



WORKING DRAFT

General Assembly

Raised Bill No.

No. 2

10004_____JUD

Referred to Committee on

Introduced by:
(JUD)

AN ACT CONCERNING BURGLARY AND PERSISTENT OFFENDERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-101 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) A person is guilty of burglary in the first degree when: [he] (1)
4 Such person enters or remains unlawfully in a building with intent to
5 commit a crime therein and [:(1) He] is armed with explosives or a
6 deadly weapon or dangerous instrument, or (2) such person enters or
7 remains unlawfully in a building with intent to commit a crime therein
8 and, in the course of committing the offense, [he] such person
9 intentionally, knowingly or recklessly inflicts or attempts to inflict
10 bodily injury on anyone, or (3) such person enters or remains
11 unlawfully in a dwelling at night with intent to commit a crime
12 therein, or (4) such person enters or remains unlawfully in a dwelling,
13 while a person other than the participant in the crime is actually
14 present in such dwelling, with intent to commit a crime therein, or (5)
15 such person enters or remains unlawfully in a dwelling with intent to
16 commit a crime therein and is aided by one or more persons actually
17 present.

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18 (b) An act shall be deemed "in the course of committing" the offense
19 if it occurs in an attempt to commit the offense or flight after the
20 attempt or commission.

21 (c) Burglary in the first degree is a class B felony [provided] and any
22 person found guilty under subdivision (1), ~~(2)~~, ~~(4)~~ or ~~(5)~~ of subsection
23 (a) of this section shall be sentenced to a term of imprisonment of
24 which five years of the sentence imposed may not be suspended or
25 reduced by the court.

26 Sec. 2. (NEW) (*Effective from passage*) (a) A person is guilty of
27 aggravated burglary in the first degree when such person enters or
28 remains unlawfully in a dwelling, while a person other than a
29 participant in the crime is actually present in such dwelling, with
30 intent to commit a crime therein, and, in the course of committing the
31 offense: (1) Acting either alone or with one or more persons, such
32 person or another participant in the crime commits or attempts to
33 commit a felony against the person of another person other than a
34 participant in the crime who is actually present in such dwelling, or (2)
35 such person is armed with explosives or a deadly weapon or
36 dangerous instrument.

37 (b) An act shall be deemed "in the course of committing" the offense
38 if it occurs in an attempt to commit the offense or flight after the
39 attempt or commission.

40 (c) Aggravated burglary in the first degree is a class A felony and
41 any person found guilty under this section shall be sentenced to a term
42 of imprisonment of twenty-five years of which ten years may not be
43 suspended or reduced by the court.

44 Sec. 3. Section 53a-102 of the general statutes is repealed and the
45 following is substituted in lieu thereof (*Effective from passage*):

46 (a) A person is guilty of burglary in the second degree when such
47 person [(1)] enters or remains unlawfully in a [dwelling at night]

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48 building with intent to commit a crime therein [, or (2) enters or
49 remains unlawfully in a dwelling, while a person other than a
50 participant in the crime is actually present in such dwelling, with
51 intent to commit a crime therein] and, in the course of committing the
52 offense, threatens the use of or displays or represents by such person's
53 words or conduct that such person possesses a firearm.

54 (b) An act shall be deemed "in the course of committing" the offense
55 if it occurs in an attempt to commit the offense or flight after the
56 attempt or commission.

57 [(b)] (c) Burglary in the second degree is a class C felony for a first
58 offense and a class B felony for any subsequent offense, and any
59 person found guilty under this section shall be sentenced to a term of
60 imprisonment of which three years of the sentence imposed may not
61 be suspended or reduced by the court.

62 Sec. 4. Section 53a-103 of the general statutes is repealed and the
63 following is substituted in lieu thereof (*Effective from passage*):

64 (a) A person is guilty of burglary in the third degree when [he] such
65 person enters or remains unlawfully in a building with intent to
66 commit a crime therein.

67 (b) Burglary in the third degree is a class D felony for a first offense,
68 a class C felony for a second offense and a class B felony for any
69 subsequent offense.

70 Sec. 5. Subsection (b) of section 54-125a of the general statutes is
71 repealed and the following is substituted in lieu thereof (*Effective from*
72 *passage*):

73 (b) (1) No person convicted of any of the following offenses, which
74 was committed on or after July 1, 1981, shall be eligible for parole
75 under subsection (a) of this section: Capital felony, as provided in
76 section 53a-54b, felony murder, as provided in section 53a-54c, arson
77 murder, as provided in section 53a-54d, murder, as provided in section

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78 53a-54a, or aggravated sexual assault in the first degree, as provided in
79 section 53a-70a. (2) A person convicted of burglary in the first degree,
80 as provided in section 53a-101, as amended by this act, aggravated
81 burglary in the first degree, as provided in section 2 of this act, or an
82 offense, other than an offense specified in subdivision (1) of this
83 subsection, where the underlying facts and circumstances of the
84 offense involve the use, attempted use or threatened use of physical
85 force against another person shall be ineligible for parole under
86 subsection (a) of this section until such person has served not less than
87 eighty-five per cent of the definite sentence imposed.

88 Sec. 6. Section 53a-100 of the general statutes is repealed and the
89 following is substituted in lieu thereof (*Effective from passage*):

90 (a) The following definitions are applicable to this part and section 2
91 of this act: (1) "Building" in addition to its ordinary meaning, includes
92 any watercraft, aircraft, trailer, sleeping car, railroad car or other
93 structure or vehicle or any building with a valid certificate of
94 occupancy. Where a building consists of separate units, such as, but
95 not limited to separate apartments, offices or rented rooms, any unit
96 not occupied by the actor is, in addition to being a part of such
97 building, a separate building; (2) "dwelling" means a building which is
98 usually occupied by a person lodging therein at night, whether or not a
99 person is actually present; (3) "night" means the period between thirty
100 minutes after sunset and thirty minutes before sunrise; and (4) "public
101 land" means a state park, state forest or municipal park or any other
102 publicly-owned land that is open to the public for active or passive
103 recreation.

104 (b) The following definition is applicable to sections 53a-101 to 53a-
105 106, inclusive, as amended by this act, and section 2 of this act: A
106 person "enters or remains unlawfully" in or upon premises when the
107 premises, at the time of such entry or remaining, are not open to the
108 public and when the actor is not otherwise licensed or privileged to do
109 so.

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110 Sec. 7. Subsection (a) of section 53a-40 of the general statutes is
111 repealed and the following is substituted in lieu thereof (*Effective from*
112 *passage*):

113 (a) A persistent dangerous felony offender is a person who:

114 (1) (A) Stands convicted of murder, manslaughter, arson,
115 kidnapping, robbery in the first or second degree, [or assault in the
116 first degree] assault constituting a class B or C felony, burglary in the
117 first or second degree or burglary in the second degree with a firearm,
118 or an attempt or conspiracy to commit any of said crimes, and (B) has
119 been, prior to the commission of the present crime, convicted of and
120 imprisoned [under a sentence to a term of imprisonment of more than
121 one year or of death, in this state or in any other state or in a federal
122 correctional institution,] for any of the following crimes: (i) The crimes
123 enumerated in subparagraph (A) of this subdivision or an attempt or
124 conspiracy to commit any of said crimes; or (ii) [murder,] sexual
125 assault in the first or third degree, aggravated sexual assault in the first
126 degree or sexual assault in the third degree with a firearm, or an
127 attempt or conspiracy to commit any of said crimes; [or (iii) prior to
128 October 1, 1975, any of the crimes enumerated in section 53a-72, 53a-75
129 or 53a-78 of the general statutes, revision of 1958, revised to 1975, or
130 prior to October 1, 1971, in this state, assault with intent to kill under
131 section 54-117, or any of the crimes enumerated in sections 53-9, 53-10,
132 53-11, 53-12 to 53-16, inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80,
133 inclusive, 53-82, 53-83, 53-86, 53-238 and 53-239 of the general statutes,
134 revision of 1958, revised to 1968, or any predecessor statutes in this
135 state, or an attempt to commit any of said crimes; or (iv)] or (iii) in any
136 other state, any crimes the essential elements of which are substantially
137 the same as any of the crimes enumerated in subparagraph (A) of this
138 subdivision or this subparagraph; or

139 (2) (A) Stands convicted of sexual assault in the first or third degree,
140 aggravated sexual assault in the first degree or sexual assault in the
141 third degree with a firearm, or an attempt or conspiracy to commit any

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142 of said crimes, and (B) has been, prior to the commission of the present
143 crime, convicted of and imprisoned [under a sentence to a term of
144 imprisonment of more than one year or of death, in this state or in any
145 other state or in a federal correctional institution,] for any of the
146 following crimes: (i) [Murder] The crimes enumerated in subparagraph
147 (A) of this subdivision, or an attempt or conspiracy to commit any of
148 said crimes; or (ii) murder, manslaughter, arson, kidnapping, robbery
149 in the first or second degree, [or assault in the first degree] assault
150 constituting a class B or C felony, burglary in the first or second degree
151 or burglary in the second degree with a firearm, or an attempt or
152 conspiracy to commit any of said crimes; [or (ii) prior to October 1,
153 1971, in this state, assault with intent to kill under section 54-117, or
154 any of the crimes enumerated in sections 53-9, 53-10, 53-11, 53-12 to 53-
155 16, inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80, inclusive, 53-82, 53-83
156 and 53-86 of the general statutes, revision of 1958, revised to 1968, or
157 any predecessor statutes in this state, or an attempt to commit any of
158 said crimes;] or (iii) in any other state, any crimes the essential
159 elements of which are substantially the same as any of the crimes
160 enumerated in subparagraph (A) of this subdivision or this
161 subparagraph.

162 Sec. 8. Subsection (h) of section 53a-40 of the general statutes is
163 repealed and the following is substituted in lieu thereof (*Effective from*
164 *passage*):

165 (h) When any person has been found to be a persistent dangerous
166 felony offender, [and the court is of the opinion that such person's
167 history and character and the nature and circumstances of such
168 person's criminal conduct indicate that extended incarceration and
169 lifetime supervision will best serve the public interest,] the court, in
170 lieu of imposing the sentence of imprisonment authorized by [section
171 53a-35] the general statutes for the crime of which such person
172 presently stands convicted, [or authorized by section 53a-35a if the
173 crime of which such person presently stands convicted was committed
174 on or after July 1, 1981, shall sentence such person to a term of

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175 imprisonment of not more than forty years and, if such person has, at
176 separate times prior to the commission of the present crime, been twice
177 convicted of and imprisoned for any of the crimes enumerated in
178 subdivision (2) of subsection (a) of this section, sentence such person to
179 a term of imprisonment of not more than life] shall sentence such
180 person as follows: (1) For the class A felony of murder, a term of
181 imprisonment of not less than forty years or more than life, of which
182 ten years of the sentence imposed may not be suspended or reduced
183 by the court, (2) for a class A felony other than murder, a term of
184 imprisonment of not less than twenty years or more than life, of which
185 ten years of the sentence imposed may not be suspended or reduced
186 by the court, and (3) for a felony other than a felony specified in
187 subdivision (1) or (2) of this subsection, a term of imprisonment of not
188 less than ten years or more than forty years, of which ten years of the
189 sentence imposed may not be suspended or reduced by the court;
190 except that, if such person has, at separate times prior to the
191 commission of the present crime, been twice convicted of and
192 imprisoned for any of the crimes enumerated in subparagraph (A) of
193 subdivision (1) or subparagraph (A) of subdivision (2) of subsection (a)
194 of this section, the court shall sentence such person to a term of
195 imprisonment of not less than forty-five years or more than life, of
196 which forty-five years of the sentence imposed may not be suspended
197 or reduced by the court. The provisions of this subsection shall not
198 apply to a person who presently stands convicted of a capital felony.

Comment [RDT1]: 53a-00--0040---
K:(j):(j)::::

199 Sec. 9. Subsection (c) of section 53a-40 of the general statutes is
200 repealed and the following is substituted in lieu thereof (*Effective from*
201 *passage*):

202 (c) A persistent serious felony offender is a person who (1) stands
203 convicted of a class A, B, C or D felony, and (2) has been, at separate
204 times prior to the commission of the present felony, twice convicted of
205 [and imprisoned under an imposed term of more than one year or of
206 death, in this state or in any other state or in a federal correctional
207 institution, for a crime. This subsection shall not apply where the

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208 present conviction is for a crime enumerated in subdivision (1) of
209 subsection (a) of this section and the prior conviction was for a crime
210 other than those enumerated in subsection (a) of this section] a felony
211 in this state or any other state.

212 Sec. 10. Subsection (j) of section 53a-40 of the general statutes is
213 repealed and the following is substituted in lieu thereof (*Effective from*
214 *passage*):

215 (j) When any person has been found to be a persistent serious felony
216 offender, [and the court is of the opinion that such person's history and
217 character and the nature and circumstances of such person's criminal
218 conduct indicate that extended incarceration will best serve the public
219 interest,] the court, in lieu of imposing the sentence of imprisonment
220 authorized by [section 53a-35] the general statutes for the crime of
221 which such person presently stands convicted, [or authorized by
222 section 53a-35a if the crime of which such person presently stands
223 convicted was committed on or after July 1, 1981, may] shall impose
224 the sentence of imprisonment authorized by [said section] the general
225 statutes for the next more serious degree of felony, except that, if the
226 crime of which such person presently stands convicted is the class A
227 felony of murder, the court shall sentence such person to a term of
228 imprisonment of not less than forty years or more than life, of which
229 fifteen years of the sentence imposed may not be suspended or
230 reduced by the court and, if the crime of which such person presently
231 stands convicted is a class A felony other than murder, the court shall
232 sentence such person to a term of imprisonment of not less than fifteen
233 years or more than forty years, of which fifteen years of the sentence
234 imposed may not be suspended or reduced by the court. The
235 provisions of this subsection shall not apply to a person who presently
236 stands convicted of a capital felony.

237 Sec. 11. Subsection (f) of section 53a-40 of the general statutes is
238 repealed and the following is substituted in lieu thereof (*Effective from*
239 *passage*):

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240 (f) A persistent felony offender is a person who (1) stands convicted
241 of a class A, B, C or D felony, [other than a class D felony,] and (2) has
242 been, at a separate [times] time prior to the commission of the present
243 felony, [twice] convicted of a felony [other than a class D felony] in this
244 state or any other state.

245 Sec. 12. Subsection (m) of section 53a-40 of the general statutes is
246 repealed and the following is substituted in lieu thereof (*Effective from*
247 *passage*):

248 (m) When any person has been found to be a persistent felony
249 offender, [and the court is of the opinion that such person's history and
250 character and the nature and circumstances of such person's criminal
251 conduct indicate that extended incarceration will best serve the public
252 interest,] the court, in lieu of imposing the sentence authorized by
253 [section 53a-35a] the general statutes for the crime of which such
254 person presently stands convicted, may impose the sentence of
255 imprisonment authorized by [said section] the general statutes for the
256 next more serious degree of felony, [; provided the sentence imposed
257 may not be less than three years, and provided further three years of
258 the sentence so imposed may not be suspended or reduced by the
259 court] except that, if the crime of which such person presently stands
260 convicted is the class A felony of murder, the court shall sentence such
261 person to a term of imprisonment of not less than thirty years or more
262 than life and, if the crime of which such person presently stands
263 convicted is a class A felony other than murder, the court shall
264 sentence such person to a term of imprisonment of not more than
265 thirty years. The provisions of this subsection shall not apply to a
266 person who presently stands convicted of a capital felony.

267 Sec. 13. Sections 53a-102a and 53a-103a of the general statutes are
268 repealed. (*Effective from passage*)

This act shall take effect as follows and shall amend the following sections:

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Section 1	<i>from passage</i>	53a-101
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	53a-102
Sec. 4	<i>from passage</i>	53a-103
Sec. 5	<i>from passage</i>	54-125a(b)
Sec. 6	<i>from passage</i>	53a-100
Sec. 7	<i>from passage</i>	53a-40(a)
Sec. 8	<i>from passage</i>	53a-40(h)
Sec. 9	<i>from passage</i>	53a-40(c)
Sec. 10	<i>from passage</i>	53a-40(j)
Sec. 11	<i>from passage</i>	53a-40(f)
Sec. 12	<i>from passage</i>	53a-40(m)
Sec. 13	<i>from passage</i>	Repealer section

Statement of Purpose:

To revise the penalties and elements of burglary in the first, second and third degree, establish a new crime of aggravated burglary in the first degree, classify burglary in the first degree and aggravated burglary in the first degree as violent offenses for purposes of parole release, repeal the crimes of burglary in the second and third degree with a firearm and revise the definition of and penalty for a persistent dangerous felony offender, a persistent serious felony offender and a persistent felony offender.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]