Session Law 82-087

Florida Senate & House of Representatives

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Recommended Citation

SUMMARY:

A. Present Situation:

Chapter 810, Florida Statutes, describes the crimes of burglary and trespass and establishes the penalties for those crimes.

Section 810.011, Florida Statutes, is entitled "Definitions" and defines terms that are relevant to Chapter 810. "Structure" and "Conveyance" are defined in section 810.011. Dwelling is not defined in section 810.011.

Section 810.02 defines burglary and describes those acts that constitute burglary of the first, second, or third degree. Subsection 810.02(2), provides that burglary is a first degree felony if the offender assaults any person or is armed with a dangerous weapon. Subsection 810.02(3), provides that if the structure entered is a dwelling or there is a human being in the structure or conveyance, the defendant is guilty of a second degree felony. Burglary of a structure or conveyance that is not occupied by a human being is a third degree felony.

B. Effect of Proposed Changes:

This bill defines "dwelling" as a building or conveyance which is usually occupied by a person at night. The practical effect of this bill is that the burglary of an unoccupied recreational vehicle or travel trailer is a second degree felony rather than a third degree felony.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public: None.

B. Government:

There is no statistical data on burglaries of recreational vehicles or motor homes. It appears that the number of burglary convictions that fall in this category is quite low. Therefore, the fiscal impact is expected to be minimal.

III. COMMENTS:

SB 42 is identical to SB 550 (1981) which the Committee on Judiciary-Criminal passed out favorably last session. SB 550 (1981) died on House Calendar.

IV. AMENDMENTS:

None.
I. SUMMARY:

A. Present Situation:

Chapter 810, Florida Statutes, describes the crimes of burglary and trespass and establishes the penalties for those crimes.

Section 810.011, Florida Statutes, is entitled "Definitions" and defines terms that are relevant to Chapter 810. "Structure" and "Conveyance" are defined in section 810.011. "Dwelling" is not defined in section 810.011.

Section 810.02 defines burglary and describes the acts that constitute burglary of the first, second, or third degree. Subsection 810.02(2), provides that burglary is a first degree felony if the offender assaults any person or is armed with a dangerous weapon within the structure. It is not a first degree felony to be armed during the burglary of a conveyance. Subsection 810.02(3), provides that if the structure entered is a dwelling or there is a human being in the structure or conveyance, the defendant is guilty of a second degree felony. Burglary of a structure or conveyance that is not occupied by a human being is a third degree felony.

B. Effect of Proposed Changes:

This bill defines "dwelling" as a building or conveyance which is designed to be occupied by people. The practical effect of this change is that the burglary of an unoccupied recreational vehicle or travel trailer is a second degree felony rather than a third degree felony.

This bill also adds conveyance to section 810.02(2)(b). The effect of this change is that the burglary of a conveyance while armed with a dangerous weapon is a first degree felony.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public: None.

B. Government:

There is no statistical data on burglaries of recreational vehicles or motor homes. It appears that the number of burglary convictions that fall in this category is quite low. Therefore, the fiscal impact is expected to be minimal.

III. COMMENTS:

This bill is similar to HB 60.

IV. AMENDMENTS:

None.
1. Changes the definition of a dwelling from any building or conveyance which is usually occupied by a person lodging therein at night to any building or conveyance which is designed to be occupied by people.

2. Provides that the burglary of a conveyance while being armed with a dangerous weapon is a first degree felony.

3. Provides that burglary of an unoccupied conveyance is a second degree felony if the conveyance is a dwelling.
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

DATE: October 27, 1981 (Updated)
April 20, 1982 (Final Update)

SUBJECT: Burglary - definition of a dwelling clarified, increases penalties.

BILL No. AND SPONSOR: CS/SB 42 by Senator Jenne

I. SUMMARY:

A. Present Situation:

Chapter 810, Florida Statutes, describes the crimes of burglary and trespass and establishes the penalties for those crimes.

Section 810.011, Florida Statutes, is entitled "Definitions" and defines terms that are relevant to Chapter 810. "Structure" and "Conveyance" are defined in section 810.011. "Dwelling" is not defined in section 810.011.

Section 810.02 defines burglary and describes those acts that constitute burglary of the first, second, or third degree. Subsection 810.02(2), provides that burglary is a first degree felony if the offender assaults any person or is armed with a dangerous weapon within the structure. It is not a first degree felony to be armed during the burglary of a conveyance. Subsection 810.02(3), provides that if the structure entered is a dwelling or there is a human being in the structure or conveyance, the defendant is guilty of a second degree felony. Burglary of a structure or conveyance that is not occupied by a human being is a third degree felony.

B. Effect of Proposed Changes:

This bill defines "dwelling" as a building or conveyance which is designed to be occupied by people. The practical effect of this change is that the burglary of an unoccupied recreational vehicle or travel trailer is a second degree felony rather than a third degree felony.

This bill also adds conveyance to section 810.02(2)(b). The effect of this change is that the burglary of a conveyance while armed with a dangerous weapon is a first degree felony.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public: None.

B. Government:

There is no statistical data on burglaries of recreational vehicles or motor homes. It appears that the number of burglary convictions that fall in this category is quite low. Therefore, the fiscal impact is expected to be minimal.

III. COMMENTS:

This bill is similar to HB 60. CS/SB 42 passed the Senate and the House and was approved by the Governor. Chapter 82-87, Laws of Florida

IV. AMENDMENTS:

None.
Representative R. Dale Patchett  
PO Box 2380  
Vero Beach, FL 32960

Dear Dale,

I have recently become aware of a rather unfortunate anomaly in the burglary statute and thought it wise to so inform you. Please direct my comments to the proper legislative committee.

F.S. 810.02 (see enclosure) prohibits burglary, a crime more commonly known as breaking and entering. Note that subsection (a) addresses burglary of a structure and a conveyance. This crime is much more serious if the defendant is armed; it becomes a life felony rather than a five year felony. However, 810.02(2)(b) states that only armed burglary of a structure is subject to this sanction, thus the defendant could possess a virtual arsenal when burglarizing a conveyance and suffer no greater punishment than an eighteen year old who breaks out a car window to steal a purse.

I became aware of this dilemma when a murder suspect was recently caught inside a car with a loaded pistol, police scanner and rope. Luckily the potential victim saw the defendant and notified the police. Unfortunately, with the law worded as it is, he has been charged only with a third degree felony, since the object burglarized was a conveyance. The State had no other choice under the present statute.

Thank you for your consideration of this problem. If you have any questions, please contact me at 562-1001.

Sincerely,

John H. Power  
Assistant State Attorney

JHP/se  
Enclosure.
COMMITTEE ON Judiciary-Criminal

October 27, 1981

TIME 9:00 a.m. - 12 noon

PLACE Room "C" S.O.B.

Date Reported 10/27/81

FINAL ACTION:

 Favorably with amendments
 Favorably with Committee Substitute
 Unfavorably

OTHER:
 Temporarily Passed
 Reconsidered
 Not Considered

THE VOTE WAS:

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<th>SENATORS</th>
<th>Amendment #1</th>
<th>Amendment #2</th>
<th>Title Amend.</th>
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TOTAL Aye Nay Aye Nay Aye Nay Aye Nay Aye Nay

(Attach additional page if necessary)

:case Complete: The key sponsor appeared (x)
A Senator appeared
Sponsor's aide appeared
Other appearance
Bill Analysis

FLORIDA HOUSE OF REPRESENTATIVES
RALPH H. HABEN. JR., Speaker/BARRY KUTUN, Speaker pro tempore
COMMITTEE ON CRIMINAL JUSTICE

Lawrence J. Smith
Chairman
Robert Reynolds
Vice Chairman

HB 60 by Rep. Patchett
dating to burglary

DATE: October 14, 1981
REVISED:

Other Committees of Reference: None
REVISED:
SENATE BILL:

I. SUMMARY

A. PRESENT SITUATION:

Section 810.02(2)(b), Florida Statutes, currently provides that burglary of a “structure” is a felony in the first degree if the perpetrator is armed. Although § 810.02(1) acknowledges that burglary is committed when one enters or remains in a structure or conveyance, § 810.02(2)(b) currently fails to penalize the armed burglary of a conveyance in the same manner as the armed burglary of a structure.

B. EFFECT OF PROPOSED CHANGES:

This bill specifically provides that armed burglary of a conveyance would result in a first degree felony. A first degree felony is punishable under § 775.082 by a term of imprisonment not exceeding 30 years and when specifically provided by statute for a term of years not to exceed life imprisonment. Section 810.02 specifically provides that burglary is punishable by life imprisonment.

II. FISCAL IMPACT

The Department of Corrections believes that this bill will have no substantial fiscal impact. There exists no information as to the number of burglary convictions resulting from the burglary of a conveyance. However, DOC states that since there will be a possibility of filing multiple counts against some burglars, inmates could be required to serve consecutive terms.

III. COMMENTS

The act of entering or remaining in a conveyance with intent to commit an offense therein by one who is in possession of a dangerous weapon or explosives would, under this bill, be a first degree felony. Since most burglaries of a conveyance are likely to occur in unoccupied vehicles there will likely be a problem in proving (or even charging) that a person was armed during the act. Nonetheless, if it should occur in an occupied vehicle the possibility exists for such a charge.
IV. AMENDMENTS

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