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[illegible]

- ✦ Class D felony (Attempted 1st Degree Burglary is Class E felony)

[illegible]

- ✧ Class D felony

[illegible]

Breaks

- Making of some kind of opening, however slight
 - Destructive force ✓ (but not necessary)
 - Opening an unlocked window ✓
 - Opening a partly opened door ✓
 - Go down chimney with open flu ✓
 - Opening an inner door ✓
 - Induce another to open with trickery, force or intimidation ✓
 - Get accomplice or co-conspirator to open ✓
 - Going through an open door or window X

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First-Degree Burglary

- (1) breaks
- (2) **AND enters**
- (3) without consent
- (4) dwelling house or sleeping apartment
- (5) of another
- (6) while it is actually occupied
- (7) at night
- (8) with the intent to commit any felony or larceny therein

• Class D felony

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Enters

Burglary requires breaks AND enters

- Inserting any part of body ✓
- Inserting tool for purpose of committing felony ✓
 - e.g., put gun in to shoot occupant
- Inserting tool for purpose of breaking X
 - e.g., use gun barrel to smash window

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Without Consent

- Owner or person entitled to possession consents to entry 
- Owner/possessor/occupant induced to allow entry with trickery, force or intimidation 

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Dwelling or Sleeping Apt.



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Dwelling or Sleeping Apt.



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Dwelling or Sleeping Apt.



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Dwelling or Sleeping Apt.



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Dwelling or Sleeping Apt.



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Dwelling or Sleeping Apt.



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Dwelling or Sleeping Apt.

- A dwelling is a structure regularly used by a person for sleeping.
 - Mobile home or house trailer ✓
 - Room in a hotel, motel or rooming house ✓
 - Crude habitation with walls and a roof ✓
 - Commercial space with sleeping apt. ✓
- Regularly used: use occurs in ordinary course of events
 - Abandoned home ✗
 - Sold home where new owner has not moved in ✗
 - Summer cottage if has been used regularly for sleeping and intent to use it again ✓

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Of Another

- Property must be legally possessed by someone other than D.
- Possession, not ownership, is the key.
 - Landlord enters tenant's room without consent ✓
 - One spouse has legal and exclusive possession of marital home, and other enters without consent ✓

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Actually Occupied

- Someone must be inside when the B&E occurs.
- D does not need to know someone was there.



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At Night

- Time after sunset and before sunrise, when it is so dark that a man's face cannot be identified except by artificial light or moonlight.



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Intent to Commit Felony or Larceny

- D must have the requisite intent WHEN the breaking and entering occurs.
- D need not succeed in committing larceny or felony.

Proof:

- Committed felony
- Preparation
- Inference of intent to steal
- Doctrine of recent poss.




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Burglary	
1st Degree	2d Degree
breaks	breaks
and enters	and enters
w/o consent	w/o consent
dwelling	dwelling/curtilage
of another	of another
while occupied	---
at night	at night
w/intent	w/intent

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Second-Degree Burglary

- Does not need to be occupied
- Includes buildings within curtilage



* Class G

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Felony Breaking or Entering of a Building

- breaks **OR** enters
- without consent
- any building
- with intent to commit any felony/larceny therein

▪ Class H

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1st Degree Burglary	2d Degree Burglary	Felony B or E
breaks	breaks	breaks
and enters	and enters	or enters
w/o consent	w/o consent	w/o consent
dwelling	dwelling/curtilage	any building
		<ul style="list-style-type: none"> • Store • Trailer used for storage • Warehouse • Bank • Bldg under construction
of another	of another	of another
while occupied	---	---
at night	at night	---
w/intent	w/intent	w/intent

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Felony B or E	Misd. B or E
breaks	breaks
or enters	or enters
w/o consent	w/o consent
any building	any building
of another	of another
---	---
---	---
w/intent	---

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1st Degree Burglary	2d Degree Burglary	Felony B or E	Misd. B or E
breaks	breaks	breaks	breaks
and enters	and enters	or enters	or enters
w/o consent	w/o consent	w/o consent	w/o consent
dwelling	dwelling/curtilage	any building	any building
of another	of another	of another	of another
while occupied	---	---	---
at night	at night	---	---
w/intent	w/intent	w/intent	----

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