WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1979

ENROLLED
SENATE BILL NO. 297
(By Mr. _____)

PASSED March 15, 1979

In Effect sixty days from Passage
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.


1 An indictment for burglary shall be sufficient if it be in form, tenor or effect as follows (after following the form in section one):
2 That A _______________, on the ___________ day of
3 __________________, nineteen ______________, about the hour of
4 __________________, in the night of the same day, in the said
5 county of __________________, the dwelling house of one
6 B _______________, there situate, feloniously and
7 burglarciously did break and enter, with intent the goods
8 and chattels of ______________, in the said dwelling house
9 then and there being, then and there feloniously and
10 burglarciously to steal, take and carry away; and then and
11 there in the said dwelling house, __________________ (here
12 name the property, money or goods), of the value of
13 __________________ (describing each article stolen and the value
thereof and the total value), of the goods and chattels (or
money) of the said B...........................,(or whoever the goods
or money belonged to), in the said dwelling house then
and there found, then and there feloniously and burglar-
iously, did steal, take and carry away, against the peace
and dignity of the State.

And instead of describing burglary with intent to com-
mit larceny, the indictment may charge any other felony
thus: Burglary with intent to commit sexual assault or
sexual abuse, as, after the form herein is followed to the
charge of the offense, “with intent in the said dwelling
house feloniously and burglariously to sexually assault
(or sexually abuse)” “one C.............., forcibly and against
his will,” and “then and there in the said dwelling house
did feloniously and burglariously sexually assault (or
sexually abuse)” “the said C................, forcibly and
against his will, against the peace and dignity of the
State.” And burglary with intent to commit any felony
may be charged in the same count.

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

That A......................, on the ................... day of
nineteen ......................, in the said
county of ......................, in the nighttime of said day, the
dwelling house (or outhouse, etc., describing the same) of
one B.............................., then and there found, did
feloniously and burglariously enter without breaking (or,
if it be in the daytime, use the words “in the daytime of
said day,” etc., “did feloniously and burglariously break
and enter,” etc.), with intent the goods and chattels of
B................................. therein found, feloniously and
burglariously to take, steal and carry away; and then and
there in the said dwelling house (or outhouse, etc.),
one ......................... and one ........................... and
............... dollars in money, etc., of the value
of ............... dollars, goods, chattels and money of
the said B.................... then and there found, did
feloniously and burglariously take, steal and carry away,
against the peace and dignity of the State.

And for entering without breaking, in the daytime, the
same form shall be sufficient, without alleging therein
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

Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

J. Delanoy
Clerk of the Senate

Clerk of the House of Delegates

M. Britton
President of the Senate

Speaker House of Delegates

The within ______________ approved ______________ this the __________ day of ______________, 1979.

Paul Beach
Governor