

HOUSE BILL No. 4362

March 7, 1989, Introduced by Reps. Clack, Bartnik, Weeks, DeMars and Pitoniak and referred to the Committee on Judiciary.

A bill to amend section 110 of Act No. 328 of the Public Acts of 1931, entitled
"The Michigan penal code,"
being section 750.110 of the Michigan Compiled Laws; and to repeal certain parts of the act.

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 to read as follows:

4 Sec. 110. (1) ~~Any person who shall break and enter with~~
5 ~~intent to commit any felony, or any larceny therein, any tent,~~
6 ~~hotel, office, store, shop, warehouse, barn, granary, factory or~~
7 ~~other building, structure, boat or ship, railroad car or any~~
8 ~~private apartment in any of such buildings or any unoccupied~~
9 ~~dwelling house, shall be guilty of a felony punishable by~~

~~1 imprisonment in the state prison not more than 10 years. Any~~
~~2 person who breaks and enters any occupied dwelling house, with~~
~~3 intent to commit any felony or larceny therein, shall be guilty~~
~~4 of a felony punishable by imprisonment in the state prison for~~
~~5 not more than 15 years. For the purpose of this section "any~~
~~6 occupied dwelling house" includes one that does not require the~~
~~7 physical presence of an occupant at the time of the breaking and~~
~~8 entering but one which is habitually used as a place of abode. A~~
9 PERSON WHO BREAKS AND ENTERS AN OCCUPIED DWELLING WITH INTENT TO
10 COMMIT LARCENY OR A FELONY IN THE DWELLING, OR BREAKS AND ENTERS
11 AN OCCUPIED DWELLING AND COMMITS OR ATTEMPTS TO COMMIT LARCENY OR
12 A FELONY IN THE DWELLING, IS GUILTY OF A FELONY, PUNISHABLE BY
13 IMPRISONMENT FOR NOT MORE THAN 15 YEARS.

14 (2) A PERSON WHO BREAKS AND ENTERS A BUILDING OTHER THAN AN
15 OCCUPIED DWELLING WITH INTENT TO COMMIT LARCENY OR A FELONY IN
16 THE BUILDING, OR BREAKS AND ENTERS A BUILDING OTHER THAN AN OCCU-
17 PIED DWELLING AND COMMITS OR ATTEMPTS TO COMMIT LARCENY OR A
18 FELONY IN THE BUILDING, IS GUILTY OF A FELONY, PUNISHABLE BY
19 IMPRISONMENT FOR NOT MORE THAN 10 YEARS.

20 (3) A PERSON WHO ENTERS WITHOUT BREAKING AN OCCUPIED OR
21 UNOCCUPIED DWELLING OR OTHER BUILDING WITH INTENT TO COMMIT LAR-
22 CENY OR A FELONY IN THE DWELLING OR BUILDING, OR ENTERS WITHOUT
23 BREAKING AN OCCUPIED OR UNOCCUPIED DWELLING OR OTHER BUILDING AND
24 COMMITS OR ATTEMPTS TO COMMIT LARCENY OR A FELONY IN THE DWELLING
25 OR BUILDING, IS GUILTY OF A FELONY, PUNISHABLE BY IMPRISONMENT
26 FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN \$2,500.00,
27 OR BOTH.

1 (4) A PERSON WHO BREAKS AND ENTERS, OR ENTERS WITHOUT
2 BREAKING, AN OCCUPIED OR UNOCCUPIED DWELLING OR OTHER BUILDING
3 WITHOUT INTENT TO COMMIT LARCENY OR A FELONY IN THE OCCUPIED OR
4 UNOCCUPIED DWELLING OR OTHER BUILDING AND DOES NOT COMMIT OR
5 ATTEMPT TO COMMIT LARCENY OR A FELONY IN THE OCCUPIED OR UNOCCU-
6 PIED DWELLING OR OTHER BUILDING IS GUILTY OF A MISDEMEANOR. THIS
7 SUBSECTION DOES NOT APPLY TO EITHER OF THE FOLLOWING:

8 (A) A PEACE OFFICER, OR A PERSON UNDER THE OFFICER'S DIREC-
9 TION, IN THE LAWFUL PERFORMANCE OF THE OFFICER'S DUTIES AS A
10 PEACE OFFICER.

11 (B) ENTERING WITHOUT BREAKING A DWELLING OR OTHER BUILDING
12 THAT AT THE TIME OF THE ENTRY IS OPEN TO THE PUBLIC UNLESS THAT
13 ENTRY HAS BEEN EXPRESSLY DENIED.

14 (5) AS USED IN THIS SECTION:

15 (A) "BREAK" MEANS TO USE FORCE, HOWEVER SLIGHT, TO OBTAIN A
16 WAY INTO A DWELLING OR BUILDING, AND DAMAGE TO THE DWELLING OR
17 BUILDING IS NOT REQUIRED. BREAKING INCLUDES THE OPENING OF A
18 CLOSED DOOR OR WINDOW, THE WIDENING OF THE OPENING OF A PARTIALLY
19 OPEN DOOR OR WINDOW, OR THE REMOVAL OF A SCREEN, VENT, COVERING,
20 OR OTHER MATERIAL TO MAKE AN OPENING.

21 (B) "BUILDING" MEANS A DWELLING, APARTMENT, HOUSE, GARAGE,
22 TENT, HOTEL, OFFICE, STORE, SHOP, WAREHOUSE, BARN, GRANARY, FAC-
23 TORY, COTTAGE, CLUBHOUSE, BOAT HOUSE, HUNTING OR FISHING LODGE,
24 BOAT, SHIP, RAILROAD CAR, HOUSE TRAILER, MOTOR HOME OR RECREA-
25 TIONAL VEHICLE, OR OTHER BUILDING OR STRUCTURE. EACH ROOM OR
26 UNIT OF A BUILDING SEPARATELY SECURED OR OCCUPIED IS A SEPARATE
27 BUILDING. BUILDING DOES NOT INCLUDE AN OUTSIDE SHOWCASE OR OTHER

1 OUTSIDE COUNTER USED FOR THE DISPLAY OF GOODS, WARES, OR
2 MERCHANDISE.

3 (C) "ENTER" MEANS TO PLACE ALL OR ANY PART OF THE PERSON'S
4 BODY INSIDE THE DWELLING OR BUILDING.

5 (D) "OCCUPIED DWELLING" MEANS A BUILDING THAT IS USED OR
6 USUALLY USED BY A PERSON FOR LODGING OR AS A PLACE OF ABODE,
7 WHETHER OR NOT AN OCCUPANT IS PRESENT AT THE TIME OF THE BREAKING
8 OR ENTRY.

9 (6) A PERSON WHO IN VIOLATING THIS SECTION COMMITS OR
10 ATTEMPTS TO COMMIT LARCENY OR A FELONY IN A DWELLING OR OTHER
11 BUILDING MAY BE CHARGED WITH AND CONVICTED OF BOTH THE CRIME COM-
12 MITTED OR ATTEMPTED IN THE DWELLING OR OTHER BUILDING AND THE
13 VIOLATION OF THIS SECTION.

14 Section 2. Sections 111 and 115 of Act No. 328 of the
15 Public Acts of 1931, being sections 750.111 and 750.115 of the
16 Michigan Compiled Laws, are repealed.