

HOUSE BILL 1338

By Ogles

AN ACT to amend Tennessee Code Annotated, Title 37;
Title 39; Title 40 and Title 49, relative to burglary.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-13-105, is amended by deleting the section and substituting:

In addition to the enumerated offenses, crimes against the person shall be any violent offense that results or could have resulted in physical injury to the victim, including, but not limited to, rape, sexual battery, kidnapping, aggravated burglary, and especially aggravated burglary.

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 13, is amended by adding the following as a new part:

39-13-1001.

(a) As used in this part, unless the context otherwise requires, the terms "habitation", "occupied", and "owner" have the same meaning as defined in § 39-14-401.

(b) Any references to convictions for the offenses of burglary, under § 39-13-1002, aggravated burglary, under § 39-13-1003, or especially aggravated burglary, under § 39-13-1004, shall be deemed to include convictions for the applicable offense as each offense was defined under chapter 14, part 4 of this title prior to July 1, 2021.

39-13-1002.

(a) A person commits burglary who, without the effective consent of the property owner:

(1) Enters a building other than a habitation, or any portion of the building, not open to the public, with intent to commit a felony, theft, or assault;

(2) Remains concealed, with the intent to commit a felony, theft, or assault, in a building;

(3) Enters a building and commits or attempts to commit a felony, theft, or assault; or

(4) Enters any freight or passenger car, automobile, truck, trailer, boat, airplane, or other motor vehicle with intent to commit a felony, theft, or assault or commits or attempts to commit a felony, theft, or assault.

(b) As used in this section, "enter" means:

(1) Intrusion of any part of the body; or

(2) Intrusion of any object in physical contact with the body or any object controlled by remote control, electronic or otherwise.

(c) Burglary under subdivision (a)(1), (2), or (3) is a Class D felony.

(d) Burglary under subdivision (a)(4) is a Class E felony.

39-13-1003.

(a) Aggravated burglary is burglary, as described in § 39-13-1002, of a habitation.

(b) Aggravated burglary is a Class C felony.

39-13-1004.

(a) Especially aggravated burglary is:

(1) Burglary, as described in § 39-13-1002, of a habitation or building other than a habitation; and

(2) Where the victim suffers serious bodily injury.

(b) For the purposes of this section, "victim" means any person lawfully on the premises.

(c) Especially aggravated burglary is a Class B felony.

(d) Acts which constitute an offense under this section may be prosecuted under this section or any other applicable section, but not both.

SECTION 3. Tennessee Code Annotated, Title 39, Chapter 14, Part 4, is amended by deleting Sections 39-14-402, 39-14-403, and 39-14-404.

SECTION 4. Tennessee Code Annotated, Section 37-1-702(c)(1)(B), is amended by deleting the subdivision and substituting:

(B) Burglary, § 39-13-1002;

SECTION 5. Tennessee Code Annotated, Section 40-32-101(g)(1)(A)(xxi), is amended by deleting the subdivision and substituting:

(xxi) Section 39-13-1002 – Burglary of an automobile;

SECTION 6. Tennessee Code Annotated, Section 40-35-122(c), is amended by deleting subdivisions (17) and (18) and substituting:

(17) Attempted burglary other than a habitation under §§ 39-12-101 and 39-13-1002(a)(1), (a)(2), or (a)(3);

(18) Burglary of an automobile under § 39-13-1002(a)(4); and

SECTION 7. Tennessee Code Annotated, Section 40-35-123(b)(1)(A), is amended by deleting the subdivision and substituting:

(A) Burglary, as defined in § 39-13-1002;

SECTION 8. Tennessee Code Annotated, Section 39-12-301(2)(C), is amended by deleting the subdivision and substituting:

(C) Aggravated burglary as defined in § 39-13-1003.

SECTION 9. Tennessee Code Annotated, Section 39-17-1324(i)(1), is amended by deleting subdivisions (G) and (H) and substituting:

(G) Especially aggravated burglary, as defined in § 39-13-1004;

(H) Aggravated burglary, as defined in § 39-13-1003;

SECTION 10. Tennessee Code Annotated, Section 40-35-106(b)(4), is amended by deleting the language "aggravated burglary under § 39-14-403" and substituting "aggravated burglary under § 39-13-1003".

SECTION 11. Tennessee Code Annotated, Section 40-35-107(b)(4), is amended by deleting the language "aggravated burglary under § 39-14-403" and substituting "aggravated burglary under § 39-13-1003".

SECTION 12. Tennessee Code Annotated, Section 40-35-108(b)(4), is amended by deleting the language "aggravated burglary under § 39-14-403" and substituting "aggravated burglary under § 39-13-1003".

SECTION 13. Tennessee Code Annotated, Section 40-35-121(a)(3)(B), is amended by deleting subdivisions (xvi) and (xvii) and substituting:

(xvi) Aggravated burglary, as defined in § 39-13-1003;

(xvii) Especially aggravated burglary, as defined in § 39-13-1004;

SECTION 14. Tennessee Code Annotated, Section 40-35-501(u)(2)(B), is amended by deleting the subdivision and substituting:

(B) Aggravated burglary, pursuant to § 39-13-1003, or especially aggravated burglary, pursuant to § 39-13-1004, if the person has two (2) or more prior convictions for either aggravated burglary, pursuant to § 39-13-1003, especially aggravated burglary, pursuant to § 39-13-1004, or a combination of the two (2) offenses prior to or at the time of committing the instant offense.

SECTION 15. Tennessee Code Annotated, Section 40-11-113(b), is amended by deleting the language "39-14-404" and substituting "39-13-1004".

SECTION 16. Tennessee Code Annotated, Section 40-38-111(g)(11), is amended by deleting the subdivision and substituting:

(11) Especially aggravated burglary, as defined in § 39-13-1004;

SECTION 17. Tennessee Code Annotated, Section 49-5-413(d)(3)(B)(iv), is amended by deleting the subdivision and substituting:

(iv) §§ 39-13-1001 — 39-13-1004;

SECTION 18. Tennessee Code Annotated, Section 49-5-417(a)(1)(D), is amended by deleting the subdivision and substituting:

(D) A burglary offense, as described in §§ 39-13-1001 — 39-13-1004;

SECTION 19. This act takes effect July 1, 2021, the public welfare requiring it.