



Class 8

Criminal Law

Burglary – Common Law

► Elements:

1. **Breaking** (by actual or constructive force; and need not actually cause damage) and
2. **entering** (any degree of entry (actual or constructive) is sufficient) the
3. **dwelling** of another
4. **at night**, with the
5. **intent to commit a felony** (e.g., theft) therein

Burglary – Modern Example - Illinois

- **Burglary:** (class 2 felony)
 1. Knowingly entering or remaining
 2. In any building or vehicle that does not belong to the defendant
 3. With the intent to commit a felony or theft therein
- **Class 1 felony** if:
 - The burglary is of a school OR residence
- **Criminal Trespass:**
 - Knowingly entering or remaining on someone else's property or vehicle (without intending to commit a crime. (Misdemeanor)
 - Criminal Trespass of a dwelling that the defendant knew or should have known is inhabited by one or more people is a class 4 felony.
- Some jurisdictions also increase the grade of felony if the defendant is armed and/or injures the inhabitants, etc.

Arson – Common Law

► Elements:

1. The **malicious**
2. **burning** (damage is required)
3. of the **dwelling**
4. of **another**
5. by **fire** (or explosion)

Arson – Modern Rules

- **Modern statutes have eliminated most of the elements**
 - General intent (no malice required)
 - No requirement of dwelling, or even building
 - Can be one's own house (e.g., for insurance collection purposes)



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QUIZ TIME!

Arson – Modern Example – Rhode Island

Different Degrees of Arson

(minimum-maximum sentence in parentheses)

- 7th degree: public unauthorized bonfire (fine of \$100)
- 6th degree: destruction of woodlands by fire (0-2 years)
- 5th degree: destruction of property by fire or explosion (1-2 years)
- 4th degree: destruction of property worth more than \$100 by fire or explosion (1-3 years)
- 3rd degree: destroying property by fire with intent to defraud an insurance company (2-20 years)
- 2nd degree: destroying an unoccupied building or structure by fire or explosion (2-20 years)
- 1st degree: destroying an occupied building or residence (or one that was recently occupied) by fire or explosion (5 years - life)
- IF an arson designated as 3rd degree or higher results in the death of a person, the sentence for arson **must be** 20 years or more.