

20 18-1 to 20 18-3

LEGISLATIVE HISTORY CHECKLIST

NJSA 20:18-1 to 20:18-3 (Burglary and criminal intention - clarify definition of "structure")

LAWS 1980 CHAPTER 112

Bill No. 3884

Sponsor(s) Kennedy, Gagliano and Bedell

Date Introduced Jan. 24, 1980

Committee: Assembly Judiciary, Law, Public Safety and Defense

Senate Judiciary

Amended during passage Yes ~~YES~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly June 23, 1980

Senate April 14, 1980

Date of approval Sept. 19, 1980

Following statements are attached if available:

Sponsor statement Yes ~~YES~~

Committee Statement: Assembly Yes ~~YES~~

Senate ~~YES~~ No

Fiscal Note ~~YES~~ No

Veto Message ~~YES~~ No

Message on signing ~~YES~~ Yes ~~YES~~

Following were printed:

Reports ~~YES~~ No

Hearings ~~YES~~ No

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CHAPTER 112 LAWS OF N. J. 1980
APPROVED 9-19-80

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SENATE, No. 884

STATE OF NEW JERSEY

INTRODUCED JANUARY 24, 1980

By Senators KENNEDY, GAGLIANO and BEDELL

Referred to Committee on Judiciary

AN ACT concerning burglary and other criminal intrusion and amending sections 2C:18-1, 2C:18-2 and 2C:18-3 of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2C:18-1 is amended to read as follows:

2 2C:18-1. In this chapter, unless a different meaning plainly is
3 required, "[occupied] structure" means any [structure] *building,*
4 *room, ship, vessel, car, vehicle[, boat,] or airplane [or], and also*
5 *means any* place adapted for overnight accommodation of persons,
6 or for carrying on business therein, whether or not a person is
7 actually present.

1 2. N. J. S. 2C:18-2 is amended to read as follows:

2 2C:18-2. a. Burglary defined. A person is guilty of burglary if,
3 with purpose to commit an offense therein he:

4 (1) Enters a [building or occupied] structure, or a separately
5 secured or occupied portion thereof, unless the [premises are]
6 *structure was* at the time open to the public or the actor is licensed
7 or privileged to enter; or

8 (2) Surreptitiously remains in a [building or occupied] struc-
9 ture or a separately secured or occupied portion thereof knowing
10 that he is not licensed or privileged to do so.

11 It is an affirmative defense to prosecution for burglary that the
12 [building or] structure was abandoned **and that the actor's pur-*
12A *pose was not to commit a crime or a disorderly person's offense*.*

13 b. Grading. Burglary is a crime of the second degree if in the
14 course of committing the offense, the actor:

15 (1) Purposely, knowingly or recklessly inflicts, attempts to in-
16 flict or threatens to inflict bodily injury on anyone; or

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

17 (2) Is armed with or displays what appears to be explosives or
18 a deadly weapon.

19 Otherwise burglary is a crime of the third degree if the defend-
20 ant's purpose was to commit a crime ***[and is a crime of the fourth**
21 **degree if the defendant's purpose was to commit]*** *or* a dis-
22 orderly person's offense. An act shall be deemed "in the course of
23 committing" an offense if it occurs in an attempt to commit an
24 offense or in immediate flight after the attempt or commission.

1 3. N. J. S. 2C:18-3 is amended to read as follows:

2 2C:18-3. a. **[Buildings and occupied]** *Unlicensed entry of*
3 structures. A person commit an offense if, knowing that he is not
4 licensed or privileged to do so, he enters or surreptitiously remains
5 in any **[building or occupied]** structure, or separately secured or
6 occupied portion thereof. An offense under this subsection is a
7 crime of the fourth degree if it is committed in a dwelling. Other-
8 wise it is a disorderly persons offense.

9 b. Defiant trespasser. A person commits a petty disorderly
10 persons offense if, knowing that he is not licensed or privileged to
11 do so, he enters or remains in any place as to which notice against
12 trespass is given by:

13 (1) Actual communication to the actor; or

14 (2) Posting in a manner prescribed by law or reasonably likely
15 to come to the attention of intruders; or

16 (3) Fencing or other enclosure manifestly designed to exclude
17 intruders.

18 c. Defenses. It is an affirmative defense to prosecution under
19 this section that:

20 (1) A **[building or occupied]** structure involved in an offense
21 under subsection a. was abandoned**[.]**;

22 (2) The **[premises were]** *structure was* at the time open to
23 members of the public and the actor complied with all lawful con-
24 ditions imposed on access to or remaining in the **[premises]**
25 *structure*; or

26 (3) The actor reasonably believed that the owner of the
27 **[premises]** *structure*, or other person empowered to license access
28 thereto, would have licensed him to enter or remain.

1 4. This act shall take effect immediately.

SENATE, No. 884

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STATEMENT

This bill makes several changes in the law prohibiting criminal intrusion.

The primary purpose of the bill is to make clear that the unlawful entry of any building, room, ship, vessel, car, vehicle or airplane, or

any place adapted for overnight accommodation or for carrying on business, is a burglary.

The present wording of the definition of "occupied structure" may leave to interpretation whether all forms of conveyance are included.

The bill also makes the definition and subsequent use of "structure" more precise.

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO
SENATE, No. 884
with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 5, 1980

The purpose of Senate Bill No. 884 is to clarify that the unlawful entry for unlawful purposes of any room or building, or form of conveyance, as well as the unlawful entry for unlawful purposes of any place adapted for overnight accommodation or carrying on business, constitutes a burglary. This clarification is accomplished by the broadening of the definition of the term "structure" as used in Chapter 18 of the penal code which covers burglary and criminal trespass.

Assembly Judiciary, Law, Public Safety and Defense committee amendments modify the affirmative defense to burglary and the degrees of the crime, in order to make prosecutions less complicated.

SEPTEMBER 19, 1980

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S-438, sponsored by Senator Wynona M. Lipman (D-Essex), which will increase the compensation of district election board members for working on election day from \$40 to \$50. Their last increase in pay from \$30 to \$40 occurred in 1972. The bill will take effect on January 1, 1981.

S-884, sponsored by Senator Brian T. Kennedy (R-Monmouth), which clarifies the crime of "burglary" in the penal code by expanding the definition of "structure" to include certain unoccupied places, by narrowing the affirmative defense to prosecution for burglary, and by eliminating burglary as a crime of the fourth degree.

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