

HOUSE BILL No. 4356

March 2, 1999, Introduced by Reps. Faunce, Sanborn, Julian, Tabor, Richner, Bishop, Vander Roest and Shulman and referred to the Committee on Criminal Law and Corrections.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 110a (MCL 750.110a), as added by 1994 PA
270.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 110a. (1) As used in this section:

2 (A) "ASSAULTIVE OFFENSE" MEANS AN OFFENSE COMMITTED AGAINST
3 ANOTHER INDIVIDUAL THAT HAS AS AN ELEMENT USING OR THREATENING TO
4 USE FORCE AGAINST THAT INDIVIDUAL.

5 (B) ~~(a)~~ "Dwelling" means a structure or shelter that is
6 used permanently or temporarily as a place of abode, including an
7 appurtenant structure attached to that structure or shelter.

8 (C) ~~(b)~~ "Dangerous weapon" means 1 or more of the
9 following:

1 (i) A loaded or unloaded firearm, whether operable or
2 inoperable.

3 (ii) A knife, stabbing instrument, brass knuckles, black-
4 jack, club, or other object specifically designed or customarily
5 carried or possessed for use as a weapon.

6 (iii) An object that is likely to cause death or bodily
7 injury when used as a weapon and that is used as a weapon or car-
8 ried or possessed for use as a weapon.

9 (iv) An object or device that is used or fashioned in a
10 manner to lead a person to believe the object or device is an
11 object or device described in subparagraphs (i) to (iii).

12 (D) ~~(c)~~ "Without permission" means without having obtained
13 permission to enter from the owner or lessee of the dwelling or
14 from any other person lawfully in possession or control of the
15 dwelling.

16 (2) A person who ~~breaks~~ DOES EITHER OF THE FOLLOWING IS
17 GUILTY OF HOME INVASION IN THE FIRST DEGREE:

18 (A) BREAKS and enters a dwelling with intent to commit a
19 felony or a larceny in the dwelling or a person who enters a
20 dwelling without permission with intent to commit a felony or a
21 larceny in the dwelling ~~is guilty of home invasion in the first~~
22 ~~degree~~ if at any time while the person is entering, present in,
23 or exiting the dwelling either of the following circumstances
24 exists:

25 (i) ~~(a)~~ The person is armed with a dangerous weapon.

26 (ii) ~~(b)~~ Another person is lawfully present in the
27 dwelling.

1 (B) ENGAGES IN CONDUCT PROSCRIBED UNDER SUBSECTION (4) AND
2 AT ANY TIME WHILE THE PERSON IS ENTERING, PRESENT, IN, OR EXITING
3 THE DWELLING THE PERSON COMMITS AN ASSAULTIVE OFFENSE, REGARDLESS
4 OF WHETHER THE PERSON IS CONVICTED OF THAT ASSAULTIVE OFFENSE.

5 (3) A person who breaks and enters a dwelling with intent to
6 commit a felony or a larceny in the dwelling or a person who
7 enters a dwelling without permission with intent to commit a
8 felony or a larceny in the dwelling is guilty of home invasion in
9 the second degree.

10 (4) A PERSON WHO BREAKS AND ENTERS A DWELLING OR WHO ENTERS
11 A DWELLING WITHOUT PERMISSION IS GUILTY OF HOME INVASION IN THE
12 THIRD DEGREE IF ANY OF THE FOLLOWING CIRCUMSTANCES EXIST:

13 (A) THE PERSON BROKE AND ENTERED THE DWELLING WITH INTENT TO
14 COMMIT A MISDEMEANOR OTHER THAN A LARCENY OR ENTERED THE DWELLING
15 WITHOUT PERMISSION WITH INTENT TO COMMIT A MISDEMEANOR OTHER THAN
16 A LARCENY.

17 (B) WHEN THE VIOLATION OCCURRED, THE PERSON WAS 1 OR MORE OF
18 THE FOLLOWING:

19 (i) ON PROBATION.

20 (ii) ON PAROLE.

21 (iii) SUBJECT TO A PERSONAL PROTECTION ORDER.

22 (iv) IN VIOLATION OF A BOND OR BAIL CONDITION OR ANY CONDI-
23 TION OF RELEASE, REGARDLESS OF WHETHER THAT VIOLATION IS RELATED
24 TO THE BREAKING AND ENTERING OR ENTERING WITHOUT PERMISSION.

25 (5) ~~-(4)-~~ Home invasion in the first degree is a felony pun-
26 ishable by imprisonment for not more than 20 years or a fine of
27 not more than \$5,000.00, or both.

1 (6) ~~-(5)-~~ Home invasion in the second degree is a felony
2 punishable by imprisonment for not more than 15 years or a fine
3 of not more than \$3,000.00, or both.

4 (7) HOME INVASION IN THE THIRD DEGREE IS A FELONY PUNISHABLE
5 BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE
6 THAN \$2,000.00, OR BOTH.

7 (8) ~~-(6)-~~ The court may order a term of imprisonment imposed
8 for home invasion in the first degree to be served consecutively
9 to any term of imprisonment imposed for any other criminal
10 offense arising from the same transaction.

11 (9) ~~-(7)-~~ Imposition of a penalty under this section does
12 not bar imposition of a penalty under any other applicable law.