

McKean
Hammond
Miller

SSB 3161

Judiciary
Succeeded By
O/HF 2325

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON MCKEAN)

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

A BILL FOR

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

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1 Section 1. Section 713.6A, Code 1999, is amended to read
2 as follows:

3 713.6A BURGLARY IN THE THIRD DEGREE.

4 1. All burglary which is not burglary in the first degree
5 or burglary in the second degree is burglary in the third
6 degree. Burglary in the third degree is a class-"D"-felony an
7 aggravated misdemeanor except as otherwise provided in
8 subsection 2.

9 2. Burglary in the third degree involving a burglary of an
10 occupied structure other than a motor vehicle or motor truck
11 as defined in section 321.1, or a vessel defined in section
12 462A.2, is a class "D" felony.

13 Sec. 2. Section 713.6B, Code 1999, is amended to read as
14 follows:

15 713.6B ATTEMPTED BURGLARY IN THE THIRD DEGREE.

16 1. All attempted burglary which is not attempted burglary
17 in the first degree or attempted burglary in the second degree
18 is attempted burglary in the third degree. Attempted burglary
19 in the third degree is an-aggravated a serious misdemeanor
20 except as otherwise provided in subsection 2.

21 2. Attempted burglary in the third degree involving an
22 attempted burglary of an occupied structure other than a motor
23 vehicle or motor truck as defined in section 321.1, or a
24 vessel as defined in section 462A.2, is an aggravated
25 misdemeanor.

26 Sec. 3. Section 715A.2, subsection 2, paragraph a,
27 unnumbered paragraph 1, Code 1999, is amended to read as
28 follows:

29 Forgery is a class-"D"-felony an aggravated misdemeanor if
30 the writing is or purports to be any of the following:

31 Sec. 4. Section 715A.2, subsection 2, paragraph b, Code
32 1999, is amended to read as follows:

33 b. (5) Forgery-is-an-aggravated-misdemeanor-if-the
34 writing-is-or-purports-to-be-a A will, deed, contract,
35 release, commercial instrument, or any other writing or other

1 document evidencing, creating, transferring, altering,
2 terminating, or otherwise affecting legal relations.

3 Sec. 5. Section 902.12, Code 1999, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 6. Burglary in the first degree in
6 violation of section 713.3, subsection 1, paragraph "c" or
7 "d".

8 EXPLANATION

9 This bill relates to the criminal offenses of burglary and
10 forgery.

11 The bill changes the criminal penalties for burglary in the
12 third degree or attempted burglary in the third degree for a
13 burglary perpetrated upon an unoccupied motor vehicle, motor
14 truck, or vessel. The bill provides that a person who commits
15 burglary in the third degree on an unoccupied motor vehicle,
16 motor truck, or vessel commits an aggravated misdemeanor and a
17 person who commits attempted burglary in the third degree on
18 an unoccupied motor vehicle, motor truck, or vessel commits a
19 serious misdemeanor. Under the bill, a person who commits a
20 burglary on any other type of unoccupied structure which
21 includes a personal residence commits a class "D" felony.

22 The bill provides that an offender who is sentenced for the
23 offense of burglary in the first degree shall serve a sentence
24 that is subject to the maximum accumulation of good conduct
25 time of 15 percent of the total sentence, commonly known as an
26 85 percent sentence. The bill applies to burglary in the
27 first degree offenses that involve a person intentionally or
28 recklessly inflicting a bodily injury or committing sexual
29 abuse while perpetrating such a burglary. Burglary in the
30 first degree is a class "B" felony.

31 The bill also changes the penalty for forgery from a class
32 "D" penalty to an aggravated misdemeanor.

33 A serious misdemeanor is punishable by confinement for no
34 more than one year and a fine of at least \$250 but not more
35 than \$1,500. An aggravated misdemeanor is punishable by

S.F. _____ H.F. _____

1 confinement for no more than two years and a fine of at least
2 \$500 but not more than \$5,000. A class "D" felony is
3 punishable by confinement for no more than five years and a
4 fine of at least \$750 but not more than \$7,500. A class "B"
5 felony is punishable by confinement for no more than 25 years.

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H. 3/6/00 Judiciary
H. 3/7/00 amend Do Pass W/
H. 3/23/00 Unfinished Business Colada - 8395
FILED FEB 24 2001

SENATE FILE 2325
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3161)

Passed Senate, Date (P. 513) 3-2-00 Passed House, Date _____
Vote: Ayes 47 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

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

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SF 2325

1 Section 1. Section 713.6A, Code 1999, is amended to read
2 as follows:

3 713.6A BURGLARY IN THE THIRD DEGREE.

4 1. All burglary which is not burglary in the first degree
5 or burglary in the second degree is burglary in the third
6 degree. Burglary in the third degree is a class-"B"-felony an
7 aggravated misdemeanor except as otherwise provided in
8 subsection 2.

9 2. Burglary in the third degree involving a burglary of an
10 occupied structure other than a motor vehicle or motor truck
11 as defined in section 321.1, or a vessel defined in section
12 462A.2, is a class "D" felony.

13 3. Notwithstanding any other provision of the Code to the
14 contrary a person who violates this section may be sentenced
15 to a combination of any intermediate criminal sanction level
16 or sublevel under section 901B.1, subsection 1. If a person
17 is sentenced to prison, the maximum indeterminate term may be
18 less than the maximum term under section 902.9 or 903.1 if the
19 facts and circumstances warrant a reduction in the maximum
20 term.

21 Sec. 2. Section 713.6B, Code 1999, is amended to read as
22 follows:

23 713.6B ATTEMPTED BURGLARY IN THE THIRD DEGREE.

24 1. All attempted burglary which is not attempted burglary
25 in the first degree or attempted burglary in the second degree
26 is attempted burglary in the third degree. Attempted burglary
27 in the third degree is an-aggravated a serious misdemeanor
28 except as otherwise provided in subsection 2.

29 2. Attempted burglary in the third degree involving an
30 attempted burglary of an occupied structure other than a motor
31 vehicle or motor truck as defined in section 321.1, or a
32 vessel as defined in section 462A.2, is an aggravated
33 misdemeanor.

34 Sec. 3. Section 715A.2, subsection 2, paragraph a,
35 unnumbered paragraph 1, Code 1999, is amended to read as

1 follows:

2 Forgery is ~~a class-"D"-felony~~ an aggravated misdemeanor if
3 the writing is or purports to be any of the following:

4 Sec. 4. Section 715A.2, subsection 2, paragraph b, Code
5 1999, is amended to read as follows:

6 b- ~~(5) Forgery-is-an-aggravated-misdemeanor-if-the~~
7 ~~writing-is-or-purports-to-be-a~~ A will, deed, contract,
8 release, commercial instrument, or any other writing or other
9 document evidencing, creating, transferring, altering,
10 terminating, or otherwise affecting legal relations.

11 Sec. 5. Section 902.12, Code 1999, is amended by adding
12 the following new subsection:

13 NEW SUBSECTION. 6. Burglary in the first degree in
14 violation of section 713.3, subsection 1, paragraph "c" or
15 "d".

16 EXPLANATION

17 This bill relates to the criminal offenses of burglary and
18 forgery.

19 The bill changes the criminal penalties for burglary in the
20 third degree or attempted burglary in the third degree for a
21 burglary perpetrated upon an unoccupied motor vehicle, motor
22 truck, or vessel. The bill provides that a person who commits
23 burglary in the third degree on an unoccupied motor vehicle,
24 motor truck, or vessel commits an aggravated misdemeanor and a
25 person who commits attempted burglary in the third degree on
26 an unoccupied motor vehicle, motor truck, or vessel commits a
27 serious misdemeanor. Under the bill, a person who commits a
28 burglary on any other type of unoccupied structure which
29 includes a personal residence commits a class "D" felony.

30 The bill provides that a person who commits burglary in the
31 third degree may be sentenced to any level on the correction
32 continuum under Code section 901B.1, subsection 1. The bill
33 provides that a person who commits burglary in the third
34 degree may be sentenced to an indeterminate prison term that
35 is less than the maximum indeterminate prison term.

1 The bill also provides that an offender who is sentenced
2 for the offense of burglary in the first degree shall serve a
3 sentence that is subject to the maximum accumulation of good
4 conduct time of 15 percent of the total sentence, commonly
5 known as an 85 percent sentence. The bill applies to burglary
6 in the first degree offenses that involve a person
7 intentionally or recklessly inflicting a bodily injury or
8 committing sexual abuse while perpetrating such a burglary.
9 Burglary in the first degree is a class "B" felony.

10 The bill also changes the penalty for forgery from a class
11 "D" penalty to an aggravated misdemeanor.

12 A serious misdemeanor is punishable by confinement for no
13 more than one year and a fine of at least \$250 but not more
14 than \$1,500. An aggravated misdemeanor is punishable by
15 confinement for no more than two years and a fine of at least
16 \$500 but not more than \$5,000. A class "D" felony is
17 punishable by confinement for no more than five years and a
18 fine of at least \$750 but not more than \$7,500. A class "B"
19 felony is punishable by confinement for no more than 25 years.

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H-8395

1 Amend Senate File 2325, as passed by the Senate, as
2 follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. Section 713.6A, Code 1999, is amended
6 to read as follows:

7 713.6A BURGLARY IN THE THIRD DEGREE.

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

12 2. A person convicted of burglary in the third
13 degree involving a burglary of a motor vehicle or
14 motor truck as defined in section 321.1, or a vessel
15 defined in section 462A.2, shall be sentenced as
16 provided in subsection 3.

17 3. Notwithstanding any other provision of the Code
18 to the contrary, a person may be sentenced to a level
19 or any combination of any intermediate criminal
20 sanction level or sublevel under section 901B.1,
21 subsection 1. If a person is sentenced to prison, the
22 maximum indeterminate term may be less than the
23 maximum term provided for class "D" felonies under
24 section 902.9 or 903.1, if the facts and circumstances
25 warrant a reduction in the maximum term."

26 2. Title page, by striking the words "crimes of
27 burglary and forgery" and inserting the following:
28 "crime of burglary".

By COMMITTEE ON JUDICIARY
LARSON of Linn, Chairperson

H-8395 FILED MARCH 17, 2000

**SENATE FILE 2325
FISCAL NOTE**

The estimate for Senate File 2325 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2325 reduces the penalties for burglary in the third degree and attempted burglary in the third degree perpetrated upon an unoccupied motor vehicle, truck, or vessel from a Class D felony to an aggravated misdemeanor and a serious misdemeanor, respectively. Offenders committing burglary in the third degree may be sentenced to any level on the intermediate criminal sanctions continuum. The offender may be sentenced to an indeterminate prison term less than the maximum term.

The Bill provides that burglary in the first degree offenders can earn a maximum of 15.0% of their sentences in good time (an 85.0% sentence). Burglary in the first degree is a Class B felony.

The Bill reduces forgery from a Class D felony to an aggravated misdemeanor.

ASSUMPTIONS

1. Charge, conviction, and sentencing patterns will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections policies will not change over the projection period.
3. There will be a six-month lag after the law becomes effective as inmates are processed into the correctional system.
4. Defense costs and prosecution costs will be approximately the same for the Public Defender and the County Attorney. A Class D felony case costs approximately \$1,000; an aggravated misdemeanor costs approximately \$1,000; and a serious misdemeanor costs approximately \$500.
5. The marginal cost of adding an inmate to the prison population is \$12 per day.
6. The marginal cost of adding an offender to a Community-Based Corrections (CBC) facility is \$14 per day. Intensive supervision costs \$9.41 per day, and regular probation and parole (street supervision) costs \$1.53 per day.
7. The average probation stay is two years. Offenders assigned to residential facilities will spend four months in the facility, six months on intensive supervision, and fourteen months on street supervision.
8. The marginal cost of adding an inmate to the jail population is assumed to be the same as a CBC residential facility, or \$14 per day. The average jail stay will be 52 days.

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CORRECTIONAL IMPACT

The correctional system will experience the following population changes:

	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2005</u>
Prisons	-107	-357	-435
Probation/Parole	-9	-54	-106
CBC Facilities	-15	-20	-20
Jails	17	34	34

Changing first degree burglary to an 85.0% sentence will have an effect by FY 2011, adding 83 inmates to the prison system. By FY 2021, another 130 inmates will be added to the prison system, for a total 20-year impact of 213 additional inmates.

FISCAL IMPACT

The State and county agencies will incur the following savings or costs due to Senate File 2325.

	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2005</u>
Public Defender	\$ -10,000	\$ -20,000	\$ -20,000
Prisons	-469,000	-1,564,000	-1,905,000
Probation/Parole	-26,000	-109,000	-145,000
CBC Facilities	-77,000	-102,000	-102,000
Total State Funds	<u>\$ -582,000</u>	<u>\$-1,795,000</u>	<u>\$-2,172,000</u>

	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2005</u>
County Attorneys	\$ -10,000	\$ -20,000	\$ -20,000
Jails	86,000	172,000	172,000
Total County	<u>\$ 76,000</u>	<u>\$ 152,000</u>	<u>\$ 152,000</u>

SOURCES

Criminal and Juvenile Justice Planning Division, Department of Human Rights
 Office of the Public Defender
 Department of Corrections

(LSB 5780SV, MDF)

FILED MARCH 2, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR