

SENATE, No. 55

STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Senator KRISTIN M. CORRADO

District 40 (Bergen, Essex, Morris and Passaic)

Senator DECLAN J. O'SCANLON, JR.

District 13 (Monmouth)

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Senators Holzapfel, Testa and Cryan

SYNOPSIS

Upgrades burglary of a residence to a crime of the second degree; requires mandatory period of parole ineligibility if residence was occupied at time of offense.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 12/14/2023)

1 AN ACT concerning burglary and amending N.J.S.2C:18-2 and
2 P.L.1997, c.117.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. N.J.S.2C:18-2 is amended to read as follows:

8 2C:18-2. Burglary. a. Burglary defined. A person is guilty of
9 burglary if, with purpose to commit an offense therein or thereon
10 he:

11 (1) Enters a research facility, structure, or a separately secured
12 or occupied portion thereof unless the structure was at the time
13 open to the public or the actor is licensed or privileged to enter;

14 (2) Surreptitiously remains in a research facility, structure, or a
15 separately secured or occupied portion thereof knowing that he is
16 not licensed or privileged to do so; or

17 (3) Trespasses in or upon utility company property where public
18 notice prohibiting trespass is given by conspicuous posting, or
19 fencing or other enclosure manifestly designed to exclude intruders.

20 b. Grading. Burglary is a crime of the second degree if in the
21 course of committing the offense, the actor:

22 (1) Purposely, knowingly or recklessly inflicts, attempts to
23 inflict or threatens to inflict bodily injury on anyone; **[or]**

24 (2) Is armed with or displays what appear to be explosives or a
25 deadly weapon; or

26 (3) Unlawfully enters or surreptitiously remains in a dwelling or
27 other structure adapted for overnight accommodation of persons,
28 whether or not a person is actually present. If a person was present
29 at the time of the offense the actor shall be subject to the provisions
30 of subsection a. of section 2 of P.L.1997, c.117 (C.2C:43-7.2).

31 Otherwise burglary is a crime of the third degree. An act shall
32 be deemed "in the course of committing" an offense if it occurs in
33 an attempt to commit an offense or in immediate flight after the
34 attempt or commission.

35 (cf: P.L.2009, c.283, s.2)

36

37 2. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to
38 read as follows:

39 2. a. A court imposing a sentence of incarceration for a crime
40 of the first or second degree enumerated in subsection d. of this
41 section shall fix a minimum term of 85% of the sentence imposed,
42 during which the defendant shall not be eligible for parole.

43 b. The minimum term required by subsection a. of this section
44 shall be fixed as a part of every sentence of incarceration imposed
45 upon every conviction of a crime enumerated in subsection d. of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 this section, whether the sentence of incarceration is determined
2 pursuant to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any
3 other provision of law, and shall be calculated based upon the
4 sentence of incarceration actually imposed. The provisions of
5 subsection a. of this section shall not be construed or applied to
6 reduce the time that must be served before eligibility for parole by
7 an inmate sentenced to a mandatory minimum period of
8 incarceration. Solely for the purpose of calculating the minimum
9 term of parole ineligibility pursuant to subsection a. of this section,
10 a sentence of life imprisonment shall be deemed to be 75 years.

11 c. Notwithstanding any other provision of law to the contrary
12 and in addition to any other sentence imposed, a court imposing a
13 minimum period of parole ineligibility of 85 percent of the sentence
14 pursuant to this section shall also impose a five-year term of parole
15 supervision if the defendant is being sentenced for a crime of the
16 first degree, or a three-year term of parole supervision if the
17 defendant is being sentenced for a crime of the second degree. The
18 term of parole supervision shall commence upon the completion of
19 the sentence of incarceration imposed by the court pursuant to
20 subsection a. of this section unless the defendant is serving a
21 sentence of incarceration for another crime at the time he completes
22 the sentence of incarceration imposed pursuant to subsection a., in
23 which case the term of parole supervision shall commence
24 immediately upon the defendant's release from incarceration.
25 During the term of parole supervision the defendant shall remain in
26 release status in the community in the legal custody of the
27 Commissioner of the Department of Corrections and shall be
28 supervised by the State Parole Board as if on parole and shall be
29 subject to the provisions and conditions of section 3 of P.L.1997,
30 c.117 (C.30:4-123.51b).

31 d. The court shall impose sentence pursuant to subsection a. of
32 this section upon conviction of the following crimes or an attempt
33 or conspiracy to commit any of these crimes:

- 34 (1) N.J.S.2C:11-3, murder;
- 35 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
- 36 (3) N.J.S.2C:11-5, vehicular homicide;
- 37 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
- 38 (5) subsection b. of section 1 of P.L.1996, c.14 (C.2C:12-11),
39 disarming a law enforcement officer;
- 40 (6) N.J.S.2C:13-1, kidnapping;
- 41 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
- 42 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of
43 subsection c. of N.J.S.2C:14-2, sexual assault;
- 44 (9) N.J.S.2C:15-1, robbery;
- 45 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
- 46 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated
47 arson;
- 48 (12) paragraph (3) of subsection b. of N.J.S.2C:18-2, burglary, if
49 a person was present at the time of the offense;

- 1 (13) subsection a. of N.J.S.2C:20-5, extortion;
2 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),
3 booby traps in manufacturing or distribution facilities;
4 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;
5 (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;
6 (17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or
7 possessing chemical weapons, biological agents or nuclear or
8 radiological devices;
9 (18) N.J.S.2C:41-2, racketeering, when it is a crime of the first
10 degree:
11 (19) subsection i. of N.J.S.2C:39-9, firearms trafficking; or
12 (20) paragraph (3) of subsection b. of N.J.S.2C:24-4, causing or
13 permitting a child to engage in a prohibited sexual act, knowing that
14 the act may be reproduced or reconstructed in any manner, or be
15 part of an exhibition or performance.
16 e. (Deleted by amendment, P.L.2001, c.129).
17 (cf: P.L.2013, c.136, s.4)
18
19 3. This act shall take effect immediately.
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22 STATEMENT
23

24 This bill would upgrade burglary of a residence to a crime of the
25 second degree and provide that an offender is not eligible for early
26 release if a person was present in the residence at the time of the
27 offense.

28 Currently, all burglary offenses are crimes of the third degree
29 unless the offender purposely, knowingly, or recklessly inflicts,
30 attempts to inflict, or threatens to inflict bodily injury on someone
31 or if the offender is armed with explosives or a deadly weapon, in
32 which case it is a crime of the second degree. This bill would
33 provide that it is also a crime of the second degree to unlawfully
34 enter or surreptitiously remain in a dwelling or other structure
35 adapted for overnight accommodation of persons, whether or not a
36 person is actually present.

37 Additionally, the bill would provide that, if a person was present
38 in the dwelling at the time of the burglary, the offender would be
39 subject to the provisions of subsection a. of section 2 of P.L.1997,
40 c.117 (C.2C:43-7.2), commonly known as the "No Early Release
41 Act (NERA)," which requires that certain offenders must serve a
42 minimum 85% of the sentence of imprisonment imposed for the
43 offense.

44 A crime of the second degree is punishable by imprisonment for
45 five to 10 years, up to a \$150,000 fine, or both. A crime of the third
46 degree is punishable by imprisonment for three to five years, up to a
47 \$15,000 fine, or both.