

### 13.01A

#### **Definition Of Theft By Unauthorized Control Of Property Not Exceeding \$500 In Value – Enhancing Factors Based Upon Governmental Property Or Location**

A person commits the offense of theft when he knowingly [(obtains) (exerts)] unauthorized control over [governmental] property while in a [(school) (place of worship)] and

[1] intends to deprive the owner permanently of the use or benefit of the [governmental] property.

[or]

[2] knowingly [(uses) (conceals) (abandons)] the [governmental] property in such manner as to deprive the owner permanently of its use or benefit.

[or]

[3] [(uses) (conceals) (abandons)] the [governmental] property knowing such [(use) (concealment) (abandonment)] probably will deprive the owner permanently of such use or benefit.

#### **Committee Note**

##### ***Instruction and Committee Note Approved April 28, 2017***

720 ILCS 5/16-1(a)(1)(A), (B), and (C) and 16-1(b)(1.1) (West 2016) as amended by P.A. 91-0360, effective July 29, 1999, P.A. 94-0134, effective January 1, 2006, and P.A. 96-1301, effective January 1, 2011.

P.A. 91-0360, effective July 29, 1999, amended Section 16-1 to provide that theft of property not exceeding \$500 in value is a Class 4 felony if the theft was committed in a school or place of worship.

P.A. 94-0134, effective January 1, 2006, amended Section 16-1 to provide that theft of governmental property not exceeding \$500 in value is a Class 4 felony.

Give Instruction 13.02A.

Bracketed alternatives should be selected so that the instruction is no broader than the charging document. If an information charges “obtains” rather than “exerts,” then only “obtains” should be utilized. When the pleading is stated in the alternative (*e.g.* “obtains or exerts”), the instruction should be in the alternative unless the evidence fails to justify a particular alternative. The Committee takes no position on whether alternative pleading is proper under Chapter 720, Section 16-1.

When defendant is not also charged with theft of property exceeding \$500 in value, there is no need to mention the value of the property in this instruction, the issues instruction

(Instruction 13.02), the concluding instruction (Instruction 26.01), or the verdict forms (Instructions 26.02 and 26.05). However, when the defendant is also charged with theft of property exceeding \$500 in value, this instruction and each of the others specified in this paragraph should be modified by identifying this charge as “theft of property not exceeding \$500 in value,” instead of as simply “theft.”

Other definitions may be appropriate. *See* Instructions 13.33 through 13.33G.

Use applicable paragraphs and bracketed material.

The brackets and numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.