

# 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)

**QUIZ TIME**

# Arson – Modern Example – Rhode Island

## Different Degrees of Arson

(minimum-maximum sentence in parentheses)

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