

Reprinted

FILED MAR 20 1992

SENATE FILE 2331

BY COMMITTEE ON JUDICIARY

(Sponsorship of 683)
(SUCCESSOR TO SSB 2113)

Passed Senate, Date 3/18/92 (S.S.S.) Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to burglary and establishing penalties.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SF 2331

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1 Section 1. Section 713.3, Code 1991, is amended to read as
2 follows:

3 713.3 BURGLARY IN THE FIRST DEGREE.

4 1. A person commits burglary in the first degree if, while
5 perpetrating a burglary upon an occupied structure in which
6 persons are present, the person has in the person's possession
7 an explosive or incendiary device or material, or a dangerous
8 weapon, or intentionally or recklessly inflicts bodily injury
9 on any person. A person commits burglary in the first degree
10 when the person knowingly and without authority enters a
11 dwelling with the intent to commit a felony or theft.

12 Burglary in the first degree is a class "B" felony.

13 Sec. 2. Section 713.4, Code 1991, is amended to read as
14 follows:

15 713.4 ATTEMPTED BURGLARY IN THE FIRST DEGREE.

16 A person commits attempted burglary in the first degree if,
17 while perpetrating an attempted burglary upon a dwelling or
18 upon an occupied structure in which persons are present, the
19 person has possession of an explosive or incendiary device or
20 material, or a dangerous weapon, or intentionally or
21 recklessly inflicts physical injury on any person. Attempted
22 burglary in the first degree is a class "C" felony.

23 Sec. 3. NEW SECTION. 713.4A BURGLARY IN THE SECOND
24 DEGREE.

25 A person commits burglary in the second degree if the
26 burglary is committed upon an occupied structure in which no
27 persons are present and the person has in the person's
28 possession an explosive or incendiary device or material, or a
29 dangerous weapon. Burglary in the second degree is a class
30 "C" felony.

31 Sec. 4. NEW SECTION. 713.4B ATTEMPTED BURGLARY IN THE
32 SECOND DEGREE.

33 A person commits attempted burglary in the second degree if
34 the person attempts to commit a burglary upon an occupied
35 structure in which no persons are present and the person has

1 in the person's possession an explosive or incendiary device
2 or material, or a dangerous weapon. Attempted burglary in the
3 second degree is a class "D" felony.

4 Sec. 5. Section 713.5, Code 1991, is amended to read as
5 follows:

6 713.5 BURGLARY IN THE ~~SECOND~~ THIRD DEGREE.

7 All burglary which is not burglary in the first degree or
8 burglary in the second degree is burglary in the ~~second~~ third
9 degree. Burglary in the ~~second~~ third degree is a class "E D"
10 felony.

11 Sec. 6. Section 713.6, Code 1991, is amended to read as
12 follows:

13 713.6 ATTEMPTED BURGLARY IN THE ~~SECOND~~ THIRD DEGREE.

14 All attempted burglary which is not attempted burglary in
15 the first degree or attempted burglary in the second degree is
16 attempted burglary in the ~~second~~ third degree. Attempted
17 burglary in the ~~second~~ third degree is a class-"B"-felony an
18 aggravated misdemeanor.

19 EXPLANATION

20 This bill provides that burglary in the first degree, a
21 class "B" felony, and attempted burglary in the first degree,
22 a class "C" felony, include the burglary of an occupied
23 structure in which people are present. Burglary in the first
24 degree is committed when a person enters a dwelling with the
25 intent to commit a felony. The bill also provides that
26 burglary in the second degree or attempted burglary in the
27 second degree involves the burglary, or attempted burglary, of
28 an occupied structure in which no people are present.
29 Burglary, or attempted burglary, in the second degree is
30 classified as a class "C" or class "D" felony, respectively.
31 The bill establishes the crimes of burglary in the third
32 degree and attempted burglary in the third degree, which are
33 all burglaries or attempted burglaries which are not first or
34 second degree burglary or attempted burglary. Third degree
35 burglary or attempted burglary is classified as a class "D"

1 felony or aggravated misdemeanor, respectively.

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SENATE FILE 2331
FISCAL NOTE

A fiscal note for Senate File 2331 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2331 restructures the burglary offense. Burglary in the first degree (Class B felony) and attempted burglary in the first degree (Class C felony) include the burglary of a an occupied structure in which people are present. Burglary in the first degree is committed when a person enters a dwelling with the intent to commit a felony. Burglary in the second degree (Class C felony) and attempted burglary in the second degree (Class D felony) involve the burglary, or attempted burglary, of an occupied structured in which no people are present. Burglary in the third degree (Class D felony) and attempted burglary in the third degree (aggravated misdemeanor) are all burglaries or attempted burglaries which are not first or second degree burglary or attempted burglary.

Assumptions

1. Approximately 5.0% of current convictions for first degree burglary and attempted first degree burglary will become second degree burglary and attempted second degree burglary.
2. Approximately 0.50% of current convictions for second degree burglary and attempted second degree burglary will become first degree burglary and attempted first degree burglary.
3. Approximately 95.0% of current convictions for second degree burglary and attempted second degree burglary will become third degree burglary and attempted third degree burglary.
4. The number of convicted offenders for other offenses, who are in prison, under Community Based Corrections (CBC) supervision, and in jails will continue to increase.
5. The current prison population is 4,341 inmates, which is 137.2% of current designed capacity.

Fiscal Impact:

No specific dollar estimate can be provided. However, the following information is provided:

It is anticipated that 460 fewer inmates will be sent to prison by year-end 1995, that 50 more offenders will be on probation annually, and that 40 more offenders will be in jail annually. There will be no savings achieved in the prisons, as the number of convicted offenders sentenced to prison for other offenses is expected to increase. The increase projected for probation and jail populations due to SF 2331 is in addition to the already projected increase for these populations.

Sources: Department of Human Rights

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Department of Corrections

(LSB 5291sv, BAL)

FILED MARCH 12, 1992

BY DENNIS PROUTY, FISCAL DIRECTOR

STURGEON. CH.
VARN
SLIFE 2/4/97

SSB 2113 — New —
JUDICIARY

SENATE/HOUSE FILE 2331
BY (PROPOSED ATTORNEY GENERAL
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
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10 another person. Burglary in the first degree is a class "B"
11 felony.

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22 class "C" felony.

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17 class "B" felony, and attempted burglary in the first degree,
18 a class "C" felony, include the burglary of a dwelling or
19 occupied structure in which people are actually present. The
20 bill also provides that burglary in the second degree or
21 attempted burglary in the second degree involves the burglary,
22 or attempted burglary, of an occupied structure in which no
23 people are actually present. Burglary, or attempted burglary,
24 in the second degree is classified as a class "C" or class "D"
25 felony, respectively. The bill establishes the crimes of
26 burglary in the third degree and attempted burglary in the
27 third degree, which are all burglaries or attempted burglaries
28 which are not first or second degree burglary or attempted
29 burglary. Third degree burglary or attempted burglary is
30 classified as a class "D" felony or aggravated misdemeanor,
31 respectively.

32 BACKGROUND STATEMENT

33 SUBMITTED BY THE AGENCY

34 At common law, breaking into a dwelling was a more serious
35 offense than other types of burglary. Today, some of the same

1 concerns exist. The potential for violence is far greater
2 when persons are actually present in an occupied structure,
3 making it a more serious crime. That difference should be
4 recognized.

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