

# STATE OF NEW YORK

1102

2023-2024 Regular Sessions

## IN SENATE

January 10, 2023

Introduced by Sens. BAILEY, SALAZAR -- read twice and ordered printed,  
and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to burglary in the second degree

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 2 of section 140.25 of the penal law, as  
2 amended by chapter 361 of the laws of 1981, is amended and a new subdi-  
3 vision 3 is added to read as follows:

4 2. The building is a dwelling~~[-]~~; or

5 3. The building is a dwelling which, at the time of the commission of  
6 the crime, is occupied by a person who is not a participant in the  
7 crime.

8 § 2. Paragraph (b) of subdivision 1 of section 70.02 of the penal law,  
9 as amended by chapter 94 of the laws of 2020, is amended to read as  
10 follows:

11 (b) Class C violent felony offenses: an attempt to commit any of the  
12 class B felonies set forth in paragraph (a) of this subdivision; aggra-  
13 vated criminally negligent homicide as defined in section 125.11, aggra-  
14 vated manslaughter in the second degree as defined in section 125.21,  
15 aggravated sexual abuse in the second degree as defined in section  
16 130.67, assault on a peace officer, police officer, firefighter or emer-  
17 gency medical services professional as defined in section 120.08,  
18 assault on a judge as defined in section 120.09, gang assault in the  
19 second degree as defined in section 120.06, strangulation in the first  
20 degree as defined in section 121.13, aggravated strangulation as defined  
21 in section 121.13-a, burglary in the second degree as defined in subdi-  
22 visions one and three of section 140.25, robbery in the second degree as  
23 defined in section 160.10, criminal possession of a weapon in the second  
24 degree as defined in section 265.03, criminal use of a firearm in the  
25 second degree as defined in section 265.08, criminal sale of a firearm

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 in the second degree as defined in section 265.12, criminal sale of a  
2 firearm with the aid of a minor as defined in section 265.14, aggravated  
3 criminal possession of a weapon as defined in section 265.19, soliciting  
4 or providing support for an act of terrorism in the first degree as  
5 defined in section 490.15, hindering prosecution of terrorism in the  
6 second degree as defined in section 490.30, and criminal possession of a  
7 chemical weapon or biological weapon in the third degree as defined in  
8 section 490.37.

9 § 3. This act shall take effect immediately.