

BILL ANALYSIS

Senate Research Center

H.B. 1129
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Criminal Justice
5/13/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, when a person trespasses onto residential property, a peace officer's only recourse is to arrest the trespasser. There are some cases in which this is not the best use of an officer's time, such as cases in which a person exits a state-owned river onto privately owned residential property. In such cases, issuing a ticket, rather than making an arrest, would make better use of the officer's time.

H.B. 1129 makes trespass onto residential land a Class C misdemeanor, thereby authorizing a peace officer to issue a ticket for such an offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 30.05(b), Penal Code, by adding Subdivision (8), to define "residential land."

SECTION 2. Amends Section 30.05, Penal Code, by amending Subsections (c) and (d) and adding Subsection (k), as follows:

(c) Provides that it is a defense to prosecution under this section (Criminal Trespass) that the actor at the time of the offense was an employee or agent of an electric utility, as defined by Section 31.002, Utilities Code, or an employee or agent of a gas utility, as defined by Section 101.003 or 121.001, Utilities Code, who was performing a duty within the scope of employment or agency, or a person who was employed by or acting as agent for an entity that had, or that the person reasonably believed had, effective consent or authorization provided by law to enter the property and was performing a duty within the scope of that employment or agency. Makes conforming and nonsubstantive changes.

(d) Provides that an offense under Subsection (k) is a Class C misdemeanor unless it is committed in a building or habitation or the actor carries a deadly weapon on or about the actor's person during the commission of the offense, in which event it is a Class A misdemeanor. Provides that an offense under Subsection (a) (trespassing onto property, including an aircraft or other vehicle, of another without effective consent, or knowingly entering or remaining the building of another without consent) is a Class C misdemeanor, except that the offense is a Class B misdemeanor if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section. Makes conforming changes.

(k) Provides that a person commits an offense if, without express consent or if without authorization provided by any law, whether in writing or other form, the person enters or remains on residential land of another and had notice that the entry was forbidden or received notice to depart but failed to do so.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: upon passage or September 1, 2007.