

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 3346

STATE OF NEW JERSEY

DATED: FEBRUARY 13, 2023

The Senate Judiciary Committee reports favorably Senate Bill No. 3346.

Presently, burglary, which involves, inter alia, entrance into a structure adapted for overnight accommodation of persons, see N.J.S.2C:18-1, with purpose to commit an offense therein, is punishable under N.J.S.2C:18-2 as a crime of the second degree if the defendant was either armed with or displayed what appeared to be explosives or a deadly weapon, or purposely, knowingly, or recklessly inflicted, attempted to inflict, or threatened to inflict, bodily injury in the course of committing the offense (which includes the immediate flight after the attempt or commission thereof). A crime of the second degree is punishable by a term of imprisonment of five to 10 years, a fine of up to \$150,000, or both.

In all other circumstances, burglary is graded as a crime of the third degree. A crime of the third degree is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both.

The bill would establish that, under any circumstances, the crime of burglary would be graded as a second-degree crime if the actor “unlawfully enter[ed] or surreptitiously remain[ed] in a dwelling or other structure adapted for overnight accommodation of persons, whether or not a person is actually present,” which description could apply to residential homes, condominiums, apartments, guest homes, vacation rentals, and other such places for overnight lodging, whether or not occupied at the time of the act.

This bill further expressly indicates that a person who commits second-degree burglary as established under the bill for dwellings and other structures adapted for overnight accommodations would be subject to the provisions of the No Early Release Act (NERA), section 2 of P.L.1997, c.117 (C.2C:43-7.2). Under NERA, persons convicted of certain enumerated violent or serious crimes of the first or second degree are required to serve a minimum term of at least 85% of the sentence imposed, during which time the person is not eligible for parole.

NERA already applies to second-degree burglary under the specific circumstances described above when the person is armed or actual or potential bodily injury is involved, and the bill adds an additional cross-reference in NERA to those existing provisions of law as well.