

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1391
By: Wentworth
Criminal Justice
4/21/2009
Committee Report (Substituted)

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. In some cases this is not the best use of the officer's time so issuing a ticket would be sufficient.

C.S.S.B. 1391 amends current law relating to the prosecution and punishment of the offense of criminal trespass.

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(a), Penal Code, to provide that a person commits an offense if the person enters or remains on or in property of another, including residential land, agricultural land, a recreational vehicle park, a building, or an aircraft or other vehicle, without effective consent and the person had notice that the entry was forbidden or received notice to depart but failed to do so, rather than he enters or remains on or in property without effective consent or he enters or remains in a building of another without effective consent. Makes nonsubstantive changes.

SECTION 2. Amends Section 30.05(b), Penal Code, by adding Subdivisions (8), (9), (10), and (11), to define "protected freshwater area," "recognized state," "recreational vehicle park," and "residential land."

SECTION 3. Amends Sections 30.05(d) and (e), Penal Code, as follows:

(d) Provides that an offense under this section is a Class B misdemeanor, except as provided by Subdivisions (2) and (3); a class C misdemeanor, except as provided by Subdivision (3), if the offense is committed on agricultural land and within 100 feet of the boundary of the land, or on residential land and within 100 feet of a protected freshwater area; and a Class A misdemeanor if the offense is committed under certain conditions. Deletes existing text that an offense under Subsection (e) is a Class C misdemeanor unless it is committed in a habitation or unless 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. Makes nonsubstantive changes.

(e) Provides that it is a defense to prosecution under this section that the actor at the time of the offense was a firefighter or emergency medical services personnel, as defined by Section 773.003 (Definitions), Health and Safety Code, acting in the lawful discharge of an official duty under exigent circumstances; a person who was an employee or agent of a certain electric utility, telecommunications provider, video service provider, cable service provider, gas utility, or pipeline performing a duty within the scope of that employment or agency; or a person who was employed by or acting as agent for an entity that had, or that the person reasonably had, effective consent or authorization provided by law to enter the property, and performing a duty within the scope of that employment or agency. Deletes existing text providing 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 agricultural land of another, is on the agricultural land and within 100 feet of the boundary of the land when apprehended, and had notice that the entry was forbidden or received notice to depart but failed to do so.

SECTION 4. Repealer: Sections 30.05(c) (relating to it being a defense to prosecution under this section that the actor at the time of the offense was a fire fighter or emergency medical services personnel) and (j) (relating to the definition of "recognized state"), Penal Code.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2009.