

- (i) Obtain unauthorized control over research property;
  - (ii) Alter or eradicate research property;
  - (iii) Damage, deface, or move in a manner intended to cause harm to research property, or destroy or remove research property; or
  - (iv) Engage in conduct that results in the removal of research property;
- and
- (2) The action was taken without the permission of the research facility.

(c) A person who breaks and enters a research facility is guilty of a felony and on conviction is subject to imprisonment for not more than 5 years or a fine of not more than \$5,000 or both.]

[34.

Any person who breaks and enters, either by day or by night, any building, whether inhabited or not, and opens or attempts to open any vault, safe or other secure place by the use of nitroglycerine, gunpowder or other explosive, shall be deemed guilty of the felony of burglary with explosives.]

[35.

Any person duly convicted of burglary with explosives shall be sentenced to the penitentiary for not more than 40 years.]

#### COMMITTEE NOTE:

This bill repeals all of the current statutory provisions relating to burglary, including the current rogue and vagabond statute set forth in Article 27, § 490 of the Code, and creates a new structure for burglary offenses. The bill abolishes the distinction between burglary and daytime housebreaking. The current provisions relating to "breaking and stealing" set forth in Article 27, §§ 33 and 33A of the Code have been repealed as unnecessary and superfluous. The provisions dealing with "breaking and entering a research facility" set forth in Article 27, § 33B of the Code have been placed in a new section but otherwise remain identical to the current provisions dealing with this offense.

The portion of the current rogue and vagabond statute that relates to buildings has been incorporated into the new section dealing with fourth degree burglary. See new § 32. The other provisions of the rogue and vagabond statute have been modernized. See new § 35.

Current provisions referring to an "accessory before the fact" or to "causing", "aiding", or "counselling" a burglary offense have been repealed. The Committee believes that the common law on accomplice liability adequately covers these types of actions. For future consideration, the Committee intends to study the option of establishing a general article-wide provision dealing with accomplice liability. This is consistent with the way in which accomplice liability was treated in the bill that revised the arson and burning provisions of Article 27 of the Code. See Senate Bill 302/Chapter 228 (1993).