



SENATE BILL No. 260

January 26, 1993, Introduced by Senator VAN REGENMORTER
and referred to the Committee on Judiciary.

A bill to amend section 110 of Act No. 328 of the Public
Acts of 1931, entitled as amended

"The Michigan penal code,"

being section 750.110 of the Michigan Compiled Laws; and to add
section 110a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 110 of Act No. 328 of the Public Acts of
2 1931, being section 750.110 of the Michigan Compiled Laws, is
3 amended and section 110a is added to read as follows:

4 Sec. 110. ~~Any~~ A person who ~~shall break~~ BREAKS and
5 ~~enter~~ ENTERS, with intent to commit ~~any~~ A felony ~~,~~ or ~~any~~
6 A larceny therein, ~~any~~ A tent, hotel, office, store, shop,
7 warehouse, barn, granary, factory or other building, structure,
8 boat or ship, railroad car, or ~~any~~ A private apartment in any
9 of such buildings ~~or any unoccupied dwelling house, shall be~~ IS

SENATE BILL No. 260

1 guilty of a felony, punishable by imprisonment ~~in the state~~
2 ~~prison~~ FOR not more than 10 years. ~~Any person who breaks and~~
3 ~~enters any occupied dwelling house, with intent to commit any~~
4 ~~felony or larceny therein, shall be guilty of a felony punishable~~
5 ~~by imprisonment in the state prison for not more than 15 years.~~
6 ~~For the purpose of this section "any occupied dwelling house"~~
7 ~~includes one that does not require the physical presence of an~~
8 ~~occupant at the time of the breaking and entering but one which~~
9 ~~is habitually used as a place of abode.~~

10 SEC. 110A. (1) AS USED IN THIS SECTION:

11 (A) "DWELLING" MEANS A STRUCTURE OR SHELTER THAT IS USED
12 PERMANENTLY OR TEMPORARILY AS A PLACE OF ABODE, INCLUDING AN
13 APPURTENANT STRUCTURE ATTACHED TO THAT STRUCTURE OR SHELTER.

14 (B) "DANGEROUS WEAPON" MEANS 1 OR MORE OF THE FOLLOWING:

15 (i) A LOADED OR UNLOADED FIREARM, WHETHER OPERABLE OR
16 INOPERABLE.

17 (ii) A KNIFE, STABBING INSTRUMENT, BRASS KNUCKLES, BLACK-
18 JACK, CLUB, OR OTHER OBJECT SPECIFICALLY DESIGNED OR CUSTOMARILY
19 CARRIED OR POSSESSED FOR USE AS A WEAPON.

20 (iii) AN OBJECT THAT IS LIKELY TO CAUSE DEATH OR BODILY
21 INJURY WHEN USED AS A WEAPON AND THAT IS USED AS A WEAPON OR CAR-
22 RIED OR POSSESSED FOR USE AS A WEAPON.

23 (C) "WITHOUT PERMISSION" MEANS WITHOUT HAVING OBTAINED PER-
24 MISSION TO ENTER FROM THE OWNER OR LESSEE OF THE DWELLING OR FROM
25 ANY OTHER PERSON LAWFULLY IN POSSESSION OR CONTROL OF THE
26 DWELLING.

1 (2) A PERSON WHO BREAKS AND ENTERS A DWELLING WITH INTENT TO
2 COMMIT A FELONY OR A LARCENY IN THE DWELLING OR A PERSON WHO
3 ENTERS A DWELLING WITHOUT PERMISSION WITH INTENT TO COMMIT A
4 FELONY OR A LARCENY IN THE DWELLING IS GUILTY OF HOME INVASION IN
5 THE FIRST DEGREE IF AT ANY TIME WHILE THE PERSON IS ENTERING,
6 PRESENT IN, OR EXITING THE DWELLING BOTH OF THE FOLLOWING CIRCUM-
7 STANCES EXIST:

8 (A) THE PERSON IS ARMED WITH A DANGEROUS WEAPON.

9 (B) ANOTHER PERSON IS LAWFULLY PRESENT IN THE DWELLING.

10 (3) A PERSON WHO BREAKS AND ENTERS A DWELLING WITH INTENT TO
11 COMMIT A FELONY OR A LARCENY IN THE DWELLING OR A PERSON WHO
12 ENTERS A DWELLING WITHOUT PERMISSION WITH INTENT TO COMMIT A
13 FELONY OR A LARCENY IN THE DWELLING IS GUILTY OF HOME INVASION IN
14 THE SECOND DEGREE IF AT ANY TIME WHILE THE PERSON IS ENTERING,
15 PRESENT IN, OR EXITING THE DWELLING EITHER OF THE FOLLOWING CIR-
16 CUMSTANCES EXISTS:

17 (A) THE PERSON IS ARMED WITH A DANGEROUS WEAPON.

18 (B) ANOTHER PERSON IS LAWFULLY PRESENT IN THE DWELLING.

19 (4) A PERSON WHO BREAKS AND ENTERS A DWELLING WITH INTENT TO
20 COMMIT A FELONY OR A LARCENY IN THE DWELLING OR A PERSON WHO
21 ENTERS A DWELLING WITHOUT PERMISSION WITH INTENT TO COMMIT A
22 FELONY OR A LARCENY IN THE DWELLING IS GUILTY OF HOME INVASION IN
23 THE THIRD DEGREE.

24 (5) HOME INVASION IN THE FIRST DEGREE IS A FELONY AND SHALL
25 BE PUNISHED BY IMPRISONMENT FOR NOT LESS THAN 2 YEARS OR MORE
26 THAN 20 YEARS. IN ADDITION, THE COURT MAY IMPOSE A FINE OF NOT
27 MORE THAN \$5,000.00. THE TERM OF IMPRISONMENT REQUIRED UNDER

1 THIS SUBSECTION SHALL NOT BE SUSPENDED. A PERSON SENTENCED TO
2 IMPRISONMENT UNDER THIS SECTION IS NOT ELIGIBLE FOR PAROLE BEFORE
3 SERVING AT LEAST 2 YEARS OF THE SENTENCE.

4 (6) HOME INVASION IN THE SECOND DEGREE IS A FELONY PUNISH-
5 ABLE BY IMPRISONMENT FOR NOT MORE THAN 20 YEARS OR A FINE OF NOT
6 MORE THAN \$4,000.00, OR BOTH.

7 (7) HOME INVASION IN THE THIRD DEGREE IS A FELONY PUNISHABLE
8 BY IMPRISONMENT FOR NOT MORE THAN 15 YEARS OR A FINE OF NOT MORE
9 THAN \$3,000.00, OR BOTH.

10 (8) IMPOSITION OF A PENALTY UNDER THIS SECTION DOES NOT BAR
11 IMPOSITION OF A PENALTY UNDER ANY OTHER APPLICABLE LAW.