

By Senator Smith

5-614-01

1                                   A bill to be entitled  
2           An act relating to burglary; amending s.  
3           810.02, F.S.; revising the elements of the  
4           offense of burglary to include the acts of  
5           remaining in a building surreptitiously with  
6           the intent of committing an offense, remaining  
7           in a building without permission with the  
8           intent of committing an offense, and remaining  
9           in a building with the intent of committing or  
10          attempting to commit a forcible felony;  
11          reenacting ss. 810.11(1), (2), and (3), and  
12          943.325(1)(a), F.S., relating to burglary and  
13          trespass and the testing of blood specimens, to  
14          incorporate the amendment to s. 810.02, F.S.,  
15          in references thereto; providing an effective  
16          date.

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18 Be It Enacted by the Legislature of the State of Florida:

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20           Section 1. Section 810.02, Florida Statutes, is  
21 amended to read:

22           810.02 Burglary.--

23           (1) "Burglary" means:

24           (a) Entering ~~or remaining in~~ a dwelling, a structure,  
25 or a conveyance with the intent to commit an offense therein,  
26 unless the premises are at the time open to the public or the  
27 defendant is licensed or invited to enter or remain.28           (b) Notwithstanding a licensed or invited entry,  
29 remaining in a dwelling, structure, or conveyance:30           1. Surreptitiously, with the intent to commit an  
31 offense therein;

1           2. After permission to remain therein has been  
2 withdrawn, with the intent to commit an offense therein; or

3           3. With the intent to commit or attempt to commit a  
4 forcible felony, as defined in s. 776.08.

5           (2) Burglary is a felony of the first degree,  
6 punishable by imprisonment for a term of years not exceeding  
7 life imprisonment or as provided in s. 775.082, s. 775.083, or  
8 s. 775.084, if, in the course of committing the offense, the  
9 offender:

10           (a) Makes an assault or battery upon any person; or

11           (b) Is or becomes armed within the dwelling,  
12 structure, or conveyance, with explosives or a dangerous  
13 weapon; or

14           (c) Enters an occupied or unoccupied dwelling or  
15 structure, and:

16           1. Uses a motor vehicle as an instrumentality, other  
17 than merely as a getaway vehicle, to assist in committing the  
18 offense, and thereby damages the dwelling or structure; or

19           2. Causes damage to the dwelling or structure, or to  
20 property within the dwelling or structure in excess of \$1,000.

21           (3) Burglary is a felony of the second degree,  
22 punishable as provided in s. 775.082, s. 775.083, or s.  
23 775.084, if, in the course of committing the offense, the  
24 offender does not make an assault or battery and is not and  
25 does not become armed with a dangerous weapon or explosive,  
26 and the offender enters or remains in a:

27           (a) Dwelling, and there is another person in the  
28 dwelling at the time the offender enters or remains;

29           (b) Dwelling, and there is not another person in the  
30 dwelling at the time the offender enters or remains;

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1 (c) Structure, and there is another person in the  
2 structure at the time the offender enters or remains; or

3 (d) Conveyance, and there is another person in the  
4 conveyance at the time the offender enters or remains.

5 (4) Burglary is a felony of the third degree,  
6 punishable as provided in s. 775.082, s. 775.083, or s.  
7 775.084, if, in the course of committing the offense, the  
8 offender does not make an assault or battery and is not and  
9 does not become armed with a dangerous weapon or explosive,  
10 and the offender enters or remains in a:

11 (a) Structure, and there is not another person in the  
12 structure at the time the offender enters or remains; or

13 (b) Conveyance, and there is not another person in the  
14 conveyance at the time the offender enters or remains.

15 Section 2. For the purpose of incorporating the  
16 amendment to section 810.02, Florida Statutes, in references  
17 thereto, subsections (1), (2), and (3) of section 810.011,  
18 Florida Statutes, are reenacted to read:

19 810.011 Definitions.--As used in this chapter:

20 (1) "Structure" means a building of any kind, either  
21 temporary or permanent, which has a roof over it, together  
22 with the curtilage thereof. However, during the time of a  
23 state of emergency declared by executive order or proclamation  
24 of the Governor under chapter 252 and within the area covered  
25 by such executive order or proclamation and for purposes of  
26 ss. 810.02 and 810.08 only, the term means a building of any  
27 kind or such portions or remnants thereof as exist at the  
28 original site, regardless of absence of a wall or roof.

29 (2) "Dwelling" means a building or conveyance of any  
30 kind, including any attached porch, whether such building or  
31 conveyance is temporary or permanent, mobile or immobile,

1 which has a roof over it and is designed to be occupied by  
2 people lodging therein at night, together with the curtilage  
3 thereof. However, during the time of a state of emergency  
4 declared by executive order or proclamation of the Governor  
5 under chapter 252 and within the area covered by such  
6 executive order or proclamation and for purposes of ss. 810.02  
7 and 810.08 only, the term includes such portions or remnants  
8 thereof as exist at the original site, regardless of absence  
9 of a wall or roof.

10 (3) "Conveyance" means any motor vehicle, ship,  
11 vessel, railroad vehicle or car, trailer, aircraft, or  
12 sleeping car; and "to enter a conveyance" includes taking  
13 apart any portion of the conveyance. However, during the time  
14 of a state of emergency declared by executive order or  
15 proclamation of the Governor under chapter 252 and within the  
16 area covered by such executive order or proclamation and for  
17 purposes of ss. 810.02 and 810.08 only, the term "conveyance"  
18 means a motor vehicle, ship, vessel, railroad vehicle or car,  
19 trailer, aircraft, or sleeping car or such portions thereof as  
20 exist.

21 Section 3. For the purpose of incorporating the  
22 amendment to section 810.02, Florida Statutes, in references  
23 thereto, paragraph (a) of subsection (1) of section 943.325,  
24 Florida Statutes, is reenacted to read:

25 943.325 Blood specimen testing for DNA analysis.--

26 (1)(a) Any person who is convicted or was previously  
27 convicted in this state for any offense or attempted offense  
28 defined in chapter 794, chapter 800, s. 782.04, s. 784.045, s.  
29 810.02, s. 812.133, or s. 812.135 and who is either:

30 1. Still incarcerated, or

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1           2. No longer incarcerated but is within the confines  
2 of the legal state boundaries and is on probation, community  
3 control, parole, conditional release, control release, or any  
4 other court-ordered supervision,  
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6 shall be required to submit two specimens of blood to a  
7 Department of Law Enforcement designated testing facility as  
8 directed by the department.

9           Section 4. This act shall take effect July 1, 2001.

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SENATE SUMMARY

Modifies the elements of the offense of burglary to include remaining in a building surreptitiously with intent to commit an offense, remaining in a building after permission to remain is withdrawn with intent to commit an offense, and remaining in a building with intent to commit a forcible felony. (See bill for details.)