

CHAPTER 129
HOUSE BILL No. 2617

AN ACT concerning land surveyors; relating to trespassing; amending
K.S.A. 2003 Supp. 21-3721 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) A land surveyor, licensed pursuant to article 70 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, and such surveyor's authorized agents and employees may enter upon lands, waters and premises of a party who has not requested the survey when it is necessary for the purpose of making a survey. If the licensed surveyor has made a reasonable attempt to notify the person in possession, such entry shall not be deemed a trespass. Upon notice, such person in possession has the right to modify the time and other provisions of the surveyor's access upon notification to the surveyor, as long as such modifications do not unreasonably restrict completion of the survey. Nothing herein shall change the status of the licensed surveyor as an occupier of land.

(b) While conducting surveys, the licensed surveyor and such surveyor's authorized agents and employees shall carry proper identification as to such surveyor's licensure or employment and shall display such identification to anyone upon request.

(c) Neither the landowner nor the person in possession shall be liable for any injury or damage sustained by a licensed surveyor or such surveyor's authorized agents and employees entering upon such land, water or premises under the provisions of this section, except when such damages and injury were willfully or deliberately caused by the landowner or person in possession.

(d) Nothing in this section shall be construed to:

(1) Remove civil liability for actual damage to such lands, waters, premises, crops or personal property;

(2) give the licensed surveyor or such surveyor's authorized agents and employees the authority to enter any building or structure used as a residence or for storage; and

(3) remove civil or criminal liability for intentional acts of injury or for damages to the surveyor or authorized agents and employees.

Sec. 2. K.S.A. 2003 Supp. 21-3721 is hereby amended to read as follows: 21-3721. (a) Criminal trespass is:

(1) Entering or remaining upon or in any land, nonnavigable body of water, structure, vehicle, aircraft or watercraft other than railroad property as defined in K.S.A. 2003 Supp. 21-3761 and amendments thereto by a person who knows such person is not authorized or privileged to do so, and:

(A) Such person enters or remains therein in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person; or

(B) such premises or property are posted in a manner reasonably likely to come to the attention of intruders, or are locked or fenced or otherwise enclosed, or shut or secured against passage or entry; or

(C) such person enters or remains therein in defiance of a restraining order issued pursuant to K.S.A. 2003 Supp. 60-31a05, 60-31a06, K.S.A. 60-1607, 60-3105, 60-3106 or 60-3107 or K.S.A. 38-1542, 38-1543 or 38-1563, and amendments thereto, and the restraining order has been personally served upon the person so restrained; or

(2) entering or remaining upon or in any public or private land or structure in a manner that interferes with access to or from any health care facility by a person who knows such person is not authorized or privileged to do so and such person enters or remains thereon or therein in defiance of an order not to enter or to leave such land or structure personally communicated to such person by the owner of the health care facility or other authorized person.

(b) As used in this section:

(1) "Health care facility" means any licensed medical care facility, certificated health maintenance organization, licensed mental health center, or mental health clinic, licensed psychiatric hospital or other facility or office where services of a health care provider are provided directly to

patients.

(2) “Health care provider” means any person: (A) Licensed to practice a branch of the healing arts; (B) licensed to practice psychology; (C) licensed to practice professional or practical nursing; (D) licensed to practice dentistry; (E) licensed to practice optometry; (F) licensed to practice pharmacy; (G) registered to practice podiatry; (H) licensed as a social worker; or (I) registered to practice physical therapy.

(c) (1) Criminal trespass is a class B nonperson misdemeanor.

(2) Upon a conviction of a violation of subsection (a)(1)(C), a person shall be sentenced to not less than 48 consecutive hours of imprisonment which must be served either before or as a condition of any grant of probation or suspension, reduction of sentence or parole.

(d) *This section shall not apply to a land surveyor, licensed pursuant to article 70 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, and such surveyor’s authorized agents and employees who enter upon lands, waters and other premises in the making of a survey.*

Sec. 3. K.S.A. 2003 Supp. 21-3721 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 13, 2004.
