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H.B. 252*
136th General Assembly

Bill Analysis

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Version: As Reported by House Judiciary

Primary Sponsors: Reps. Click and Bird

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SUMMARY

- Creates new “aggravated burglary,” “burglary,” and “trespass in a habitation where a person is present or likely to be present” offenses that are the same as the current offenses except that the new offenses do not require that the offender commit the offense by “force, stealth, or deception” and require the offender to commit the offense with a mental state of “knowingly.”
- Specifies that the new offenses and the current offenses are allied offenses of similar import.
- Establishes penalties for the new offenses and generally increases penalties for the current offenses.

DETAILED ANALYSIS

Aggravated burglary

The bill creates a new “aggravated burglary” offense that is distinguished from the current “aggravated burglary” offense as follows: (1) the new offense does not require the offender to commit the offense by force, stealth, or deception, and (2) the new offense adds a *mens rea* of knowingly.¹

Under current law, the offense of “aggravated burglary” prohibits a person, by force, stealth, or deception, from trespassing in an occupied structure or in a separately secured or separately occupied portion of an occupied structure, when another person other than an

* This analysis was prepared before the report of the House Judiciary Committee appeared in the House Journal. Note that the legislative history may be incomplete.

¹ R.C. 2911.11(A)(2).

accomplice of the offender is present, with purpose to commit in the structure or in the separately secured or separately occupied portion of the structure any criminal offense, if any of the following apply:²

- The offender inflicts, or attempts or threatens to inflict physical harm on another;
- The offender has a deadly weapon or dangerous ordnance on or about the offender's control.

The bill provides that the "aggravated burglary" offenses are allied offenses of similar import. A prosecution for a violation of the current offense does not preclude a prosecution for a violation of the new offense. One or more acts, a series of acts, or a course of behavior that can be prosecuted under the current offense or the new offense may be prosecuted under the current offense, the new offense, or both. However, if an offender is convicted of or pleads guilty to a violation of the current offense and is also convicted of or pleads guilty to a violation of the new offense based on the same conduct involving the same victim that was the basis of the violation in the current offense, the two offenses are allied offenses of similar import.³

The penalty for aggravated burglary is a first degree felony.⁴

Burglary

The bill creates a new "burglary" offense that is distinguished from the current "burglary" offense as follows: (1) the new offense does not require the offender to commit the offense by force, stealth, or deception, and (2) the new offense adds a *mens rea* of knowingly.⁵ Under current law, the offense of "burglary" prohibits a person, by force, stealth, or deception, from doing any of the following:⁶

- (a) Trespassing in an occupied structure or in a separately secured or separately occupied portion of an occupied structure, when another person other than an accomplice of the offender is present, with purpose to commit in the structure or in the separately secured or separately occupied portion of the structure any criminal offense;
- (b) Trespassing in an occupied structure or in a separately secured or separately occupied portion of an occupied structure that is a permanent or temporary habitation of any person when any person other than an accomplice of the offender is present or likely to be present, with purpose to commit in the habitation any criminal offense;
- (c) Trespassing in an occupied structure or in a separately secured or separately occupied portion of an occupied structure, with purpose to commit in the structure or separately secured or separately occupied portion of the structure any criminal offense.

² R.C. 2911.11(A)(1).

³ R.C. 2911.11(B).

⁴ R.C. 2911.11(C).

⁵ R.C. 2911.12(B)(2).

⁶ R.C. 2911.12(B)(1).

The bill provides that the “burglary” offenses are allied offenses of similar import. A prosecution for a violation of the current offense does not preclude a prosecution for a violation of the new offense. One or more acts, a series of acts, or a course of behavior that can be prosecuted under the current offense or the new offense may be prosecuted under the current offense, the new offense, or both. However, if an offender is convicted of or pleads guilty to a violation of the current offense and is also convicted of or pleads guilty to a violation of the new offense based on the same conduct involving the same victim that was the basis of the violation in the current offense, the two offenses are allied offenses of similar import.⁷

The bill provides the penalty for “burglary” under the new offense is as follows: (1) for (a) and (b) above, a second degree felony, and (2) for (c) above, a third degree felony.⁸

The bill increases the penalty for “burglary” under the current offense as follows: (1) for (a) and (b) above, from a second degree felony to a first degree felony, and (2) for (c) above, from a third degree felony to a second degree felony.⁹

“Occupied structure” means any house, building, outbuilding, watercraft, aircraft, railroad car, truck, trailer, tent, or other structure, vehicle, or shelter, or any portion thereof, to which any of the following applies:¹⁰

- It is maintained as a permanent or temporary dwelling, even though it is temporarily unoccupied and whether or not any person is actually present.
- At the time, it is occupied as the permanent or temporary habitation of any person, whether or not any person is actually present.
- At the time, it is specially adapted for the overnight accommodation of any person, whether or not any person is actually present.
- At the time, any person is present or likely to be present in it.

Trespass in a habitation when a person is present or likely to be present

The bill creates a new “trespass in a habitation when a person is present or likely to be present” offense that is distinguished from the current “trespass in a habitation when a person is present or likely to be present” offense as follows: (1) the new offense does not require the offender to commit the offense by force, stealth, or deception, and (2) the new offense adds a *mens rea* of knowingly.¹¹

⁷ R.C. 2911.12(D)(1).

⁸ R.C. 2911.12(E)(2).

⁹ R.C. 2911.12(E)(1).

¹⁰ R.C. 2911.12(A), by reference to R.C. 2909.01, not in the bill.

¹¹ R.C. 2911.12(C)(2).

Under current law, the offense of “trespass in a habitation when a person is present or likely to be present” prohibits a person, by force, stealth, or deception, from trespassing in a permanent or temporary habitation of any person when any person other than an accomplice of the offender is present or likely to be present.¹²

The bill provides that the “trespass in a habitation when a person is present or likely to be present” offenses are allied offenses of similar import. A prosecution for a violation of the current offense does not preclude a prosecution for a violation of the new offense. One or more acts, a series of acts, or a course of behavior that can be prosecuted under the current offense or the new offense may be prosecuted under the current offense, the new offense, or both. However, if an offender is convicted of or pleads guilty to a violation of the current offense and is also convicted of or pleads guilty to a violation of the new offense based on the same conduct involving the same victim that was the basis of the violation in the current offense, the two offenses are allied offenses of similar import.¹³

The bill provides the penalty for “trespass in a habitation when a person is present or likely to be present” under the new offense is a fourth degree felony.¹⁴

The bill increases the penalty for “trespass in a habitation when a person is present or likely to be present” under the current offense from a fourth degree felony to a third degree felony.¹⁵

HISTORY

Action	Date
Introduced	04-30-25
Reported, H. Judiciary	--

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¹² R.C. 2911.12(C)(1).

¹³ R.C. 2911.12(D)(2).

¹⁴ R.C. 2911.12(F).

¹⁵ R.C. 2911.12(F).