

1 **§61-2-31. Home invasion in the first degree.**

2 (a) As mentioned in sections thirty-one, thirty-two,
3 thirty-three, and thirty-four of this article, a person "enters or
4 remains unlawfully" in or upon the premises when the premises, at
5 the time of the entry or remaining, are not open to the public and
6 when the offender is not otherwise licensed or privileged to do so.

7 (b) The term "dangerous instrument" as used in sections
8 thirty-one through thirty-four, means any instrument, article, or
9 substance which, under the circumstances in which it is used or
10 attempted to threatened to be used, is capable of causing death or
11 serious physical injury, and includes a vehicle and a dog that has
12 been commanded to attack.

13 (c) The term "deadly weapon" as used in sections thirty-one
14 through thirty-four of this article, is given the same meaning as
15 provided in section two, article seven, chapter sixty-one of this
16 code.

17 (d) The term "dwelling" as used in sections thirty-one through
18 thirty-four of this section, includes, but is not limited to, a
19 mobile home, house trailer, modular home, factory-built home or
20 self-propelled motor home, used as a dwelling regularly or only
21 from time to time, an occupied outhouse adjoining the dwelling, or
22 any other nonmotive vehicle primarily designed for human habitation
23 and occupancy and used as a dwelling regularly or only from time to
24 time.

1 (e) It is unlawful for an individual to enter or remain
2 unlawfully in a dwelling, or an outhouse adjoining or occupied, or
3 another, with the intent to commit a crime therein and who is
4 either:

5 (1) Armed with explosives, a deadly weapon or a dangerous
6 instrument; or

7 (2) In the course of committing the offense, intentionally,
8 knowingly, or recklessly uses explosives, a deadly weapon or a
9 dangerous instrument that causes physical injury, serious physical
10 injury or death to a person lawfully present in the dwelling.

11 (f) Anyone found to have violated subsection (e) of this
12 section is guilty of a felony and, upon conviction thereof, shall
13 be fined not more than \$20,000, and imprisoned for twenty-five
14 years to life without mercy.

15 (g) Notwithstanding any other provision of this code, an
16 individual sentenced to a prison term pursuant to this section is
17 not eligible for any reduction in the individual's term of
18 sentence, nor is the individual eligible for any type of
19 alternative sentencing.

20 **§61-2-32. Home invasion in the second degree.**

21 (a) It is unlawful for a person to enter or remain unlawfully
22 in a dwelling with the intent to commit a crime, and to use, or
23 threaten to use, physical force against a person lawfully present
24 in the dwelling.

1 (b) Anyone found to have violated subsection (a) of this
2 section is guilty of a felony and, upon conviction thereof, shall
3 be fined not more than \$15,000, and imprisoned for a term of twenty
4 years.

5 (c) Notwithstanding any other provision of this code, an
6 individual sentenced to a prison term pursuant to this section is
7 not eligible for any reduction in the individual's term of
8 sentence, and is not eligible for any type of alternative
9 sentencing.

10 **§61-2-33. Home invasion of the third degree.**

11 (a) It is unlawful for a person to enter or remain unlawfully
12 in a dwelling with the intent to commit a crime when another person
13 is lawfully present in the building.

14 (b) Anyone found to have violated subsection (a) of this
15 section is guilty of a felony and, upon conviction thereof, shall
16 be imprisoned for ten years.

17 (c) Notwithstanding any other provision of this code, an
18 individual sentenced to a prison term pursuant to this section is
19 not eligible for any reduction in the individual's term of
20 sentence, and is not eligible for any type of alternative
21 sentencing.

22 **§61-2-34. Home invasion of the fourth degree.**

23 (a) It is unlawful for a person to enter or remain unlawfully
24 in a dwelling with the intent to commit a crime in it.

1 (b) Anyone found to have violated subsection (a) of this
 2 section is guilty of a felony and, upon conviction thereof, shall
 3 be fined not more than \$5,000, imprisoned for up to five years, or
 4 both fined and imprisoned.

5 **ARTICLE 3. CRIMES AGAINST PROPERTY.**

6 **§61-3-12. Entry of building other than dwelling; entry of**
 7 **railroad, traction or motorcar, steamboat or other**
 8 **vessel; penalties; counts in indictment.**

9 ~~If any~~ A ~~person shall who,~~ at any time, ~~break and enter, or~~
 10 ~~shall enter~~ breaks and enters or enters without breaking, any
 11 office, shop, underground coal mine, storehouse, warehouse, banking
 12 house or any house or building, other than a dwelling ~~house~~ or
 13 outhouse adjoining ~~thereto~~ or occupied ~~therewith,~~ or any railroad
 14 or traction car, propelled by steam, electricity or otherwise, or
 15 any steamboat or other boat or vessel, within the jurisdiction of
 16 any county in this state, with intent to commit a felony or any
 17 larceny, he or she ~~shall be deemed~~ is guilty of a felony and, upon
 18 conviction, shall be ~~confined~~ imprisoned in a state correctional
 19 facility not less than one nor more than ten years. ~~And if any~~ A
 20 ~~person shall who,~~ at any time, ~~break and enter, or shall enter~~
 21 breaks and enters or enters without breaking, any automobile,
 22 motorcar or bus, with like intent, within the jurisdiction of any
 23 county in this state, he ~~shall be~~ or she is guilty of a misdemeanor

1 and, upon conviction, shall be confined in jail not less than two
2 nor more than twelve months and be fined not exceeding \$100.

3 An indictment for ~~burglary~~ home invasion may contain one or
4 more counts for breaking and entering, or for entering without
5 breaking, the house or building mentioned in the count for ~~burglary~~
6 home invasion under ~~the provisions of this and the preceding~~ this
7 section as well as sections thirty-one through thirty-four, article
8 two of this chapter.

NOTE: This bill provides for the criminal offenses of home invasion in the first, second, third and fourth degrees, with prescribed penalties, and otherwise modify the present law of burglary.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.