

**HOUSE BILL ANALYSIS
HB 2921**

Title: An act relating to residential burglary.

Brief Description: Creating first and second degrees of residential burglary.

Sponsors: Representatives Cairnes, O'Brien, Carrell, Sullivan and Conway.

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

Hearing Date: February 4, 1998.

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Background: Under the Sentencing Reform Act and the Juvenile Justice Act, residential burglary is committed when a person enters or remains unlawfully in a dwelling other than a vehicle with the intent to commit a crime against a person or property.

Under the adult Sentencing Reform Act, residential burglary is a class B felony which carries a maximum penalty of 10 years in prison, a \$20,000 fine, or both. Residential burglary is ranked at seriousness level IV. An offender who does not have any criminal history has a presumptive standard range of 3-9 months in jail. The actual sentence a particular offender receives depends on the offender's prior criminal history and other current charges.

Residential burglary is not among the list of crimes that are considered to be "most serious offenses." The most serious offense category includes such items as: aggravated murder in the first degree, manslaughter in the first and second degree, rape of an adult or child in the first and second degree, murder in the first and second degree, child molestation in the first and second degree, arson in the first degree, etc. **Summary:** Two crimes of residential burglary are created (in the first and second degree) and its designated penalties.

Residential burglary in the first degree is when a person enters or remains unlawfully in a dwelling other than a vehicle when someone other than an accomplice is present with the intent to commit a crime against a person or property. Residential burglary in the second degree is a class B felony and has a seriousness level V under the Sentencing Reform Act. An offender who does not have any criminal history has a presumptive standard range of 6-12 months in jail.

Residential burglary in the second degree is when a person enters or remains unlawfully in a dwelling other than a vehicle when no one other than an accomplice is present with the intent to commit a crime against a person or

property. Residential burglary in the first degree is a class B felony and has a serious level IV. An offender who does not have any criminal history has a presumptive standard range of 3-9 months in jail. In establishing sentencing guidelines and disposition standards, the sentencing guidelines commission and the juvenile disposition standards commission shall consider residential burglary in the second degree as a more serious offense than second degree burglary.

The category of "most serious offenses" is expanded to include two or more offenses of residential burglary in the first and second degree.

Rules Authority: No.

Fiscal Note: Requested.

Effective Date: Section 13 (the Juvenile Sentencing Standards section) goes into effect on July 1, 1998. The remaining sections of the bill go into effect ninety days after adjournment of session in which bill is passed.