

# HB2132



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB2132

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 04898 SLF 49907 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 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 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 (12) A theft, as described in this Section, in which  
10 the offense is committed against a not-for-profit  
11 organization that is exempt from taxation under Section  
12 501(c) (3) of the Internal Revenue Code of 1986 shall have  
13 the following penalty:

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

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

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

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

26 (E) if the penalty otherwise provided for in this

1           Section is a Class 1 felony the penalty under this  
2           paragraph (12) is the penalty for a Class X felony; and  
3           (F) if the penalty otherwise provided for in this  
4           Section is a Class X felony the penalty under this  
5           paragraph (12) is the penalty for a Class X felony with  
6           a minimum term of imprisonment of 7 years.

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

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

25          (e) Permissive inference; evidence of intent that a person  
26          obtains by deception control over property. The trier of fact

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

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

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

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

24 (Source: P.A. 96-496, eff. 1-1-10; 96-534, eff. 8-14-09;  
25 96-1000, eff. 7-2-10; 96-1301, eff. 1-1-11; 96-1532, eff.  
26 1-1-12; 96-1551, eff. 7-1-11; 97-597, eff. 1-1-12; 97-1150,



1     eff. 1-25-13.)

2             Section 99. Effective date. This Act takes effect upon  
3     becoming law.