CHAPTER 713

BURGLARY

Referred to in §331.307, §364.22, §701.1, §702.12, §911.3

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713.1 Burglary defined.

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

[C51, §2608, 2611; R60, §4232, 4235; C73, §3891, 3894; C97, §4787, 4791, 4792, 4794; C24, 27, 31, 35, 39, §**12994, 13001 – 13004;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §708.1, 708.8 – 708.11; C79, 81, §713.1]

84 Acts, ch 1247, §2

Referred to in §229A.2

Definition of occupied structure, §702.12

713.2 Attempted burglary defined.

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

[81 Acts, ch 204, §8]

84 Acts, ch 1247, §3

713.3 Burglary in the first degree.

1. A person commits burglary in the first degree if, while perpetrating a burglary in or upon an occupied structure in which one or more persons are present, any of the following circumstances apply:

a. The person has possession of an explosive or incendiary device or material.

b. The person has possession of a dangerous weapon.

c. The person intentionally or recklessly inflicts bodily injury on any person.

d. The person performs or participates in a sex act with any person which would constitute sexual abuse under **section 709.1**.

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

3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of **chapter 692A** for violations of **subsection 1**, paragraphs "*a*", "*b*", or "*c*", the fact finder shall make a determination as provided in **section 692A.126**.

[C51, §2609; R60, §4233; C73, §3892; C97, §4788; S13, §4799-a; C24, 27, 31, 35, 39; §**12995, 12997 – 12999;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §708.2, 708.4-708.6, C79, 81, §713.2]

C83, §713.3

90 Acts, ch 1233, §41; 92 Acts, ch 1231, §57; 94 Acts, ch 1107, §15; 98 Acts, ch 1059, §1; 2010 Acts, ch 1104, §16, 23

Referred to in §692A.101, §692A.102, §692A.126

Definition of forcible felony, see §702.11

713.4 Attempted burglary in the first degree.

1. A person commits attempted burglary in the first degree if, while perpetrating an attempted burglary in or upon an occupied structure in which one or more persons are present, the person has possession of an explosive or incendiary device or material, or a dangerous weapon, or intentionally or recklessly inflicts bodily injury on any person.

2. Attempted burglary in the first degree is a class "C" felony.

3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of **chapter 692A**, the fact finder shall make a determination as provided in **section 692A.126**.

[81 Acts, ch 204, §8]

C83, §713.4

92 Acts, ch 1231, §58; 94 Acts, ch 1107, §16; 2010 Acts, ch 1104, §17, 23

Referred to in **§692A.102**, **§692A.126**

713.5 Burglary in the second degree.

1. A person commits burglary in the second degree in either of the following circumstances:

a. While perpetrating a burglary in or upon an occupied structure in which no persons are present, the person has possession of an explosive or incendiary device or material, or a dangerous weapon, or a bodily injury results to any person.

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

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

3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of **chapter 692A**, the fact finder shall make a determination as provided in **section 692A.126**.

[C79, 81, §713.3]

C83, §713.5

92 Acts, ch 1231, §59; 94 Acts, ch 1107, §17; 2010 Acts, ch 1104, §18, 23

Referred to in **§692A.102**, **§692A.126**

713.6 Attempted burglary in the second degree.

1. A person commits attempted burglary in the second degree in either of the following circumstances:

a. While perpetrating an attempted burglary in or upon an occupied structure in which no persons are present, the person has possession of an explosive or incendiary device or material, or a dangerous weapon, or a bodily injury results to any person.

b. While perpetrating an attempted burglary in or upon an occupied structure in which one or more persons are present, the person does not have possession of an explosive or incendiary device or material, nor a dangerous weapon, and no bodily injury is caused to any person.

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

3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of **chapter 692A**, the fact finder shall make a determination as provided in **section 692A.126**.

[81 Acts, ch 204, §8]

92 Acts, ch 1231, §60; 94 Acts, ch 1107, §18; 2010 Acts, ch 1104, §19, 23

Referred to in **§692A.102**, **§692A.126**

713.6A Burglary in the third degree.

1. All burglary which is not burglary in the first degree or burglary in the second degree is burglary in the third degree. Burglary in the third degree is a class "D" felony, except as provided in **subsection 2**.

2. Burglary in the third degree involving a burglary of an unoccupied motor vehicle or motor truck as defined in **section 321.1**, or a vessel defined in **section 462A.2**, is an aggravated

misdemeanor for a first offense. A second or subsequent conviction under **this subsection** is punishable under **subsection 1**.

3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of **chapter 692A**, the fact finder shall make a determination as provided in **section 692A.126**.

92 Acts, ch 1231, §61; 2001 Acts, ch 165, §1; 2002 Acts, ch 1050, §53; 2010 Acts, ch 1104, §20, 23

Referred to in **§692A.102**, **§692A.126**

713.6B Attempted burglary in the third degree.

1. All attempted burglary which is not attempted burglary in the first degree or attempted burglary in the second degree is attempted burglary in the third degree. Attempted burglary in the third degree is an aggravated misdemeanor, except as provided in **subsection 2**.

2. Attempted burglary in the third degree involving an attempted burglary of an unoccupied motor vehicle or motor truck as defined in **section 321.1**, or a vessel defined in **section 462A.2**, is a serious misdemeanor for a first offense. A second or subsequent conviction under **this subsection** is punishable under **subsection 1**.

3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of **chapter 692A**, the fact finder shall make a determination as provided in **section 692A.126**.

92 Acts, ch 1231, §62; 2001 Acts, ch 165, §2; 2002 Acts, ch 1050, §54; 2010 Acts, ch 1104, §21, 23

Referred to in **§692A.102**, **§692A.126**

713.7 Possession of burglar's tools.

Any person who possesses any key, tool, instrument, device or any explosive, with the intent to use it in the perpetration of a burglary, commits an aggravated misdemeanor.

[C97, §4790; S13, §4790; C24, 27, 31, 35, 39, §**13000;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §708.7; C79, 81, §713.4]

C83, §713.7

92 Acts, ch 1231, §63

713.8 through 713.45 Reserved.