

STATE SUMMARY

CONNECTICUT

C.G.S.A. section 53a-100, et seq.

First-Degree Burglary

- Enters or remains unlawfully in a building with the intent to commit a crime therein.
- Armed with explosives or deadly weapon or dangerous instrument
- Attempt/actual infliction of bodily harm to someone inside
- B Felony
- 5 years of sentence can't be suspended or reduced by the court

Second-Degree Burglary

- Enters or remains unlawfully in a dwelling at night with intent to commit a crime therein
- Enters or remains unlawfully in a dwelling when another person besides participant is present with intent to commit a crime therein
- C Felony

Second-Degree Burglary with firearm

- Second degree burglary
- Armed or threatens to use category of firearms
- Class C felony
- 1 year of sentence can't be suspended or reduced by the court

Third-Degree Burglary

- Enters or remains unlawfully in a building with intent to commit a crime therein
- D Felony

Third-Degree Burglary with firearm

- Third degree burglary
- Armed or threatens to use category of firearms
- Class D felony
- 1 year of sentence can't be suspended or reduced by the court

Manufacturing or possession of burglar's tools

- Class A misdemeanor

Affirmative Defense

- Building was abandoned

MASSACHUSETTS
M.C.L.A. Chapter 265; 266, et seq.

CRIMES AGAINST PERSON

Entry of dwelling place; persons present within; weapons

- Knowingly enters the dwelling place of another knowing/reason to know of persons present within or does this while armed with weapon; uses/threatens to use force; intentionally causes injury to person within dwelling
- 20 to life

CRIMES AGAINST PROPERTY

Burglary; armed; assault on occupants; weapons

- Breaks and enters dwelling house at night with intent to commit a felony; or after entered with such intent breaks into dwelling house at night while someone is inside and offender is armed with weapon at the time of breaking or entry, arms while inside or assaults the person within
- 10 to life
- if armed with category of firearm then 15 to life
- subsequent conviction for offense gets 20 to life

Burglary; unarmed

- above provisions but not armed and no assault
- 20 year max
- previous conviction then 5 to 20

Breaking and entering at night

- breaks and enters in building, ship, vehicle, etc. with intent to commit a felony; attempt/succeeds in extracting valuable from building (blowing up safe, etc.)
- 20 year max in prison; 2 ½ year max in jail or house of correction

Building, etc.; breaking and entering with intent to commit misdemeanor

- in daytime or nighttime breaks and enters a building, etc., with intent to commit a misdemeanor
- \$200 fine max or 6 months imprisonment or both

Entering without breaking at night; breaking and entering in daytime; weapons

- in night time enters without breaking or breaks and enters in the daytime (building) with intent to commit a felony; owner or person within put in fear;
- 10 years max
- with category of firearm then 5 years minimum in prison or 2 ½ years max in house of correction

Dwelling house; entry at night; breaking and entering in daytime; weapons

- in night time enters a dwelling without breaking or breaks and enters in the day time (building, etc.) with intent to commit a felony; no one put in fear
- 10 year max in prison; or \$500 fine and 2 years max in jail max
- with category of firearm then minimum of 5 years in prison or max of 2 ½ years in house of correction

Entering dwelling house by false pretenses; intent to commit felony or larceny

- enters a dwelling house by false pretenses, without breaking and with the intent to commit a felony or larceny, no person put in fear, or
- 10 years max or \$5,000 fine cap; two years in jail, or both such fine and imprisonment

Burglariious Instruments

- 10 year max or \$1000 max fine and imprisonment in jail for 2 ½ years max

VERMONT
13 V.S.A. 1201et seq.

Burglary

- Enters into building or structuring knowingly w/o license or privilege with intent to commit felony, petit larceny, simple assault unlawful mischief
- conviction for burglary of occupied dwelling = 25 year max or \$1,000 fine cap or both
- otherwise 15 year max or \$1,000 fine cap

Making or having burglar's tools

- twenty years max or \$10,000 fine cap

RHODE ISLAND

Gen. Law. 1956, 11-8-1, et seq.

Burglary (punishment)

- common law definition: breaking and entering into another's dwelling at nighttime with the intent to commit a felony therein
- 5 years to life for all burglary offenses

Attempted Breaking and entering

- with overt act, punished the same as if offense had been committed

Unlawful breaking and entering of a dwelling house

- break and enter either day or night into a dwelling, whether occupied or not without consent
- 2 to 10 years for first conviction
- 4 to 14 years for second and subsequent convictions or \$10,000 fine cap
- must make unwaivable restitution or 500 hours of public community restitution work

Unlawful breaking and entering of dwelling with possession of instruments relating to wrongful setting of fires

- break and enter at either day or night into any dwelling, occupied or not without consent with instruments reasonably related to wrongful setting of fires
- 3 to 15 years

Breaking and entering of a dwelling when resident on premises

- break and enter into any dwelling without consent when resident is on premises after previous conviction of such offense
- 1 to 10 years
- no provisions or suspension of sentence or probation
- can be fined \$5,000 cap
- must make unwaivable restitution or 500 hours of public community restitution work or both or combo

Breaking and entering of dwelling house of persons 60 years of age or older when resident on premises

- break or enter any dwelling without consent when resident who is 60 or older is on premises
- 4 to 20 years for first conviction
- 6 to 20 for second conviction
- can be fined \$15,000 cap for first conviction and \$20,000 or second and subsequent convictions

Breaking and entering of dwelling house of a person who is severely impaired

- break and enter dwelling without consent when resident who is severely impaired in on premises
- 2 to 20 years
- may be fined \$5,000 cap for first conviction and \$10,000 cap for second and subsequent convictions

- must make unwaivable restitution or 500 hours of public community restitution work or both or combo

Entering of building or ship with felonious intent

- with intent to commit murder, sexual assault, robbery, arson or larceny, enters a dwelling at either day or night or with such intent enter a building, etc. during the day
- 10 year max; or \$500 fine cap or both.

Breaking and entering business place, public building or ship with felonious intent

- break and enter one of the above, etc. not adjoined to or occupied by a dwelling with the intent to commit murder, sexual assault, robbery or larceny
- 10 years max

Breaking and entering other buildings with criminal intent (railroad cars/tractor trailers)

- break and enter or enter at night with intent to commit larceny or any felony or misdemeanor in above, etc., (catch-all); or break and enter into railroad cars/trailors with intent to commit larceny or other crime
- 10 year max

Unlawful breaking and entering of business place, public building or ship during the daytime

- break and enter at above not adjoining to or occupied as a dwelling during the daytime
- 3 year max or \$300 fine max or both

Making, repairing, or possessing burglar tools

- 10 year max

Aiding and abetting a minor

- anyone 18 or older who gets a person under 18 to commit acts in this chapter
- 4 to 20 years and/or \$2,500 to \$25,000 fine or both for each such offense
- must make unwaivable restitution or 100 hours of public community restitution work or both

NEW HAMPSHIRE
N.H. Rev. Stat. 635.1

Unauthorized Entries

Burglary

- enters a building or occupied structure to commit a crime therein (unless open to the public or licensed/privileged to enter); affirmative defense if building was abandoned
- Class B felony
- Class A felony if perpetrated in the dwelling of another at night or actor is armed with deadly weapon or actor inflicts bodily injury
- Sentenced according to RSA 651:2, IIg if armed with firearm
- Misdemeanor if in possession/making burglar's tools

MAINE

17 A.M.R.S.A. sec. 401, et seq.

Burglary

- enters or surreptitiously remains in a structure knowingly without license or privilege to do so with intent to commit a crime therein
- Class C crime
- Class A crime if above and person is armed with firearm or knows accomplice is armed
- Class B crime if inflicts or attempts to inflict bodily injury
- Class B crime if armed with a dangerous weapon or knows that an accomplice is so armed
- Class B crime if structure is a dwelling place
- Class B crime if at time of burglary, the person has 3 or more prior Class A, B or C convictions for any combo of theft or violation/attempts to violate of this section

Aggravated criminal trespass

- knowingly not licensed or privileged, enters a dwelling place and while there violates any provision of chapter 9 or 11 or at the time of offense, has 2 prior convictions for burglary in a dwelling place or criminal trespass in a dwelling place.

NEW YORK
N.Y. Penal Law sec. 140

Burglary in the first degree

- knowingly enters or remains unlawfully in a dwelling with intent to commit a crime therein and some participant:
- is armed; causes physical injury to a non-participant; uses or threatens to use a dangerous instrument; or displays what appears to be in category of firearms (but affirmative defense if not loaded)
- Class B felony

Burglary in the second degree

- knowingly enters or remains unlawfully in building with intent to commit a crime therein and either:
- participant is armed with explosives/deadly weapon; causes physical injury to a non-participant; uses or threatens to use a dangerous instrument; displays what appears to be in category of firearms or
- the building is a dwelling
- Class C felony

Burglary in the third degree

- knowingly enters or remains unlawfully in a building with intent to commit a crime therein
- Class D felony

Possession of burglar's tools

- Class A misdemeanor

Criminal trespass in the second degree

- knowingly enters or remains unlawfully in a dwelling
- Class A misdemeanor

Criminal trespass in the first degree

- knowingly enters or remains unlawfully in a building and in the course of committing:
- possesses or knows a participant possesses a dangerous weapon or explosives
- possesses or knows a participant possesses a firearm
- Class D felony

PENNSYLVANIA
Section 3501

Burglary

- enters a building or occupied structure with intent to commit a crime therein
- affirmative defense if the building or structure is abandoned
- First degree felony generally
- Second degree felony if structure is not adapted for overnight accommodation and no one is present at the time of entry
- no multiple convictions for the burglary and the crime committed therein unless that crime is a first or second degree felony

Criminal trespass

- knowingly not licensed or privileged and enters/gains entry by subterfuge or surreptitiously remaining in any building or occupied structure is a third degree felony
- knowingly not licensed or privileged and breaks into any building or occupied structure is a second degree felony

GEORGIA

Burglary

- enters or remains within dwelling house or building used as a dwelling or other building without authority and with intent to commit a felony or theft therein
- 1 to 20 years for first offense
- 2 to 20 years for second offense
- 5 to 20 years for third offense
- no suspended, probated, deferred or withheld sentences

Possession of tools for the commission of crime

- 1 to 5 years

FLORIDA
F.S.A. sec. 810, et seq.

Home invasion robbery (Theft, Robbery and Related Crimes)

- robbery that occurs when the offender enters a dwelling with the intent to commit a robbery and commits a robbery of the occupants therein
- carrying firearm or other deadly weapon makes it a felony in the first degree with life max
- carrying a weapon makes it a first degree felony punishable according to 775.082, 775.083 or 775.084
- not carrying a firearm or weapon makes it a first degree felony punishable according to 775.082, 775.083 or 75.084

Burglary (before July 1, 2001)

- Entering or remaining in a dwelling, structure or conveyance with intent to commit an offense therein unless open to the public or defendant is licensed or invited

Burglary (after July 1, 2001)

- Entering a dwelling, structure or a conveyance with intent to commit an offense therein unless open to the public or defendant is licensed or invited or
- Notwithstanding a license or invitation, surreptitiously remaining to commit an offense or doing so after license/invitation is withdrawn or to commit a forcible felony

First degree burglary

- punishable by life max or as provided in 775.082, 775.083 or 775.084 if the offender makes an assault or battery upon any person or
- is/becomes armed within the dwelling, structure or conveyance with explosives or weapons or
- enters an occupied or unoccupied dwelling or structure and uses a motor vehicle as instrumentality to assist and damages the dwelling or damages the dwelling in excess of \$1,000.

Second degree burglary

- punishable by above-listed statutes if no assault or battery and isn't armed and:
- the offender enters/remains in a dwelling while another person is present
- the offender enters/remains in a dwelling and there isn't another person present
- the offender enters/remains in a structure and there is another person present
- the offender enters/remains a conveyance and there is another person present or
- the offender enters/remains in a authorized emergency vehicle
- unless committed during/as a result of state of emergency then first degree burglary

Third degree burglary

- punishable by above-stated statutes if offender doesn't make an assault or battery and isn't armed with a weapon and:
- the offender enters/remains in a structure and there isn't another person present
- the offender enters/remains in a conveyance and there isn't another person present
- unless committed during/as a result of a state of emergency then second degree burglary

Possession of burglary tools

- third degree felony and punishable by the above-listed statutes

MICHIGAN
M.C.L.A. 750.110, et seq.

Breaking and entering

- breaking/entering building, structure, etc., with the intent to commit a felony or a larceny therein
- felony
- 10 years max

Home invasion in the first degree

- breaks/enters or enters without permission a dwelling with intent to commit a felony, larceny or assault therein or breaks/enters or enters without permission a dwelling and while present commits a felony, larceny or assault and is:
 - armed with a dangerous weapon
 - another person is lawfully present in the dwelling
 - 20 year max; \$5,000 fine cap or both
 - can be sentenced consecutively to other offenses in transactions

Home invasion in the second degree

- breaks/enters or enters without permission a dwelling with intent to commit a felony, larceny or assault therein or breaks/enters or enters without permission a dwelling and while present commits a felony, larceny or assault.
- 15 year max; \$3,000 fine cap or both

Home invasion in the third degree

- breaks/enters or enters without permission a dwelling and while present violates any of the following:
 - a probation term or condition
 - a parole term or condition
 - a personal protection order term or condition
 - a bond or bail condition or any condition of pretrial release
- 5 years max; \$2,000 fine cap or both

Entering without breaking

- without breaking, enters a dwelling, house, structure, etc., with intent to commit a felony or any larceny therein
- felony
- 5 years max or \$2,500 cap

Burglary with explosives

- enters any building for the purpose of committing crime therein and attempts to used explosive devices/bases
- felony
- 15 to 30 years

Breaking and entering or entering without breaking; buildings, tents, etc.

- breaks and enters or enters without breaking any dwelling, house, etc., whether occupied or not, without obtaining permission
- misdemeanor
- doesn't apply to entering without breaking for public places unless entry was expressly denied or peace officer performing duties

Burglar's tools

- felony
- 10 years max

ILLINOIS
720 ILCS 5/19-1

Burglary

- without authority knowingly enters/remains within a building, etc. with intent to commit therein a felony or theft
- Class 2 felony
- Class 1 if committed in a place of worship or school

Possession of burglary tools

- Class 4 felony

Residential burglary

- knowingly and without authority enters/remains within the dwelling place of another with intent to commit therein a felony or theft
- includes above definition of burglary
- Class 1 felony

Criminal trespass to a residence

- without authority knowingly enters or remains within a residence is a Class A misdemeanor
- without authority knowingly enters or remains in residence of another after s/he knows/has reason to know one or more persons is present is a Class 4 felony
- excludes common areas of multi-unit buildings

MINNESOTA
M.S.A. sec. 609.582

Burglary in the first degree

- enters a building without consent and commits a crime while in the building either directly or as an accomplice and
- building is a dwelling and another person is present in it during the offense or
- possesses a dangerous weapon, article made to resemble a dangerous weapon to victim, explosives or
- assault a person in building or on property
- 20 years max or \$35,000 or both
- 6 month mandatory minimum sentence in corrections work house when occupied dwelling

Burglary in the second degree

- enters building without consent and commits a crime while in the building either directly or as an accomplice and
- building is a dwelling
- portion of building is for banking or securing/holding valuables and entry is with force/threat of force
- portion of building contains a pharmacy or place where controlled substances are held and entry is by force
- when entering or in the building, possesses tool to access money or property
- 10 years max or \$20,000 fine cap or both

Burglary in the third degree

- enters building without consent and with intent to steal or commit any felony or gross misdemeanor while in the building or commits such an offense directly or as an accomplice
- 5 years max and \$10,000 fine or both

Burglary in the fourth degree

- enters building without consent and with intent to commit a misdemeanor other than to steal or commits such an offense either directly or as an accomplice
- 1 year max or \$3,000 fine cap or both

First burglary of a dwelling conviction

- Except as provided in the section, in determining an appropriate disposition for a first offense of burglary of a dwelling, the court shall presume that a stay of execution with at least a 90 day period of incarceration as a condition of probation shall be imposed unless the defendant's criminal history score determined according to the Sentencing Guidelines indicates a presumptive executed sentence, in which case the presumptive executed sentence shall be imposed unless the court departs from the Sentencing Guidelines. A stay of imposition of sentence may be granted only if accompanied by a statement on the record of the reasons for it. The presumptive period of incarceration may be waived in whole or in part by the court if the defendant provides restitution or performs community work service.

Possession of burglary or theft tools

- 3 years max or payment or \$5,000 fine cap or both

CALIFORNIA
Cal.PenalCode sec. 459 et seq.

Burglary

- enters house, room, apartment, etc., with intent to commit a grand or petit larceny or any felony
- burglary of an inhabited dwelling house, etc., is first degree and punishable by 2, 4 or 6 years
- all other burglaries are second degree and punishable for not more than 1 year in county jail or in state prison
- no probation except in unusual cases in the interest of justice for conviction of burglary of an inhabited dwelling and reasons must be in court record
- no probation except in unusual cases in the interest of justice for conviction of felony custodial institution of burglary; misdemeanor custodial institution of burglary is punishable by 90 days to a year in county jail; reasons for probation departure must be put on the record
- burglary committed during state of emergency can be convicted as looting as well

(Burglary with explosives)

- with intent to commit crime, enters either by day or night any building whether inhabited or not and opens/attempts to open vault safe or other secure place using category of explosives is guilty of a felony and punishable by 3, 5 or 7 years

* Note various burglary tools statutes regarding master vehicle keys

COLORADO

C.R.S.A. sec. 18-4-202, et seq.

First degree burglary

- knowingly enters/remains unlawfully in a building or occupied structure with intent to commit therein a crime other than trespass against another person or property and the person or participant assaults or menaces any person or is armed with explosives or a deadly weapon
- Class 3 felony
- if property involved is a controlled substance from a pharmacy then first degree burglary of a controlled substance and a Class 2 felony

Second degree burglary

- knowingly breaks an entrance/enters/remains unlawfully in a building or occupied structure with intent to commit therein a crime against another person or property
- Class 4 felony
- Class 3 felony if burglary of a dwelling or objective is theft of a controlled substance lawfully kept within building or occupied structure

Third degree burglary

- with intent to commit a crime enters/breaks into vault, safe, etc.
- Class 5 felony
- Class 4 felony if objective is theft of a controlled substance lawfully kept upon property

Possession of burglary tools

- Class 5 felony

First degree criminal trespass

- knowingly and unlawfully enters /remains in a dwelling of another or enters any motor vehicle with intent to commit a crime therein
- Class 5 felony

ARIZONA
A.R.S. sec. 13-1507

Burglary in the first degree

- person or accomplice commits burglary in the second or third degree and knowingly possess explosives, a deadly weapon or a dangerous instrument during the course of the theft or felony
- Class 3 felony for a nonresidential structure, fenced commercial or residential yard
- Class 2 felony if committed in a residential structure

Burglary in the second degree

- entering or remaining unlawfully in or on a residential structure with intent to commit any theft or any felony therein
- Class 3 felony

Burglary in the third degree

- entering or remaining unlawfully in a residential structure or in a fenced in commercial or residential yard with the intent to commit any theft or felony therein or
- making entry into any part of a motor vehicle by means of a manipulation key or master key with the intent to commit theft or felony in the motor vehicle
- Class 4 felony

Possession of burglary tools; master key; manipulation key

- Class 6 felony

WASHINGTON
R.C.W.A. 9A.52.020, et seq.

Burglary in the first degree

- with intent to commit a crime against a person or property therein, enters or remains unlawfully in a building and
- is armed with a deadly weapon or
- assaults any person
- Class A felony

Residential burglary

- with intent to commit a crime against a person or property therein, enters or remains unlawfully in a dwelling other than a vehicle
- Class B felony
- in establishing sentencing guidelines and disposition standards, the sentencing guidelines commission and the juvenile disposition standards commission shall consider residential burglary as a more serious offense than second degree burglary

Burglary in the second degree

- with intent to commit a crime against a person or property therein, enters or remains unlawfully in a building other than a vehicle or a dwelling
- Class B felony

Inference of intent

- any person who enters or remains unlawfully in a building may be inferred to have acted with intent to commit a crime against a person or property therein, unless such an entering or remaining shall be explained by evidence satisfactory to the trier of fact to have been made without such criminal intent

Other crime in committing burglary punishable

- can be prosecuted for each crime separately

Making or having burglar's tools

- gross misdemeanor