



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0780

Introduced 2/2/2005, by Rep. Robert F. Flider

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/1-6 from Ch. 38, par. 1-6  
720 ILCS 5/Art. 16J heading new  
720 ILCS 5/16J-5 new  
720 ILCS 5/16J-10 new  
720 ILCS 5/16J-15 new  
720 ILCS 5/16J-20 new  
720 ILCS 5/16J-25 new

Amends the Criminal Code of 1961. Creates the offense of online sale of stolen property. Provides that a person commits the offense when he or she uses or accesses the Internet with the intent of selling property gained through unlawful means. Creates the offense of online theft by deception. Provides that a person commits the offense when he or she uses the Internet to purchase or attempt to purchase property from a seller with a mode of payment that he or she knows or has reason to believe is fictitious, stolen, or lacking the consent of the valid account holder. Creates the offense of electronic fencing. Provides that a person commits the offense when he or she sells stolen property using the Internet, knowing that the property was stolen. Provides that a person who unknowingly purchases stolen property over the Internet does not violate this provision. Establishes penalties for violations. Effective immediately.

LRB094 05282 RLC 35325 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 1961 is amended by changing  
5 Section 1-6 and by adding Article 16J as follows:

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

7 Sec. 1-6. Place of trial.

8 (a) Generally.

9 Criminal actions shall be tried in the county where the  
10 offense was committed, except as otherwise provided by law. The  
11 State is not required to prove during trial that the alleged  
12 offense occurred in any particular county in this State. When a  
13 defendant contests the place of trial under this Section, all  
14 proceedings regarding this issue shall be conducted under  
15 Section 114-1 of the Code of Criminal Procedure of 1963. All  
16 objections of improper place of trial are waived by a defendant  
17 unless made before trial.

18 (b) Assailant and Victim in Different Counties.

19 If a person committing an offense upon the person of  
20 another is located in one county and his victim is located in  
21 another county at the time of the commission of the offense,  
22 trial may be had in either of said counties.

23 (c) Death and Cause of Death in Different Places or  
24 Undetermined.

25 If cause of death is inflicted in one county and death  
26 ensues in another county, the offender may be tried in either  
27 county. If neither the county in which the cause of death was  
28 inflicted nor the county in which death ensued are known before  
29 trial, the offender may be tried in the county where the body  
30 was found.

31 (d) Offense Commenced Outside the State.

32 If the commission of an offense commenced outside the State

1 is consummated within this State, the offender shall be tried  
2 in the county where the offense is consummated.

3 (e) Offenses Committed in Bordering Navigable Waters.

4 If an offense is committed on any of the navigable waters  
5 bordering on this State, the offender may be tried in any  
6 county adjacent to such navigable water.

7 (f) Offenses Committed while in Transit.

8 If an offense is committed upon any railroad car, vehicle,  
9 watercraft or aircraft passing within this State, and it cannot  
10 readily be determined in which county the offense was  
11 committed, the offender may be tried in any county through  
12 which such railroad car, vehicle, watercraft or aircraft has  
13 passed.

14 (g) Theft.

15 A person who commits theft of property may be tried in any  
16 county in which he exerted control over such property.

17 (h) Bigamy.

18 A person who commits the offense of bigamy may be tried in  
19 any county where the bigamous marriage or bigamous cohabitation  
20 has occurred.

21 (i) Kidnaping.

22 A person who commits the offense of kidnaping may be tried  
23 in any county in which his victim has traveled or has been  
24 confined during the course of the offense.

25 (j) Pandering.

26 A person who commits the offense of pandering may be tried  
27 in any county in which the prostitution was practiced or in any  
28 county in which any act in furtherance of the offense shall  
29 have been committed.

30 (k) Treason.

31 A person who commits the offense of treason may be tried in  
32 any county.

33 (l) Criminal Defamation.

34 If criminal defamation is spoken, printed or written in one  
35 county and is received or circulated in another or other  
36 counties, the offender shall be tried in the county where the

1 defamation is spoken, printed or written. If the defamation is  
2 spoken, printed or written outside this state, or the offender  
3 resides outside this state, the offender may be tried in any  
4 county in this state in which the defamation was circulated or  
5 received.

6 (m) Inchoate Offenses.

7 A person who commits an inchoate offense may be tried in  
8 any county in which any act which is an element of the offense,  
9 including the agreement in conspiracy, is committed.

10 (n) Accountability for Conduct of Another.

11 Where a person in one county solicits, aids, abets, agrees,  
12 or attempts to aid another in the planning or commission of an  
13 offense in another county, he may be tried for the offense in  
14 either county.

15 (o) Child Abduction.

16 A person who commits the offense of child abduction may be  
17 tried in any county in which his victim has traveled, been  
18 detained, concealed or removed to during the course of the  
19 offense. Notwithstanding the foregoing, unless for good cause  
20 shown, the preferred place of trial shall be the county of the  
21 residence of the lawful custodian.

22 (p) A person who commits the offense of narcotics  
23 racketeering may be tried in any county where cannabis or a  
24 controlled substance which is the basis for the charge of  
25 narcotics racketeering was used; acquired; transferred or  
26 distributed to, from or through; or any county where any act  
27 was performed to further the use; acquisition, transfer or  
28 distribution of said cannabis or controlled substance; any  
29 money, property, property interest, or any other asset  
30 generated by narcotics activities was acquired, used, sold,  
31 transferred or distributed to, from or through; or, any  
32 enterprise interest obtained as a result of narcotics  
33 racketeering was acquired, used, transferred or distributed  
34 to, from or through, or where any activity was conducted by the  
35 enterprise or any conduct to further the interests of such an  
36 enterprise.

1 (q) A person who commits the offense of money laundering  
2 may be tried in any county where any part of a financial  
3 transaction in criminally derived property took place or in any  
4 county where any money or monetary instrument which is the  
5 basis for the offense was acquired, used, sold, transferred or  
6 distributed to, from or through.

7 (r) A person who commits the offense of cannabis  
8 trafficking or controlled substance trafficking may be tried in  
9 any county.

10 (s) A person who commits the offense of online sale of  
11 stolen property, online theft by deception, or electronic  
12 fencing may be tried in any county where any one or more  
13 elements of the offense took place, regardless of whether the  
14 element of the offense was the result of acts by the accused,  
15 the victim or by another person, and regardless of whether the  
16 defendant was ever physically present within the boundaries of  
17 the county.

18 (Source: P.A. 89-288, eff. 8-11-95.)

19 (720 ILCS 5/Art. 16J heading new)

20 ARTICLE 16J. ONLINE PROPERTY OFFENSES

21 (720 ILCS 5/16J-5 new)

22 Sec. 16J-5. Definitions. In this Article:

23 "Access" means to use, instruct, communicate with, store  
24 data in, retrieve or intercept data from, or otherwise utilize  
25 any services of a computer.

26 "Computer" means a device that accepts, processes, stores,  
27 retrieves or outputs data, and includes but is not limited to  
28 auxiliary storage and telecommunications devices connected to  
29 computers.

30 "Internet" means an interactive computer service or system  
31 or an information service, system, or access software provider  
32 that provides or enables computer access by multiple users to a  
33 computer server, and includes, but is not limited to, an  
34 information service, system, or access software provider that

1 provides access to a network system commonly known as the  
2 Internet, or any comparable system or service and also  
3 includes, but is not limited to, a World Wide Web page,  
4 newsgroup, message board, mailing list, or chat area on any  
5 interactive computer service or system or other online service.

6 "Online" means the use of any electronic or wireless device  
7 to access the Internet.

8 (720 ILCS 5/16J-10 new)

9 Sec. 16J-10. Online sale of stolen property. A person  
10 commits the offense of online sale of stolen property when he  
11 or she uses or accesses the Internet with the intent of selling  
12 property gained through unlawful means.

13 (720 ILCS 5/16J-15 new)

14 Sec. 16J-15. Online theft by deception. A person commits  
15 the offense of online theft by deception when he or she uses  
16 the Internet to purchase or attempt to purchase property from a  
17 seller with a mode of payment that he or she knows or has  
18 reason to believe is fictitious, stolen, or lacking the consent  
19 of the valid account holder.

20 (720 ILCS 5/16J-20 new)

21 Sec. 16J-20. Electronic fencing. A person commits the  
22 offense of electronic fencing when he or she sells stolen  
23 property using the Internet, knowing that the property was  
24 stolen. A person who unknowingly purchases stolen property over  
25 the Internet does not violate this Section.

26 (720 ILCS 5/16J-25 new)

27 Sec. 16J-25. Sentence. A violation of this Article is a  
28 Class 4 felony if the full retail value of the stolen property  
29 or property obtained by deception does not exceed \$150. A  
30 violation of this Article is a Class 2 felony if the full  
31 retail value of the stolen property or property obtained by  
32 deception exceeds \$150.

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