

3-15-93 Judging

FILED MAR 17 1993

SENATE FILE 298
BY MURPHY

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the offense of burglary.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 298

1 Section 1. Section 713.1, Code 1993, is amended to read as
2 follows:

3 713.1 BURGLARY DEFINED.

4 Any person, having the intent to commit a felony, assault
5 or theft therein, who, having no right, license or privilege
6 to do so, enters an occupied structure or dwelling, ~~such the~~
7 occupied structure or dwelling not being open to the public,
8 or who remains therein after it is closed to the public or
9 after the person's right, license or privilege to be there has
10 expired, or any person having such intent who breaks an
11 occupied structure or dwelling, commits burglary.

12 Sec. 2. Section 713.2, Code 1993, is amended to read as
13 follows:

14 713.2 ATTEMPTED BURGLARY DEFINED.

15 Any person, having the intent to commit a felony, assault
16 or theft therein, who, having no right, license, or privilege
17 to do so, attempts to enter an occupied structure or dwelling,
18 the occupied structure or dwelling not being open to the
19 public, or who attempts to remain therein after it is closed
20 to the public or after the person's right, license, or
21 privilege to be there has expired, or any person having such
22 intent who attempts to break an occupied structure or
23 dwelling, commits attempted burglary.

24 Sec. 3. Section 713.3, Code 1993, is amended to read as
25 follows:

26 713.3 BURGLARY IN THE FIRST DEGREE.

27 A person commits burglary in the first degree if, while
28 ~~perpetrating a burglary in-or-upon-an-occupied-structure-in~~
29 ~~which-persons-are-present~~, the person has possession of an
30 explosive or incendiary device or material, or a dangerous
31 weapon, or intentionally or recklessly inflicts bodily injury
32 on any person. Burglary in the first degree is a class "B"
33 felony.

34 Sec. 4. Section 713.4, Code 1993, is amended to read as
35 follows:

1 713.4 ATTEMPTED BURGLARY IN THE FIRST DEGREE.

2 A person commits attempted burglary in the first degree if,
3 while perpetrating an attempted burglary ~~in-or-upon-an~~
4 ~~occupied-structure-in-which-persons-are-present~~, the person
5 has possession of an explosive or incendiary device or
6 material, or a dangerous weapon, or intentionally or
7 recklessly inflicts bodily injury on any person. Attempted
8 burglary in the first degree is a class "C" felony.

9 Sec. 5. Section 713.5, Code 1993, is amended to read as
10 follows:

11 713.5 BURGLARY IN THE SECOND DEGREE.

12 A person commits burglary in the second degree in either of
13 the following circumstances:

14 1. While perpetrating a burglary in or upon an occupied
15 structure, other than a dwelling, in which no one or more
16 ~~persons are present, the person has possession of an explosive~~
17 ~~or incendiary device or material, or a dangerous weapon, or a~~
18 ~~bodily injury results to any person.~~

19 2. While perpetrating a burglary in or upon ~~an occupied~~
20 ~~structure in which~~ a dwelling, whether or not one or more
21 ~~persons are present, the person does not have possession of an~~
22 ~~explosive or incendiary device or material, nor a dangerous~~
23 ~~weapon, and no bodily injury is caused to any person.~~

24 Burglary in the second degree is a class "C" felony.

25 Sec. 6. Section 713.6, Code 1993, is amended to read as
26 follows:

27 713.6 ATTEMPTED BURGLARY IN THE SECOND DEGREE.

28 A person commits attempted burglary in the second degree in
29 either of the following circumstances:

30 1. While perpetrating an attempted burglary in or upon an
31 occupied structure, other than a dwelling, in which no one or
32 more ~~persons are present, the person has possession of an~~
33 ~~explosive or incendiary device or material, or a dangerous~~
34 ~~weapon, or a bodily injury results to any person.~~

35 2. While perpetrating an attempted burglary in or upon an

1 ~~occupied-structure-in-which~~ a dwelling, whether or not one or
2 ~~more persons are present~~7-the-person-does-not-have-possession
3 ~~of-an-explosive-or-incendiary-device-or-material~~7-nor-a
4 ~~dangerous-weapon~~7-and-no-bodily-injury-is-caused-to-any
5 ~~person.~~

6 Attempted burglary in the second degree is a class "D"
7 felony.

8 EXPLANATION

9 This bill adds dwellings to the definitions of burglary and
10 attempted burglary. The bill also removes the element that
11 people be present for first degree and attempted first degree
12 burglary. In addition, the bill provides that attempted
13 second degree and second degree burglary occurs in an occupied
14 structure in which people are present or in a dwelling whether
15 or not people are present.

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