



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5214

by Rep. Keith R. Wheeler

SYNOPSIS AS INTRODUCED:

720 ILCS 5/16-1

from Ch. 38, par. 16-1

Amends the Criminal Code of 2012. Provides that the penalty for theft in which the offense is committed against a not-for-profit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986 is one class higher than the penalty for theft committed against other persons. Provides that if the penalty for theft otherwise provided for is a Class X felony, the penalty under this provision is the penalty for a Class X felony with a minimum term of imprisonment of 7 years. Effective immediately.

LRB101 17548 RLC 66966 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 Section 16-1 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 \$500 in value is a Class A misdemeanor.

15 (1.1) Theft of property not from the person and not
16 exceeding \$500 in value is a Class 4 felony if the theft
17 was committed in a school or place of worship or if the
18 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 \$500 in
21 value who has been previously convicted of any type of
22 theft, robbery, armed robbery, burglary, residential
23 burglary, possession of burglary tools, home invasion,
24 forgery, a violation of Section 4-103, 4-103.1, 4-103.2, or
25 4-103.3 of the Illinois Vehicle Code relating to the
26 possession of a stolen or converted motor vehicle, or a

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

5 (3) (Blank).

6 (4) Theft of property from the person not exceeding
7 \$500 in value, or theft of property exceeding \$500 and not
8 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 \$500 and not
11 exceeding \$10,000 in value, is a Class 2 felony if the
12 theft was committed in a school or place of worship or if
13 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 or a person with a
9 disability is a Class 2 felony.

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

16 (9) Theft by deception, as described by paragraph (2)
17 of subsection (a) of this Section, in which the offender
18 falsely poses as a landlord or agent or employee of the
19 landlord and obtains a rent payment or a security deposit
20 from a tenant is a Class 2 felony if the rent payment or
21 security deposit obtained exceeds \$500 and does not exceed
22 \$10,000.

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

1 from a tenant is a Class 1 felony if the rent payment or
2 security deposit obtained exceeds \$10,000 and does not
3 exceed \$100,000.

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

10 (12) A theft, as described in this Section, in which
11 the offense is committed against a not-for-profit
12 organization that is exempt from taxation under Section
13 501(c)(3) of the Internal Revenue Code of 1986 shall have
14 the following penalty:

15 (A) if the penalty otherwise provided for in this
16 Section is a Class A misdemeanor the penalty under this
17 paragraph (12) is the penalty for a Class 4 felony;

18 (B) if the penalty otherwise provided for in this
19 Section is a Class 4 felony the penalty under this
20 paragraph (12) is the penalty for a Class 3 felony;

21 (C) if the penalty otherwise provided for in this
22 Section is a Class 3 felony the penalty under this
23 paragraph (12) is the penalty for a Class 2 felony;

24 (D) if the penalty otherwise provided for in this
25 Section is a Class 2 felony the penalty under this
26 paragraph (12) is the penalty for a Class 1 felony;

1 (E) if the penalty otherwise provided for in this
2 Section is a Class 1 felony the penalty under this
3 paragraph (12) is the penalty for a Class X felony; and

4 (F) if the penalty otherwise provided for in this
5 Section is a Class X felony the penalty under this
6 paragraph (12) is the penalty for a Class X felony with
7 a minimum term of imprisonment of 7 years.

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

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

26 (e) Permissive inference; evidence of intent that a person

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

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

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

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

25 (Source: P.A. 101-394, eff. 1-1-20.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.