

Rep(s). By Representative Newton (C)

HB480

ENGROSSED

A BILL
TO BE ENTITLED
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 in the crime, who possesses a deadly weapon or dangerous instrument upon entry of a dwelling or building and uses or threatens to use the deadly weapon or dangerous instrument against another person in the commission of a burglary or flight from the dwelling would be guilty of burglary; 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, are amended to read as follows:

§13A-7-5.

"(a) A person commits the crime of burglary in the first degree if he 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 a dwelling or in immediate flight therefrom, he or another participant in the crime:

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

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

"(3) ~~Uses or threatens the immediate use of a dangerous instrument~~ In effecting entry, is armed with a deadly weapon or dangerous weapon or, while in the dwelling or in immediate flight from the dwelling, uses or threatens the immediate use of a deadly weapon or dangerous instrument against another person. The fact that a deadly weapon or dangerous instrument is a part of the burglary does not constitute "use" or "threaten the use" of the deadly weapon or dangerous instrument. The use of or threatened use of a deadly weapon or dangerous instrument does not include the mere acquisition of a deadly weapon or dangerous instrument during the burglary.

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

§13A-7-6.

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

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

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

"(3) ~~Uses or threatens the immediate use of a dangerous instrument~~ In effecting entry, is armed with a deadly weapon or dangerous instrument or, while in the dwelling building or in immediate flight from the dwelling building, uses or threatens the immediate use of a deadly weapon or dangerous instrument against another person. The fact that a deadly weapon or dangerous instrument is a part of the burglary does not constitute "use" or "threaten the use" of the deadly weapon or dangerous instrument. The use of or threatened use of a deadly weapon or dangerous instrument does not include the mere acquisition of a deadly weapon or dangerous instrument during the burglary.

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

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

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

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

Crimes and Offenses

Criminal Law and Procedure

Burglary

Weapons

Deadly Weapons

Dangerous Instrument

Code Amended