

HOUSE BILL NO. 528

1/28 Introduced  
1/28 Referred to Judiciary  
2/08 Hearing  
2/16 Adverse Committee Report  
2/19 Bill Killed

1                    HOUSE BILL NO. 528  
 2 INTRODUCED BY W. Wilson  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THE RIGHT OF  
 5 ACCESS ONTO PUBLIC OR PRIVATE PROPERTY WHEN NECESSARY FOR  
 6 THE COMPLETION OF A SURVEY; AND DEFINING LIABILITY FOR  
 7 DAMAGES OR INJURY."  
 8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 10        Section 1. Definitions. As used in [this act],  
 11 "surveyor" means any of the following:  
 12        (1) a surveyor employed by the United States of  
 13 America or the state of Montana or its political  
 14 subdivisions;  
 15        (2) a person licensed in conformance with Title 37,  
 16 chapter 67, to practice surveying in Montana; or  
 17        (3) a person who is:  
 18        (a) under the direct supervision of a person who is a  
 19 surveyor under subsection (1) or (2); and  
 20        (b) carrying upon his person sufficient identification  
 21 as to his employer.  
 22        Section 2. Surveyor's right to access -- notification  
 23 -- remedy. (1) A surveyor may enter upon public or private  
 24 lands or waters in this state, except buildings, if  
 25 necessary for the completion of a survey.

1                    (2) A vehicle used for or during entry pursuant to  
 2 this section must be identified, if possible, on the  
 3 exterior of the vehicle by a proper sign listing the name,  
 4 address, and telephone number of the surveyor or firm.  
 5                    (3) A surveyor wishing to enter private land pursuant  
 6 to this section shall notify the owner of record of such  
 7 land a reasonable time before entry upon the land.  
 8                    (4) If right of entry is denied in violation of this  
 9 section, the surveyor, on behalf of himself or his client,  
 10 may institute action in the district court of the judicial  
 11 district in which the land is situated for an injunction to  
 12 allow entry upon the land. The surveyor or his client is  
 13 entitled to all costs, including attorney's fees, incurred  
 14 as a result of obtaining the injunction.  
 15        Section 3. Liability for damages or injury. (1) A  
 16 surveyor making an entry pursuant to [section 2] is liable  
 17 to the landowner for actual damage to crops or other  
 18 property and for other actual damages only if the damages  
 19 result from negligence of the surveyor during the entry.  
 20                    (2) Failure of any surveyor to satisfy any liability  
 21 incurred by himself or an employee constitutes misconduct in  
 22 the practice of land surveying and may subject the surveyor  
 23 to revocation of his certificate of registration as provided  
 24 in 37-67-331.  
 25                    (3) A surveyor entering land pursuant to [section 2]

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1 has no claim for damage or injury to his person and  
2 equipment unless such damage or injury is caused by the  
3 intentional act of another person.

4 (4) A surveyor entering land pursuant to [section 2]  
5 is considered to be licensed to enter such private land  
6 pursuant to 45-6-201 and is not subject to charges of the  
7 offense of criminal trespass as defined in 45-6-203.

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