stanford University; The Claremont Colleges

Opposition: None known

PURPOSE

The purpose of this bill is to expand the types of institutions covered in existing provisions of law that prohibit students or employees who have been suspended or dismissed and certain persons who have been directed to leave a school campus or facility from re-entering the school campus or facility to include private nonprofit colleges and universities.

Existing law states that every student or employee who, after a hearing, has been suspended or dismissed from a community college, a state university, the university, 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 properly served; and who willfully and knowingly enters upon the campus or facility of the institution to which they have been denied access, without the express written permission of the chief administrative officer of the campus or facility, is guilty of a misdemeanor. (Pen. Code, § 626.2.)

Existing law provides that, whenever there is reasonable cause to believe that a person has willfully disrupted the orderly operation of a campus or facility, the chief administrative officer of a campus or other facility of a community college, a state university, the university, or a school, or an officer or employee designated by the chief administrative officer to maintain order

on such campus or facility, may notify the person that consent to remain on the campus or other facility has been withdrawn. (Pen. Code, § 626.4, subd. (a).)

Existing law states that any person who has been notified that consent to remain on the campus or facility has been withdrawn, who has not had such consent reinstated, and who willfully and knowingly enters or remains upon such campus or facility during the period of time for which consent has been withdrawn is guilty of a misdemeanor. (Pen. Code, § 626.4, subd. (d).)

Existing law states if a person who is not a student, officer or employee of a college or university and who is not required by his or her employment to be on the campus or any other facility owned, operated, or controlled by the governing board of that college or university, 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 his or her designee may direct the person to leave the campus or facility. (Pen. Code, § 626.6, subd. (a).)

Existing law states that when a person is directed to leave, the person shall be informed that if they reenter the campus or facility within 7 days, they will be guilty of a misdemeanor.

Existing law punishes a person who violates the above provisions as follows:

- Upon a first conviction, be a fine of up to \$500, by imprisonment in the county jail for a period of not more than 6 months, or by both the fine and imprisonment;
- If the defendant has been previously convicted of this section or other specified crimes committed in the building or grounds of a college or university, by imprisonment in a county jail for a period of not less than 10 days or more than six months, or by both that imprisonment and a fine not exceeding \$500, and shall not be released until they have served not less than 10 days.
- If the defendant has been previously convicted two or more times of the above offenses, by imprisonment in a county jail for a period of not less than 90 days or more than six months, or by both that imprisonment and a fine not exceeding \$500, and shall not be released until the defendant has served not less than 90 days.

(Pen. Code, §§ 626.2; 626.4, subd. (f); 626.6, subd. (a).)

This bill adds an independent institution of higher education to the types of schools to which the above provisions apply.

Existing law contains the following definitions:

- “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.
- “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.

- “Community college” means any public community college established pursuant to the Education Code.
- “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.

(Pen. Code, § 626, subd. (a).)

This bill defines “independent institutions of higher education” to mean “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.

COMMENTS

1. Need for This Bill

According to the author of this bill:

Currently, private nonprofit colleges and universities attempt to utilize California Penal Code Section 602, regarding trespassing on private property. This effort generally includes the use of *no trespassing letters* to indicate consent has been withdrawn for an individual to be on campus.

In recent years, some district attorney offices have expressed reservations about issuing trespass on the strength of these letters and the applicability of Penal Code Section 602 to private, non-profit colleges and universities. Further, trespassing letters meant to serve as continuing notice of a revocation of the right to occupy private property have become ineffective in many campus communities due to the lack of clear legal guidance on enforcement.

The lack of an effective enforcement tool means that individuals who have been advised that permission to use the campus has been revoked simply return to campus, often engaging in the same behavior that caused their permission to be revoked, until they are asked to leave. They leave, only to return again, and again. Repeat offenders learn that they are able to return to these campuses with little concern about consequences, engaging in behavior that diminishes or threatens the safety and well-being of university students, faculty, and staff.

SB 748 recognizes that private, nonprofit colleges and universities have a responsibility to ensure the physical safety of their campus community. They face similar public safety challenges as their public higher education counterparts, and SB 748 assists private nonprofit colleges and universities by expanding Penal Code 626, which applies to public colleges and universities, and public and

private K-12 schools to include California's private, nonprofit higher education sector.

2. Trespassing Laws: Institutions of Higher Learning

Trespassing laws generally prohibit a person from entering or remaining on property without permission or a right to be present on the property. (Pen. Code, § 602.) In the context of institutions of higher learning, existing laws prohibit persons from remaining on, or re-entering, the school campus after being told to leave or that they no longer have permission to be present. (Pen. Code, §§ 626-626.7.) These laws specify who these provisions apply to (e.g. students, employees, other persons); the impetus for the withdrawal of permission to be present on campus (e.g. suspension, dismissal, or willful disruption or interference with the peaceful conduct of the school); what kind of notice is required (certified mail or written notice); who makes the decision to withdraw consent for the person being present on campus (chief administrative officer or their designee); the duration that the person is not allowed on campus (ranges from 7 days up to one year). (*Id.*) The institutions covered by these existing laws include UCs, CSUs, community colleges and other "schools" which do not include private nonprofit colleges within its definition.

This bill expands the educational institutions covered by the above provisions to include private nonprofit colleges and universities.

3. Argument in Support

According to La Sierra University:

La Sierra University has faced challenges in enforcing no contact orders against former students who have been ordered to stay away from campus. We have encountered situations with persons displaying violent or predatory conduct and it has been difficult to keep these persons away from campus and protect our students on campus. Our private university does not have the same protections as public institutions with the ability to ban private individuals via Cal. Penal Code 626. As a result, we cannot enforce any measure that is designed to keep persons off our campus. Law enforcement has been reluctant to enforce such orders and have given court ordered restraining orders as the only recourse for our institution. This lack of enforcement could put our campus community at risk. Therefore, we support SB 748 that would provide independent, non-profit institutions of higher education the same protections afforded its public counterparts in the University of California, Cal State University and California Community Colleges.

Colleges and universities, public and private, are confronting similar public safety challenges, operating in similar open environments, and have similar responsibilities and commitments to their students, faculty, and staff. This bill will help ensure that universities such as La Sierra are provided that same tools to uphold that responsibility.

