**A** **BILL**

TO AMEND SECTION 16‑11‑311 OF THE 1976 CODE, RELATING TO BURGLARY IN THE FIRST DEGREE, TO ENACT THE “HOME INVASION PROTECTION ACT,” TO PROVIDE PENALTIES FOR BURGLARY IN THE FIRST DEGREE IF A PERSON WHO IS NOT A PARTICIPANT IN THE CRIME IS PRESENT IN THE DWELLING.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Home Invasion Protection Act.”

SECTION 2. Section 16‑11‑311 of the 1976 Code is amended to read:

“Section 16‑11‑311. (A) A person is guilty of burglary in the first degree if the person enters a dwelling without consent and with intent to commit a crime in the dwelling, and either:

(1) when, in effecting entry or while in the dwelling or in immediate flight, ~~he~~ the person or another participant in the crime:

(a) is armed with a deadly weapon or explosive; ~~or~~

(b) causes physical injury to a person who is not a participant in the crime; ~~or~~

(c) uses or threatens the use of a dangerous instrument; or

(d) displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm; ~~or~~

(2) the burglary is committed by a person with a prior record of two or more convictions for burglary or housebreaking or a combination of both; or

(3) the entering or remaining occurs in the nighttime.

(B) Burglary in the first degree is a felony punishable by life imprisonment. For purposes of this section, ‘life’ means until death. ~~The~~ If the burglary involves an element of subsection (A)(2), subsection (A)(3), or subsections (A)(2) and (A)(3), but does not involve an element of subsection (A)(1), then the court, in its discretion, may sentence the defendant to a term of not less than fifteen years. If the burglary involves an element of subsection (A)(1) and a person who is not a participant in the crime is present in the dwelling, then the court, in its discretion, may sentence the defendant to a term of not less than twenty years.”

SECTION 3. The repeal or amendment by this act of any law, whether temporary, permanent, civil, or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. This act takes effect upon approval by the Governor.

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