



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5486

Introduced 2/15/2012, by Rep. Emily McAsey - Michelle Mussman
- Jerry F. Costello, II - Keith Farnham and John E. Bradley

SYNOPSIS AS INTRODUCED:

720 ILCS 5/16-1

from Ch. 38, par. 16-1

Amends the Criminal Code of 1961. Makes it a Class 2 felony for a person to commit theft by threat and, as a result, to obtain money or property valued at \$5,000 or more from a victim who is 60 years of age or older.

LRB097 18913 RLC 64151 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 1961 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 Section 8 of the Illinois Credit Card and Debit Card Act is
3 guilty of a Class 4 felony.

4 (3) (Blank).

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

8 (4.1) Theft of property from the person not exceeding
9 \$500 in value, or theft of property exceeding \$500 and not
10 exceeding \$10,000 in value, is a Class 2 felony if the
11 theft was committed in a school or place of worship or if
12 the theft was of governmental property.

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

15 (5.1) Theft of property exceeding \$10,000 and not
16 exceeding \$100,000 in value is a Class 1 felony if the
17 theft was committed in a school or place of worship or if
18 the theft was of governmental property.

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

21 (6.1) Theft of property exceeding \$100,000 in value is
22 a Class X felony if the theft was committed in a school or
23 place of worship or if the theft was of governmental
24 property.

25 (6.2) Theft of property exceeding \$500,000 and not
26 exceeding \$1,000,000 in value is a Class 1

1 non-probationable felony.

2 (6.3) Theft of property exceeding \$1,000,000 in value
3 is a Class X felony.

4 (7) Theft by deception or theft by threat, as described
5 by paragraph (2) or (3) of subsection (a) of this Section,
6 in which the offender obtained money or property valued at
7 \$5,000 or more from a victim 60 years of age or older is a
8 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.)