

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7665
BILL NUMBER: HB 1738

NOTE PREPARED: Jan 5, 2005
BILL AMENDED:

SUBJECT: Trespass.

FIRST AUTHOR: Rep. Robertson
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill grants immunity from civil liability for a person who owns, leases, or otherwise legally occupies real property for an injury or damage sustained by another person who: (1) enters or remains on the real property without consent; or (2) refuses to leave the real property after being asked to leave; unless the injury or damage is caused by an act or omission of the person that constitutes a criminal offense, gross negligence, or willful or wanton misconduct. It makes it criminal trespass, a Class A misdemeanor, for a person to knowingly or intentionally enter or remain on the real property of another person without the consent of the other person. The bill also provides a defense for an accused person who had express, legal, or implied consent to enter or remain on the real property. It provides exceptions for certain persons who are not specifically forbidden to enter or remain on real property.

Effective Date: July 1, 2005.

Explanation of State Expenditures:

Explanation of State Revenues: *Criminal Penalty:* Under current law, criminal trespass includes several circumstances such as entering or refusing to leave the real property of another, interfering with the possession or use of a property of another, and entering the dwelling of another. There are no data to indicate how many offenders may be convicted of this Class A misdemeanor if remaining on the real property of another would be added to the crime as proposed, or how the defense provided in the bill for an accused person would affect convictions.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state

General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: *Criminal Penalty:* A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Criminal Penalty:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected:

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

Fiscal Analyst: Karen Firestone, 317-234-2106.