

2010 -- H 7089

LC00247

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO CRIMINAL OFFENSES -- BURGLARY AND BREAKING AND ENTERING

Introduced By: Representatives Melo, Serpa, Kilmartin, Petrarca, and Brien

Date Introduced: January 12, 2010

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-8-2 and 11-8-2.2 of the General Laws in Chapter 11-8 entitled
2 "Burglary and Breaking and Entering" are hereby amended to read as follows:

3 **11-8-2. Unlawful breaking and entering of dwelling house.** -- (a) Every person who
4 shall break and enter at any time of the day or night any dwelling house or apartment, ~~whether at~~
5 ~~the time when~~ the dwelling house or apartment is not occupied ~~or not~~, or any outbuilding or
6 garage attached to or adjoining any dwelling house, without the consent of the owner or tenant of
7 the dwelling house, apartment, building, or garage, shall be imprisoned for not less than two (2)
8 years and not more than ten (10) years for the first conviction, and for the second and subsequent
9 conviction shall be imprisoned for not less than four (4) years and not more than fifteen (15)
10 years, or fined not more than ten thousand dollars (\$10,000), or both.

11 (b) Every person convicted pursuant to subsection (a) of this section shall be ordered to
12 make restitution to the victim of the offense or to perform up to five hundred (500) hours of
13 public community restitution work, or both, or any combination of them approved by the
14 sentencing judge. The court may not waive the obligation to make restitution and/or public
15 community restitution work. The restitution and/or public community restitution work shall be in
16 addition to any fine or sentence which may be imposed and not in lieu of the fine or sentence.

17 **11-8-2.2. Breaking and entering of a dwelling when resident on premises.** -- (a) Every
18 person who shall break and enter into any dwelling house or apartment without the consent of the
19 owner or tenant at a time when the resident or residents of the dwelling house or apartment are on

1 the premises, ~~after having been previously convicted of such an offense~~, shall be imprisoned for
2 not less than ~~one year~~ four (4) years and not more than ~~ten (10)~~ fifteen (15) years and ~~shall not be~~
3 ~~afforded the provisions of suspension or deferment of sentence nor probation and may~~ in addition
4 be fined not more than five thousand dollars (\$5,000). Upon a second or subsequent conviction
5 for an offense under this section, a sentence of not less than five (5) years nor more than twenty
6 (20) years to serve shall be imposed to serve at the adult correctional institution and shall not be
7 afforded the provisions of suspension or deferment of sentence nor probation.

8 (b) Every person who shall break and enter into any dwelling house or apartment without
9 the consent of the owner or tenant at a time when the premises is occupied, and who at any time
10 during the breaking in, or during the time when the individual is within the premises, shall assault
11 any other person present inside the premises, shall be imprisoned for not less than five (5) years
12 nor more than twenty (20) years, and shall not be afforded the provisions of suspension or
13 deferment of sentence nor probation. A fine of not more than ten thousand dollars (\$10,000) may
14 be imposed for each offense.

15 ~~(b)~~ (c) Every person convicted pursuant to subsection (a) or (b) of this section shall be
16 ordered to make restitution to the victim of the offense, or to perform up to five hundred (500)
17 hours of public community restitution work, or both, or any combination of them approved by the
18 sentencing judge. The court may not waive the obligation to make restitution and/or public
19 community restitution work. Restitution and/or public community restitution work shall be in
20 addition to any fine or sentence which may be imposed and not in lieu of the fine or sentence;
21 provided, that nothing contained in this section shall be construed to require the payment of
22 restitution while the convicted person is imprisoned.

23 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO CRIMINAL OFFENSES -- BURGLARY AND BREAKING AND ENTERING

1 This act would clarify, delineate and increase penalties for breaking and entering and
2 would provide for increased sanctions when breaking and entering is committed when there is
3 someone within the premises, and would require mandatory jail sentences when an occupant of
4 the premises is assaulted in the course of the perpetrator breaking into the premises or while the
5 perpetrator is within the premise.

6 This act would take effect upon passage.

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