

A BILL TO BE ENTITLED
AN ACT

relating to the prosecution and punishment of the offense of criminal trespass.

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

SECTION 1. Section 30.05(b), Penal Code, is amended by adding Subdivision (8) to read as follows:

(8) "Residential land" means real property improved by a dwelling and zoned for or otherwise authorized for single-family or multifamily use.

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

(c) It is a defense to prosecution under this section that the actor at the time of the offense was:

(1) a fire fighter or emergency medical services personnel, as [~~that term is~~] defined by Section 773.003, Health and Safety Code, acting in the lawful discharge of an official duty under exigent circumstances;

(2) A process server certified by the Supreme Court of Texas to serve civil process engaged in the discharge of official duties.

(d) 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. An offense under Subsection (k) is a Class C misdemeanor unless it is committed in a building or 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. An offense under Subsection (a) is a Class C [~~B~~] misdemeanor, except that the offense is:

(1) 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; and

(2) a Class A misdemeanor if:

(A) [~~1~~] the offense is committed:

(i) [~~A~~] in a habitation or a shelter center;

(ii) [~~B~~] on a Superfund site; or

(iii) [~~C~~] on or in a critical infrastructure facility; or

(B) [~~2~~] the actor carries a deadly weapon on or about his person during the commission of the offense.

(k) 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:

(1) enters or remains on residential land of another;

and

(2) had notice that the entry was forbidden or received notice to depart but failed to do so.

SECTION 3. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.