

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-24-79

Time 2:20 p.m.

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1979



ENROLLED

SENATE BILL NO. 297

(By Mr. Stow & Mr. Jones)



PASSED March 10, 1979

In Effect ninety days from Passage



No. 297



ENROLLED

Senate Bill No. 297

(By MR. SHAW and MR. JONES)

[Passed March 10, 1979; in effect ninety days from passage.]

AN ACT to amend and reenact section nine, article nine, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to indictments for burglary; burglary to commit other felonies; form of indictment for burglary with the intent to commit sexual assault.

Be it enacted by the Legislature of West Virginia:

That section nine, article nine, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 9. FORMS OF INDICTMENTS.

§62-9-9. Indictment for burglary.

1 An indictment for burglary shall be sufficient if it be
2 in form, tenor or effect as follows (after following the
3 form in section one):

4 That A _____, on the _____ day of
5 _____, nineteen _____, about the hour of
6 _____, in the night of the same day, in the said
7 county of _____, the dwelling house of one
8 B _____, there situate, feloniously and
9 burglariously did break and enter, with intent the goods
10 and chattels of _____, in the said dwelling house
11 then and there being, then and there feloniously and
12 burglariously to steal, take and carry away; and then and
13 there in the said dwelling house, _____ (here
14 name the property, money or goods), of the value of
15 _____ (describing each article stolen and the value

16 thereof and the total value), of the goods and chattels (or
 17 money) of the said B....., (or whoever the goods
 18 or money belonged to), in the said dwelling house then
 19 and there found, then and there feloniously and burglar-
 20 iously, did steal, take and carry away, against the peace
 21 and dignity of the State.

22 And instead of describing burglary with intent to com-
 23 mit larceny, the indictment may charge any other felony
 24 thus: Burglary with intent to commit sexual assault or
 25 sexual abuse, as, after the form herein is followed to the
 26 charge of the offense, "with intent in the said dwelling
 27 house feloniously and burglariously to sexually assault
 28 (or sexually abuse)" "one C....., forcibly and against
 29 his will," and "then and there in the said dwelling house
 30 did feloniously and burglariously sexually assault (or
 31 sexually abuse)" "the said C....., forcibly and
 32 against his will, against the peace and dignity of the
 33 State." And burglary with intent to commit any felony
 34 may be charged in the same count.

35 An indictment for entering a dwelling house or an
 36 outhouse adjoining thereto, of another, in the nighttime
 37 without breaking, or in the daytime by breaking and
 38 entering, may be in the following form, tenor or effect
 39 (after following the form in section one):

40 That A....., on the day of
 41, nineteen, in the said
 42 county of, in the nighttime of said day, the
 43 dwelling house (or outhouse, etc., describing the same) of
 44 one B..... then and there found, did
 45 feloniously and burglariously enter without breaking (or,
 46 if it be in the daytime, use the words "in the daytime of
 47 said day," etc., "did feloniously and burglariously break
 48 and enter," etc.), with intent the goods and chattels of
 49 B..... therein found, feloniously and
 50 burglariously to take, steal and carry away; and then and
 51 there in the said dwelling house (or outhouse, etc.),
 52 one and one and
 53 dollars in money, etc., of the value
 54 of dollars, goods, chattels and money of
 55 the said B..... then and there found, did

56 feloniously and burglariously take, steal and carry away,
57 against the peace and dignity of the State.
58 And for entering without breaking, in the daytime, the
59 same form shall be sufficient, without alleging therein
60 that the act was done "burglariously."

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Clarence C. Chuston Jr.
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

J. C. Dillon Jr.
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

H. B. Burton
President of the Senate

Chas. H. Seay Jr.
Speaker House of Delegates

The within *is approved* this the *24*
day of *March*, 1979.

Paul R. Ryan
Governor



RECEIVED

MAR 19 3 44 PM '79

OFFICE OF THE GOVERNOR

EX. OF STATE

19 MAR 27 P 3: 29

RECEIVED