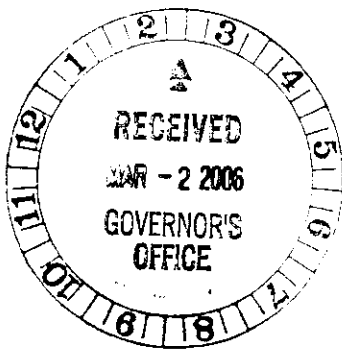


1 HB120
2 78983-4
3 By Representative Newton (C)
4 RFD: Judiciary
5 First Read: 10-JAN-06
6 PFD: 01/05/2006



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ENROLLED, An Act,

To amend Sections 13A-7-5 and 13A-7-6, Code of Alabama 1975, relating to the crime of burglary in the first degree and the second degree; to provide that a defendant, or another participant who possesses a deadly weapon or dangerous instrument upon entry of a dwelling or building, or uses or threatens to use the deadly weapon or dangerous instrument against another person in the commission of a burglary or flight therefrom would be guilty of these crimes; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 13A-7-5 and 13A-7-6, Code of Alabama 1975, is amended to read as follows:

"§13A-7-5.

"(a) A person commits the crime of burglary in the first degree if he or she knowingly and unlawfully enters or remains unlawfully in a dwelling with intent to commit a crime therein, and, if, in effecting entry or while in dwelling or

1 in immediate flight therefrom, ~~he~~ the person or another
2 participant in the crime:

3 "(1) Is armed with explosives ~~or a deadly weapon~~; or

4 "(2) Causes physical injury to any person who is not
5 a participant in the crime; or

6 ~~"(3) Uses or threatens the immediate use of a~~
7 ~~dangerous instrument~~ In effecting entry, is armed with a
8 deadly weapon or dangerous instrument or, while in the
9 dwelling or immediate flight from the dwelling, uses or
10 threatens the immediate use of a deadly weapon or dangerous
11 instrument against another person. The use of or threatened
12 use of a deadly weapon or dangerous instrument does not
13 include the mere acquisition of a deadly weapon or dangerous
14 instrument during the burglary.

15 "(b) Burglary in the first degree is a Class A
16 felony.

17 "§13A-7-6.

18 "(a) A person commits the crime of burglary in the
19 second degree if he or she knowingly enters or remains
20 unlawfully in a building with intent to commit theft or a
21 felony therein and, if in effecting entry or while in the
22 building or in immediate flight therefrom, ~~he~~ the person or
23 another participant in the crime:

24 "(1) Is armed with explosives ~~or a deadly weapon~~; or

1 "(2) Causes physical injury to any person who is not
2 a participant in the crime; or

3 "~~(3) Uses or threatens the immediate use of a~~
4 ~~dangerous instrument~~ In effecting entry, is armed with a
5 deadly weapon or dangerous instrument or, while in the
6 building or in immediate flight from the building, uses or
7 threatens the immediate use of a deadly weapon or dangerous
8 instrument against another person. The use of or threatened
9 use of a deadly weapon or dangerous instrument does not
10 include the mere acquisition of a deadly weapon or dangerous
11 instrument during the burglary.

12 "(b) In the alternative to subsection (a) of this
13 section, a person commits the crime of burglary in the second
14 degree if he or she unlawfully enters a lawfully occupied
15 dwelling-house with intent to commit a theft or a felony
16 therein.

17 "(c) Burglary in the second degree is a Class B
18 felony."

19 Section 2. Although this bill would have as its
20 purpose or effect the requirement of a new or increased
21 expenditure of local funds, the bill is excluded from further
22 requirements and application under Amendment 621 because the
23 bill defines a new crime or amends the definition of an
24 existing crime.

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

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Sam Huff

Speaker of the House of Representatives

Lucy Baxley

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 17-JAN-06.

Greg Pappas
Clerk

Senate

C2-MAR-06

Passed

APPROVED *March 9, 2006*
TIME *9:40 a.m.*
Bob Riley
GOVERNOR

Alabama Secretary of State

Act Num.....: 2006-198
Bill Num...: H-120