



WORKING DRAFT

General Assembly

Raised Bill No.

No. 6

09942_____JUD

Referred to Committee on

Introduced by:
(JUD)

AN ACT CONCERNING OCCUPIED HOME INVASION.

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

1 Section 1. (NEW) (*Effective from passage*) (a) A person is guilty of
2 occupied home invasion when such person enters or remains
3 unlawfully in a dwelling, while a person other than a participant in the
4 crime is actually present in such dwelling, with intent to commit a
5 crime therein.

6 (b) Occupied home invasion is a class A felony.

7 Sec. 2. Section 53a-102 of the general statutes is repealed and the
8 following is substituted in lieu thereof (*Effective from passage*):

9 (a) A person is guilty of burglary in the second degree when such
10 person [(1)] enters or remains unlawfully in a dwelling at night with
11 intent to commit a crime therein. [, or (2) enters or remains unlawfully
12 in a dwelling, while a person other than a participant in the crime is
13 actually present in such dwelling, with intent to commit a crime
14 therein.]

15 (b) Burglary in the second degree is a class C felony.

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16 Sec. 3. Section 53a-100 of the general statutes is repealed and the
17 following is substituted in lieu thereof (*Effective from passage*):

18 (a) The following definitions are applicable to this part and section 1
19 of this act: (1) "Building" in addition to its ordinary meaning, includes
20 any watercraft, aircraft, trailer, sleeping car, railroad car or other
21 structure or vehicle or any building with a valid certificate of
22 occupancy. Where a building consists of separate units, such as, but
23 not limited to separate apartments, offices or rented rooms, any unit
24 not occupied by the actor is, in addition to being a part of such
25 building, a separate building; (2) "dwelling" means a building which is
26 usually occupied by a person lodging therein at night, whether or not a
27 person is actually present; (3) "night" means the period between thirty
28 minutes after sunset and thirty minutes before sunrise; and (4) "public
29 land" means a state park, state forest or municipal park or any other
30 publicly-owned land that is open to the public for active or passive
31 recreation.

32 (b) The following definition is applicable to sections 53a-101 to 53a-
33 106, inclusive, and section 1 of this act: A person "enters or remains
34 unlawfully" in or upon premises when the premises, at the time of
35 such entry or remaining, are not open to the public and when the actor
36 is not otherwise licensed or privileged to do so.

37 Sec. 4. Subsection (b) of section 54-125a of the general statutes is
38 repealed and the following is substituted in lieu thereof (*Effective from*
39 *passage*):

40 (b) (1) No person convicted of any of the following offenses, which
41 was committed on or after July 1, 1981, shall be eligible for parole
42 under subsection (a) of this section: Capital felony, as provided in
43 section 53a-54b, felony murder, as provided in section 53a-54c, arson
44 murder, as provided in section 53a-54d, murder, as provided in section
45 53a-54a, or aggravated sexual assault in the first degree, as provided in
46 section 53a-70a. (2) A person convicted of (A) an offense, other than an
47 offense specified in subdivision (1) of this subsection, where the

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48 underlying facts and circumstances of the offense involve the use,
49 attempted use or threatened use of physical force against another
50 person, or (B) occupied home invasion in violation of section 1 of this
51 act shall be ineligible for parole under subsection (a) of this section
52 until such person has served not less than eighty-five per cent of the
53 definite sentence imposed.

54 Sec. 5. Subsection (a) of section 53a-40 of the general statutes is
55 repealed and the following is substituted in lieu thereof (*Effective from*
56 *passage*):

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

58 (1) (A) Stands convicted of manslaughter, arson, kidnapping,
59 robbery in the first or second degree, [or] assault in the first degree or
60 occupied home invasion, and (B) has been, prior to the commission of
61 the present crime, convicted of and imprisoned under a sentence to a
62 term of imprisonment of more than one year or of death, in this state
63 or in any other state or in a federal correctional institution, for any of
64 the following crimes: (i) The crimes enumerated in subparagraph (A)
65 of this subdivision or an attempt to commit any of said crimes; or (ii)
66 murder, sexual assault in the first or third degree, aggravated sexual
67 assault in the first degree or sexual assault in the third degree with a
68 firearm, or an attempt to commit any of said crimes; or (iii) prior to
69 October 1, 1975, any of the crimes enumerated in section 53a-72, 53a-75
70 or 53a-78 of the general statutes, revision of 1958, revised to 1975, or
71 prior to October 1, 1971, in this state, assault with intent to kill under
72 section 54-117, or any of the crimes enumerated in sections 53-9, 53-10,
73 53-11, 53-12 to 53-16, inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80,
74 inclusive, 53-82, 53-83, 53-86, 53-238 and 53-239 of the general statutes,
75 revision of 1958, revised to 1968, or any predecessor statutes in this
76 state, or an attempt to commit any of said crimes; or (iv) in any other
77 state, any crimes the essential elements of which are substantially the
78 same as any of the crimes enumerated in subparagraph (A) of this
79 subdivision or this subparagraph; or

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80 (2) (A) Stands convicted of sexual assault in the first or third degree,
81 aggravated sexual assault in the first degree or sexual assault in the
82 third degree with a firearm, and (B) has been, prior to the commission
83 of the present crime, convicted of and imprisoned under a sentence to
84 a term of imprisonment of more than one year or of death, in this state
85 or in any other state or in a federal correctional institution, for any of
86 the following crimes: (i) Murder, manslaughter, arson, kidnapping,
87 robbery in the first or second degree, [or] assault in the first degree or
88 occupied home invasion, or an attempt to commit any of said crimes;
89 or (ii) prior to October 1, 1971, in this state, assault with intent to kill
90 under section 54-117, or any of the crimes enumerated in sections 53-9,
91 53-10, 53-11, 53-12 to 53-16, inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80,
92 inclusive, 53-82, 53-83 and 53-86 of the general statutes, revision of
93 1958, revised to 1968, or any predecessor statutes in this state, or an
94 attempt to commit any of said crimes; or (iii) in any other state, any
95 crimes the essential elements of which are substantially the same as
96 any of the crimes enumerated in subparagraph (A) of this subdivision
97 or this subparagraph.

98 Sec. 6. Subsection (h) of section 53a-40 of the general statutes is
99 repealed and the following is substituted in lieu thereof (*Effective from*
100 *passage*):

101 (h) When any person has been found to be a persistent dangerous
102 felony offender, and [the court is of the opinion that] such person's
103 history and character and the nature and circumstances of such
104 person's criminal conduct indicate that extended incarceration and
105 lifetime supervision will best serve the public interest, the court, in lieu
106 of imposing the sentence of imprisonment authorized by section
107 53a-35 for the crime of which such person presently stands convicted,
108 or authorized by section 53a-35a if the crime of which such person
109 presently stands convicted was committed on or after July 1, 1981,
110 shall, [sentence such person to a term of imprisonment of not more
111 than forty years and,] if such person has, at separate times prior to the
112 commission of the present crime, been twice convicted of and

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113 imprisoned for any of the crimes enumerated in subparagraph (B) of
114 subdivision [(2)] (1) of subsection (a) of this section, sentence such
115 person to [a term of imprisonment of not more than life] life
116 imprisonment, except that in determining the number of prior
117 convictions for sentencing purposes under this subsection the court
118 may, in the interests of justice, strike an allegation that such person
119 had previously been convicted of and imprisoned for one of said
120 enumerated crimes so that such person has only one prior conviction
121 for purposes of this subsection and, if such an allegation is so stricken,
122 the court shall sentence such person to a term of imprisonment that is
123 twice the term otherwise provided as punishment for the crime of
124 which such person presently stands convicted.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	53a-102
Sec. 3	<i>from passage</i>	53a-100
Sec. 4	<i>from passage</i>	54-125a(b)
Sec. 5	<i>from passage</i>	53a-40(a)
Sec. 6	<i>from passage</i>	53a-40(h)

Statement of Purpose:

To establish the crime of occupied home invasion, classify occupied home invasion as a violent felony for purposes of parole release and being a persistent dangerous felony offender and authorize a judge, when sentencing a persistent dangerous felony offender, to strike a predicate offense and sentence the offender to twice the term of imprisonment authorized for the offense for which such offender presently stands convicted.

[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.]