

HB1614



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB1614

by Rep. Justin Slaughter

SYNOPSIS AS INTRODUCED:

720 ILCS 5/16-1
720 ILCS 5/16-25

from Ch. 38, par. 16-1

Amends the Criminal Code of 2012. Increases the threshold amount of theft not from the person and retail theft that enhances the offense from a misdemeanor to a felony to \$2,000. Provides that an enhancement from a misdemeanor to a felony based on a prior conviction must only be for felony theft.

LRB101 08283 SLF 53350 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Sections 16-1 and 16-25 as follows:

6 (720 ILCS 5/16-1) (from Ch. 38, par. 16-1)

7 Sec. 16-1. Theft.

8 (a) A person commits theft when he or she knowingly:

9 (1) Obtains or exerts unauthorized control over
10 property of the owner; or

11 (2) Obtains by deception control over property of the
12 owner; or

13 (3) Obtains by threat control over property of the
14 owner; or

15 (4) Obtains control over stolen property knowing the
16 property to have been stolen or under such circumstances as
17 would reasonably induce him or her to believe that the
18 property was stolen; or

19 (5) Obtains or exerts control over property in the
20 custody of any law enforcement agency which any law
21 enforcement officer or any individual acting in behalf of a
22 law enforcement agency explicitly represents to the person
23 as being stolen or represents to the person such

1 circumstances as would reasonably induce the person to
2 believe that the property was stolen, and

3 (A) Intends to deprive the owner permanently of the
4 use or benefit of the property; or

5 (B) Knowingly uses, conceals or abandons the
6 property in such manner as to deprive the owner
7 permanently of such use or benefit; or

8 (C) Uses, conceals, or abandons the property
9 knowing such use, concealment or abandonment probably
10 will deprive the owner permanently of such use or
11 benefit.

12 (b) Sentence.

13 (1) Theft of property not from the person and not
14 exceeding \$2,000 ~~\$500~~ in value is a Class A misdemeanor.

15 (1.1) Theft of property not from the person and not
16 exceeding \$2,000 ~~\$500~~ in value is a Class 4 felony if the
17 theft was committed in a school or place of worship or if
18 the theft was of governmental property.

19 (2) A person who has been convicted of theft of
20 property not from the person and not exceeding \$2,000 ~~\$500~~
21 in value who has been previously convicted of felony ~~any~~
22 ~~type~~ of theft, ~~robbery, armed robbery, burglary,~~
23 ~~residential burglary, possession of burglary tools, home~~
24 ~~invasion, forgery, a violation of Section 4-103, 4-103.1,~~
25 ~~4-103.2, or 4-103.3 of the Illinois Vehicle Code relating~~
26 ~~to the possession of a stolen or converted motor vehicle,~~

1 ~~or a violation of Section 17-36 of the Criminal Code of~~
2 ~~1961 or the Criminal Code of 2012, or Section 8 of the~~
3 ~~Illinois Credit Card and Debit Card Act~~ is guilty of a
4 Class 4 felony.

5 (3) (Blank).

6 (4) Theft of property from the person not exceeding
7 \$500 in value, or theft of property exceeding \$2,000 ~~\$500~~
8 and not exceeding \$10,000 in value, is a Class 3 felony.

9 (4.1) Theft of property from the person not exceeding
10 \$500 in value, or theft of property exceeding \$2,000 ~~\$500~~
11 and not exceeding \$10,000 in value, is a Class 2 felony if
12 the theft was committed in a school or place of worship or
13 if the theft was of governmental property.

14 (5) Theft of property exceeding \$10,000 and not
15 exceeding \$100,000 in value is a Class 2 felony.

16 (5.1) Theft of property exceeding \$10,000 and not
17 exceeding \$100,000 in value is a Class 1 felony if the
18 theft was committed in a school or place of worship or if
19 the theft was of governmental property.

20 (6) Theft of property exceeding \$100,000 and not
21 exceeding \$500,000 in value is a Class 1 felony.

22 (6.1) Theft of property exceeding \$100,000 in value is
23 a Class X felony if the theft was committed in a school or
24 place of worship or if the theft was of governmental
25 property.

26 (6.2) Theft of property exceeding \$500,000 and not

1 exceeding \$1,000,000 in value is a Class 1
2 non-probationable felony.

3 (6.3) Theft of property exceeding \$1,000,000 in value
4 is a Class X felony.

5 (7) Theft by deception, as described by paragraph (2)
6 of subsection (a) of this Section, in which the offender
7 obtained money or property valued at \$5,000 or more from a
8 victim 60 years of age or older is a Class 2 felony.

9 (8) Theft by deception, as described by paragraph (2)
10 of subsection (a) of this Section, in which the offender
11 falsely poses as a landlord or agent or employee of the
12 landlord and obtains a rent payment or a security deposit
13 from a tenant is a Class 3 felony if the rent payment or
14 security deposit obtained does not exceed \$500.

15 (9) Theft by deception, as described by paragraph (2)
16 of subsection (a) of this Section, in which the offender
17 falsely poses as a landlord or agent or employee of the
18 landlord and obtains a rent payment or a security deposit
19 from a tenant is a Class 2 felony if the rent payment or
20 security deposit obtained exceeds \$500 and does not exceed
21 \$10,000.

22 (10) Theft by deception, as described by paragraph (2)
23 of subsection (a) of this Section, in which the offender
24 falsely poses as a landlord or agent or employee of the
25 landlord and obtains a rent payment or a security deposit
26 from a tenant is a Class 1 felony if the rent payment or

1 security deposit obtained exceeds \$10,000 and does not
2 exceed \$100,000.

3 (11) Theft by deception, as described by paragraph (2)
4 of subsection (a) of this Section, in which the offender
5 falsely poses as a landlord or agent or employee of the
6 landlord and obtains a rent payment or a security deposit
7 from a tenant is a Class X felony if the rent payment or
8 security deposit obtained exceeds \$100,000.

9 (c) When a charge of theft of property exceeding a
10 specified value is brought, the value of the property involved
11 is an element of the offense to be resolved by the trier of
12 fact as either exceeding or not exceeding the specified value.

13 (d) Theft by lessee; permissive inference. The trier of
14 fact may infer evidence that a person intends to deprive the
15 owner permanently of the use or benefit of the property (1) if
16 a lessee of the personal property of another fails to return it
17 to the owner within 10 days after written demand from the owner
18 for its return or (2) if a lessee of the personal property of
19 another fails to return it to the owner within 24 hours after
20 written demand from the owner for its return and the lessee had
21 presented identification to the owner that contained a
22 materially fictitious name, address, or telephone number. A
23 notice in writing, given after the expiration of the leasing
24 agreement, addressed and mailed, by registered mail, to the
25 lessee at the address given by him and shown on the leasing
26 agreement shall constitute proper demand.

1 (e) Permissive inference; evidence of intent that a person
2 obtains by deception control over property. The trier of fact
3 may infer that a person "knowingly obtains by deception control
4 over property of the owner" when he or she fails to return,
5 within 45 days after written demand from the owner, the
6 downpayment and any additional payments accepted under a
7 promise, oral or in writing, to perform services for the owner
8 for consideration of \$3,000 or more, and the promisor knowingly
9 without good cause failed to substantially perform pursuant to
10 the agreement after taking a down payment of 10% or more of the
11 agreed upon consideration. This provision shall not apply where
12 the owner initiated the suspension of performance under the
13 agreement, or where the promisor responds to the notice within
14 the 45-day notice period. A notice in writing, addressed and
15 mailed, by registered mail, to the promisor at the last known
16 address of the promisor, shall constitute proper demand.

17 (f) Offender's interest in the property.

18 (1) It is no defense to a charge of theft of property
19 that the offender has an interest therein, when the owner
20 also has an interest to which the offender is not entitled.

21 (2) Where the property involved is that of the
22 offender's spouse, no prosecution for theft may be
23 maintained unless the parties were not living together as
24 man and wife and were living in separate abodes at the time
25 of the alleged theft.

26 (Source: P.A. 96-496, eff. 1-1-10; 96-534, eff. 8-14-09;

1 96-1000, eff. 7-2-10; 96-1301, eff. 1-1-11; 96-1532, eff.
2 1-1-12; 96-1551, eff. 7-1-11; 97-597, eff. 1-1-12; 97-1150,
3 eff. 1-25-13.)

4 (720 ILCS 5/16-25)

5 Sec. 16-25. Retail theft.

6 (a) A person commits retail theft when he or she knowingly:

7 (1) Takes possession of, carries away, transfers or
8 causes to be carried away or transferred any merchandise
9 displayed, held, stored or offered for sale in a retail
10 mercantile establishment with the intention of retaining
11 such merchandise or with the intention of depriving the
12 merchant permanently of the possession, use or benefit of
13 such merchandise without paying the full retail value of
14 such merchandise; or

15 (2) Alters, transfers, or removes any label, price tag,
16 marking, indicia of value or any other markings which aid
17 in determining value affixed to any merchandise displayed,
18 held, stored or offered for sale in a retail mercantile
19 establishment and attempts to purchase such merchandise at
20 less than the full retail value with the intention of
21 depriving the merchant of the full retail value of such
22 merchandise; or

23 (3) Transfers any merchandise displayed, held, stored
24 or offered for sale in a retail mercantile establishment
25 from the container in or on which such merchandise is

1 displayed to any other container with the intention of
2 depriving the merchant of the full retail value of such
3 merchandise; or

4 (4) Under-rings with the intention of depriving the
5 merchant of the full retail value of the merchandise; or

6 (5) Removes a shopping cart from the premises of a
7 retail mercantile establishment without the consent of the
8 merchant given at the time of such removal with the
9 intention of depriving the merchant permanently of the
10 possession, use or benefit of such cart; or

11 (6) Represents to a merchant that he, she, or another
12 is the lawful owner of property, knowing that such
13 representation is false, and conveys or attempts to convey
14 that property to a merchant who is the owner of the
15 property in exchange for money, merchandise credit or other
16 property of the merchant; or

17 (7) Uses or possesses any theft detection shielding
18 device or theft detection device remover with the intention
19 of using such device to deprive the merchant permanently of
20 the possession, use or benefit of any merchandise
21 displayed, held, stored or offered for sale in a retail
22 mercantile establishment without paying the full retail
23 value of such merchandise; or

24 (8) Obtains or exerts unauthorized control over
25 property of the owner and thereby intends to deprive the
26 owner permanently of the use or benefit of the property

1 when a lessee of the personal property of another fails to
2 return it to the owner, or if the lessee fails to pay the
3 full retail value of such property to the lessor in
4 satisfaction of any contractual provision requiring such,
5 within 10 days after written demand from the owner for its
6 return. A notice in writing, given after the expiration of
7 the leasing agreement, by registered mail, to the lessee at
8 the address given by the lessee and shown on the leasing
9 agreement shall constitute proper demand.

10 (b) Theft by emergency exit. A person commits theft by
11 emergency exit when he or she commits a retail theft as defined
12 in subdivisions (a) (1) through (a) (8) of this Section and to
13 facilitate the theft he or she leaves the retail mercantile
14 establishment by use of a designated emergency exit.

15 (c) Permissive inference. If any person:

16 (1) conceals upon his or her person or among his or her
17 belongings unpurchased merchandise displayed, held, stored
18 or offered for sale in a retail mercantile establishment;
19 and

20 (2) removes that merchandise beyond the last known
21 station for receiving payments for that merchandise in that
22 retail mercantile establishment,

23 then the trier of fact may infer that the person possessed,
24 carried away or transferred such merchandise with the intention
25 of retaining it or with the intention of depriving the merchant
26 permanently of the possession, use or benefit of such

1 merchandise without paying the full retail value of such
2 merchandise.

3 To "conceal" merchandise means that, although there may be
4 some notice of its presence, that merchandise is not visible
5 through ordinary observation.

6 (d) Venue. Multiple thefts committed by the same person as
7 part of a continuing course of conduct in different
8 jurisdictions that have been aggregated in one jurisdiction may
9 be prosecuted in any jurisdiction in which one or more of the
10 thefts occurred.

11 (e) For the purposes of this Section, "theft detection
12 shielding device" means any laminated or coated bag or device
13 designed and intended to shield merchandise from detection by
14 an electronic or magnetic theft alarm sensor.

15 (f) Sentence.

16 (1) A violation of any of subdivisions (a)(1) through
17 (a)(6) and (a)(8) of this Section, the full retail value of
18 which does not exceed \$2,000 ~~\$300~~ for property other than
19 motor fuel or \$150 for motor fuel, is a Class A
20 misdemeanor. A violation of subdivision (a)(7) of this
21 Section is a Class A misdemeanor for a first offense and a
22 Class 4 felony for a second or subsequent offense. Theft by
23 emergency exit of property, the full retail value of which
24 does not exceed \$2,000 ~~\$300~~, is a Class 4 felony.

25 (2) A person who has been convicted of retail theft of
26 property under any of subdivisions (a)(1) through (a)(6)

1 and (a) (8) of this Section, the full retail value of which
2 does not exceed \$2,000 ~~\$300~~ for property other than motor
3 fuel or \$150 for motor fuel, and who has been previously
4 convicted of any type of theft, robbery, armed robbery,
5 burglary, residential burglary, possession of burglary
6 tools, home invasion, unlawful use of a credit card, or
7 forgery is guilty of a Class 4 felony. A person who has
8 been convicted of theft by emergency exit of property, the
9 full retail value of which does not exceed \$2,000 ~~\$300~~, and
10 who has been previously convicted of felony ~~any type of~~
11 ~~theft, robbery, armed robbery, burglary, residential~~
12 ~~burglary, possession of burglary tools, home invasion,~~
13 ~~unlawful use of a credit card, or forgery~~ is guilty of a
14 Class 3 felony.

15 (3) Any retail theft of property under any of
16 subdivisions (a) (1) through (a) (6) and (a) (8) of this
17 Section, the full retail value of which exceeds \$2,000 ~~\$300~~
18 for property other than motor fuel or \$150 for motor fuel
19 in a single transaction, or in separate transactions
20 committed by the same person as part of a continuing course
21 of conduct from one or more mercantile establishments over
22 a period of one year, is a Class 3 felony. Theft by
23 emergency exit of property, the full retail value of which
24 exceeds \$2,000 ~~\$300~~ in a single transaction, or in separate
25 transactions committed by the same person as part of a
26 continuing course of conduct from one or more mercantile

1 establishments over a period of one year, is a Class 2
2 felony. When a charge of retail theft of property or theft
3 by emergency exit of property, the full value of which
4 exceeds \$2,000 ~~\$300~~, is brought, the value of the property
5 involved is an element of the offense to be resolved by the
6 trier of fact as either exceeding or not exceeding \$2,000
7 ~~\$300~~.

8 (Source: P.A. 97-597, eff. 1-1-12.)