

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 100

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

AN ACT

RELATING TO CRIME; PROVIDING A DEFINITION OF "STRUCTURE" FOR
BURGLARY AND AGGRAVATED BURGLARY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 30-16-3 NMSA 1978 (being Laws 1963,
Chapter 303, Section 16-3, as amended) is amended to read:

"30-16-3. BURGLARY.--

A. Burglary consists of the unauthorized entry of
[~~any~~] a vehicle, a watercraft, an aircraft, a dwelling or other
structure, movable or immovable, with the intent to commit any
felony or theft [~~therein~~] in the vehicle, watercraft, aircraft,
dwelling or other structure.

[~~A.~~] B. Any person who, without authorization,
enters a dwelling [~~house~~] with intent to commit any felony or
theft therein is guilty of a third degree felony.

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[B-] C. Any person who, without authorization, enters any vehicle, watercraft, aircraft or other structure, movable or immovable, with intent to commit any felony or theft therein is guilty of a fourth degree felony.

D. As used in this section, "structure" includes a protected space enclosed to the degree that it is capable of confining people or property and creates the expectation of privacy against an unauthorized intrusion. The boundaries of a structure may extend to a partially enclosed construction attached to and constituting an extension of a dwelling, in a location that creates the expectation of privacy and in such a manner that a reasonable person would expect protection from an unauthorized intrusion."

SECTION 2. Section 30-16-4 NMSA 1978 (being Laws 1963, Chapter 303, Section 16-4) is amended to read:

"30-16-4. AGGRAVATED BURGLARY.--

A. Aggravated burglary consists of the unauthorized entry of [any] a vehicle, a watercraft, an aircraft, a dwelling or other structure, movable or immovable, with intent to commit [any] a felony or theft [therein] in the vehicle, watercraft, aircraft, dwelling or other structure and the person either:

[A-] (1) is armed with a deadly weapon;

[B-] (2) after entering, [arms himself] is armed with a deadly weapon; or

[C-] (3) commits a battery upon [any] a person

while in ~~[such]~~ the place or in entering or leaving ~~[such]~~ the place.

B. Whoever commits aggravated burglary is guilty of a second degree felony.

C. As used in this section, "structure" includes a protected space enclosed to the degree that it is capable of confining people or property and creates the expectation of privacy against an unauthorized intrusion. The boundaries of a structure may extend to a partially enclosed construction attached to and constituting an extension of a dwelling, in a location that creates the expectation of privacy and in such a manner that a reasonable person would expect protection from an unauthorized intrusion."

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