

State Government Committee

HB 1375

Brief Description: Concerning criminal trespass on private property.

Sponsors: Representatives Taylor, Scott, Young, G. Hunt, Shea and Buys.

Brief Summary of Bill

- Includes public officials and employees as persons subject to the crime of trespass, with certain exceptions;
- Conditions various statutes authorizing permission for public officials to enter property upon compliance with the criminal trespass statute.

Hearing Date: 2/10/15

Staff: Sean Flynn (786-7124).

Background:

A person who knowingly enters or remains unlawfully on the premises of another is guilty of a criminal trespass. The unlawful entry into a building is a gross misdemeanor, while all other trespasses are misdemeanors.

Entering or remaining on property is not unlawful if the person is licensed, invited, or otherwise privileged to enter or remain. A person has a license and privilege to enter or remain on any unimproved and apparently unused land if the land is not fenced, and notice is not posted or communicated to the person.

A defendant may raise certain defenses to a trespassing charge, including that: the building entered was abandoned; the premises were open to the public and the defendant complied with any lawful conditions; that the defendant reasonably believed the owner or other authorized person would have allowed entry; or the defendant was attempting to serve legal process.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

State law provides various public officials with specific authority to enter onto premises, buildings, or other properties for inspection purposes in performance of official duties. The purposes relate to a wide range of function, including the inspection of records, the protection of persons or property on the premises, and the compliance of activities and conditions on the premises. Some provisions expressly provide that such authorized entry does not constitute a trespass, while other authorizing provisions are silent on the issue. Finally, some provisions provide that preventing an authorized agent from entering the property is itself a misdemeanor crime.

Summary of Bill:

A public official or employee is subject to criminal trespass under the same circumstances as any other person, unless the official's entry onto property is:

- necessary in response to a fire or medical emergency;
- under authority of a warrant or court order; or
- under lawful circumstances involving a law enforcement officer.

If a property owner has requested and obtained a license, permit, certificate, or service that requires access to the owner's property, the provider of the license or service is licensed to enter the property after notifying the owner or his or her agent. The licensed entry must be in the presence of the owner or his or her agent, and only pertains to the scope of the requirement for the license or service. A property owner may not unreasonably deny a provider access to the owner's property.

Statutory authorization for public officials and employees to enter property under various circumstances are conditioned upon compliance with the criminal trespass statute.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.