

S. 11/98 Judiciary
S. 3/17/98 Do Pass

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FEB 23 1998
Place On Calendar

HOUSE FILE 2402
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 566)

Passed House, Date 3-11-98 (P. 605) Passed Senate, Date 3/24/98 (P. 869)
Vote: Ayes 97 Nays 0 Vote: Ayes 49 Nays 0
Approved April 6, 1998

A BILL FOR

1 An Act to amend the crime of burglary in the first degree to
2 include commission of sexual abuse as a possible element of
3 the offense.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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HOUSE FILE 2402

H-8179

1 Amend House File 2402 as follows:
2 1. Page 1, line 13, by inserting after the word
3 "performs" the following: "or participates in".
By MURPHY of Dubuque
SCHERRMAN of Dubuque

H-8179 FILED MARCH 3, 1998
adopted 3-11-98
(P. 605)

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HF 2402

1 Section 1. Section 713.3, Code 1997, 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 in or upon an occupied structure in
6 which one or more persons are present, the any of the
7 following circumstances apply:

8 a. The person has possession of an explosive or incendiary
9 device or material~~7-or.~~

10 b. The person has possession of a dangerous weapon~~7-or.~~

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

13 d. The person performs a sex act with any person which
14 would constitute sexual abuse under section 709.1.

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

16 EXPLANATION

17 This bill amends the crime of burglary in the first degree
18 to include perpetrating a burglary in or upon an occupied
19 structure and performing a sex act with any person which would
20 constitute sexual abuse in the first, second, or third degree.
21 Burglary in the first degree is a class "B" felony. Class "B"
22 felonies are punishable by confinement for no more than 25
23 years.

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**HOUSE FILE 2402
FISCAL NOTE**

A fiscal note for House File 2402 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.

House File 2402 adds sexual abuse of a building occupant during a burglary as an element defining first degree burglary. First degree burglary is a Class B felony and carries a 25 year sentence.

ASSUMPTIONS

1. Charge, conviction, and sentencing patterns will remain stable, as will prisoner length of stay, revocation rates, and correctional policies.
2. Approximately five offenders were admitted to prison in 1997 for first degree burglary that included sexual abuse or threat of sexual abuse of their victims.
3. Second degree sexual abuse includes use or threat of force creating a substantial risk of death or serious injury to the victim. Second and first degree sexual abuse carry a greater penalty than first degree burglary. Therefore, only burglars who commit third degree sexual abuse would receive an increased sentence due to this Bill.
4. There were no incidents of third degree sexual abuse during a burglary in 1997.

CORRECTIONAL AND FISCAL IMPACT

House File 2402 is not expected to have a significant correctional or fiscal impact.

SOURCE

Criminal and Juvenile Justice Planning Division,
Department of Human Rights

(LSB 4188hv, MDF)

FILED MARCH 3, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 2402
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 566)

(As Amended and Passed by the House, March 11, 1998)

Passed House (p. 921) Date 3/26/98 Passed Senate (p. 869) Date 3/24/98
Vote: Ayes 47 Nays 0 Vote: Ayes 49 Nays 0
Approved April 6, 1998

A BILL FOR

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2 include commission of sexual abuse as a possible element of
3 the offense.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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New Language _____

1 Section 1. Section 713.3, Code 1997, is amended to read as
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5 perpetrating a burglary in or upon an occupied structure in
6 which one or more persons are present, the any of the
7 following circumstances apply:

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

10 b. The person has possession of a dangerous weapon ~~or.~~

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

13 d. The person performs or participates in a sex act with
14 any person which would constitute sexual abuse under section
15 709.1.

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

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HSB 566

JUDICIARY

SUC
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*Diakla ch
Greiner
Kreiman*

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY CHAIR-
PERSON LAMBERTI)

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

A BILL FOR

1 An Act to amend the crime of burglary in the first degree to
2 include commission of sexual abuse as a possible element of
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17 This bill amends the crime of burglary in the first degree
18 to include perpetrating a burglary in or upon an occupied
19 structure and performing a sex act with any person which would
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2. Burglary in the first degree is a class "B" felony.

HOUSE FILE 2402

AN ACT

TO AMEND THE CRIME OF BURGLARY IN THE FIRST DEGREE TO INCLUDE COMMISSION OF SEXUAL ABUSE AS A POSSIBLE ELEMENT OF THE OFFENSE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 713.3, Code 1997, is amended to read as follows:

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, the any of the following circumstances apply:

- a. The person has possession of an explosive or incendiary device or material, ~~or.~~
- b. The person has possession of a dangerous weapon, ~~or.~~
- 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.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2402, Seventy-seventh General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 6, 1998

TERRY E. BRANSTAD
Governor