

Regular Session, 2010

SENATE BILL NO. 375

BY SENATORS MORRELL, CROWE, DORSEY AND MARIONNEAUX

CRIME/PUNISHMENT. Provides for the crime of home invasion. (8/15/10)

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AN ACT

To amend and reenact R.S. 14:62.8(B)(2) and to enact R.S. 14:2(B)(42), relative to the crime of home invasion; to provide for penalties at hard labor under certain circumstances; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:62.8(B)(2) is hereby amended and reenacted and R.S. 14:2(B)(42) is hereby enacted to read as follows:

§2. Definitions

\* \* \*

B. In this Code, "crime of violence" means an offense that has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and that, by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense or an offense that involves the possession or use of a dangerous weapon. The following enumerated offenses and attempts to commit any of them are included as "crimes of violence":

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**(42) Home invasion**

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§62.8. Home invasion

B.(1)

(2) Whoever commits the crime of home invasion when, at the time of the unauthorized entering, there is present in the dwelling or structure any person ~~who is under the age of twelve years, is sixty-five years of age or older, or who has a developmental disability as defined in R.S. 28:451.2,~~ shall be fined not more than ten thousand dollars and shall be imprisoned **at hard labor** for not less than ten nor more than twenty-five years; at least ten years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

The original instrument was prepared by Thomas L. Tyler. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jeanne Johnston.

DIGEST

Morrell (SB 375)

Present law defines "crime of violence" as an offense that has, as an element, attempted use, or threatened use of physical force against the person or property of another, and that by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense or an offense that involves the possession or use of a dangerous weapon.

Proposed law includes "home invasion" as a crime of violence.

Present law defines "home invasion" as the unauthorized entering of any inhabited dwelling, or other structure belonging to another and used in whole or in part as a home or place of abode by a person, where a person is present, with the intent to use force or violence upon the person of another or to vandalize, deface, or damage the property of another. Provides a penalty for committing the crime of home invasion of a fine of not more than \$5,000 and imprisonment at hard labor for not less than five nor more than 20 years. Further provides that at least five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

Present law requires that whoever commits the crime of home invasion when, at the time of the unauthorized entering, there is present in the dwelling or structure any person who is under the age of 12 years, is 65 or older, or is developmental disabled, be fined not more than \$10,000 and be imprisoned for not less than 10 nor more than 25 years and requires that at least 10 years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

Proposed law removes the age parameters specified in present law and makes the greater penalties apply if there is any person present in the dwelling at the time of unauthorized

entering. Further provides that imprisonment be served at hard labor.

Effective August 15, 2010.

(Amends R.S. 14:62.8(B)(2); adds R.S. 14:2(B)(42))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill.

1. Removes age parameters and makes the greater penalty applicable if any person is present in the dwelling at the time of the home invasion.