

15.00
ARSON AND RELATED OFFENSES

15.01
Definition Of Arson

A person commits the offense of arson when he, by means of [(fire) (explosive)], knowingly

[1] damages real property of another [without his consent].

[or]

[2] damages any personal property having a value of \$150 or more of another [without his consent].

[or]

[3] damages any [(real property) (personal property having a value of \$150 or more)] with intent to defraud an insurer.

[The phrase “property of another” means a building or other property, in which a person other than the defendant has an interest which the defendant has no authority to defeat or impair, even though the defendant may also have an interest in the building or property.]

Committee Note

Instruction and Committee Note Approved October 26, 2018

720 ILCS 5/20-1(a) (West 2018).

When paragraph [1] is used, give Instruction 15.02. When paragraph [2] is used, give Instruction 15.02A. When paragraph [3] is used, give Instruction 15.02B.

When the defendant asserts the affirmative defense of consent, use the bracketed phrase “without his consent.” See *People v. White*, 22 Ill. App. 3d 206 (5th Dist. 1974).

Give the last bracketed paragraph only when the evidence shows the defendant claims some interest in the property.

The Committee believes that the issue of whether the property is real or personal is a legal issue to be determined by the court.

The \$150 limitation applies only to personal property and does not relate to the amount of damage incurred to the personal property, but rather to the value of the item damaged. *People v. Johnson*, 23 Ill.App.3d 886, 321 N.E.2d 38 (1st Dist.1974); *People v. Helm*, 9 Ill.App.3d 143, 291 N.E.2d 680 (4th Dist.1973).

Use applicable paragraphs and bracketed material.

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

15.02
Issues In Arson--Real Property

To sustain the charge of arson, the State must prove the following propositions:

First Proposition: That the defendant, by means of [(fire) (explosive)], knowingly damaged the real property of ____;

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

Instruction and Committee Note Approved October 26, 2018

720 ILCS 5/20-1(a) (West 2018).

Give Instruction 15.01.

The Committee believes that the issue of whether the property is real or personal is a legal issue to be determined by the court.

Insert in the blanks the name of the property owner.

Whenever the jury is to be instructed on an affirmative defense, combine this instruction with the appropriate instructions from Chapter 24-25.00. Because the additional proposition or propositions that will thereby be included will require the jury to find that the defendant acted without consent, the Committee has concluded that the phrase “without his consent” need not be used in this issues instruction.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

15.02A

Issues In Arson--Personal Property Having A Value Of \$150 Or More

To sustain the charge of arson, the State must prove the following propositions:

First Proposition: That the defendant, by means of [(fire) (explosive)], knowingly damaged the personal property of ____; and

Second Proposition: That the personal property had a value of \$150 or more .

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

Instruction and Committee Note Approved October 26, 2018

720 ILCS 5/20-1(a) (West 2018).

Give Instruction 15.01.

The Committee believes the issue of whether the property is real or personal is a legal issue to be determined by the court.

Insert in the blanks the name of the property owner.

Whenever the jury is to be instructed on an affirmative defense, combine this instruction with the appropriate instructions from Chapter 24-25.00. Because the additional proposition or propositions that will thereby be included will require the jury to find that the defendant acted without consent, the Committee has concluded that the phrase “without his consent” need not be used in this issues instruction.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

15.02B
Issues In Arson--Insurance Fraud

To sustain the charge of arson, the State must prove the following propositions:

First Proposition: That the defendant, by means of [(fire) (explosive)], knowingly damaged [(real property) (personal property having a value of \$150 or more)]; and

Second Proposition: That the defendant did so with the intent to defraud an insurer.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

Instruction and Committee Note Approved October 26, 2018

720 ILCS 5/20-1(a) (West 2018).

Give Instruction 15.01.

The Committee believes that the issue of whether the property is real or personal is a legal issue to be determined by the court.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

15.03
Definition Of Aggravated Arson

A person commits the offense of aggravated arson when, in the course of committing arson, he knowingly damages, partially or totally, any [(building) (structure)] [including any adjacent [(building) (structure)] [and] [including all or any part of a (school building) (house trailer) (watercraft) (motor vehicle) (railroad car)], and

[1] he knows or reasonably should know that one or more persons are present therein.

[or]

[2] any person suffers [(great bodily harm) (permanent disability) (permanent disfigurement)] as a result of the [(fire) (explosion)].

[or]

[3] a [(fireman) (policeman) (correctional officer)] who is present at the scene acting in the line of duty is injured as a result of the [(fire) (explosion)].

Committee Note

Instruction and Committee Note Approved October 26, 2018

720 ILCS 5/20-1.1(a) (West 2018).

Give Instruction 15.04.

Give Instruction 15.01.

Use applicable paragraphs and bracketed material.

When the defendant asserts the affirmative defense of consent, use the bracketed phrase “without his consent.” See *People v. White*, 22 Ill. App. 3d 206 (5th Dist. 1974).

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

15.04
Issues In Aggravated Arson

To sustain the charge of aggravated arson, the State must prove the following propositions:

First Proposition: That the defendant, in the course of committing arson, knowingly damaged, partially or totally, any [(building) (structure)] [including any adjacent [(building) (structure)]] [and] [including all or any part of a (school building) (house trailer) (watercraft) (motor vehicle) (railroad car)] and

Second Proposition: That when the defendant did so, he knew or reasonably should have known that one or more persons were present therein.

[or]

Second Proposition: That ____ suffered [(great bodily harm) (permanent disability) (permanent disfigurement)] as a result of the [(fire) (explosion)].

[or]

Second Proposition: That ____ was a [(fireman) (policeman) (correctional officer)] who was present at the scene acting in the line of duty and was injured as a result of the [(fire) (explosion)].

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

Instruction and Committee Note Approved October 26, 2018

720 ILCS 5/20-1.1(a) (West 2018).

Give Instruction 15.03.

Insert in the blank the name of the victim.

Whenever the jury is to be instructed on an affirmative defense, combine this instruction with the appropriate instructions from Chapter 24-25.00. Because the additional proposition or propositions that will thereby be included will require the jury to find that the defendant acted without consent, the Committee has concluded that the phrase “without his consent” need not be used in this issues instruction.

Use applicable paragraphs and bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

15.05

Definition Of Possession Of Explosives Or Incendiary Device

A person commits the offense of possession of [(explosives) (explosive or incendiary devices)] when he knowingly [(possesses) (manufactures) (transports)] any [(explosive compound) (timing or detonating device for use with any explosive compound or incendiary device)] and

[1] intends to use such [(explosive) (device)] to commit the offense[s] of ____.

[or]

[2] knows that another intends to use such [(explosive) (device)] to commit the offense[s] of ____.

Committee Note

Instruction and Committee Note Approved October 26, 2018

720 ILCS 5/20-2(a) (West 2018).

Give both paragraphs [1] and [2] and Instructions 15.06 and 15.06A, when a person is charged in the alternative and proof is sufficient to submit both charges to the jury.

Give Instruction 4.16 when possession is an issue.

When possession is the essence of a crime it must be “knowingly”. 720 ILCS 5/4-2 (West 2015); *People v. Farmer*, 165 Ill. 2d 194, 207 (1995).

Insert in the blank in paragraph [1] the appropriate offense(s).

Insert in the blank in paragraph [2] the appropriate felony offense(s).

Use applicable paragraphs and bracketed material.

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

15.06

Issues In Possession Of Explosives Or Incendiary Devices With Intent To Use

To sustain the charge of possession of [(explosives) (explosive or incendiary devices)], the State must prove the following propositions:

First Proposition: That the defendant knowingly [(possessed) (manufactured) (transported)] a[n] [(explosive compound) (timing or detonating device for use with any explosive compound or incendiary device)]; and

Second Proposition: That the defendant intended to use such [(explosive compound) (timing or detonating device)] to commit the offense[s] of _____.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

Instruction and Committee Note Approved October 26, 2018

720 ILCS 5/20-2(a) (West 2018).

Give Instruction 15.05.

Insert in the blank the appropriate offense(s).

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

15.06A

Issues In Possession Of Explosives Or Incendiary Devices Knowing Of Another's Intended Use

To sustain the charge of possession of [(explosives) (incendiary devices)], the State must prove the following propositions:

First Proposition: That the defendant knowingly [(possessed) (manufactured) (transported)] a[n] [(explosive compound) (timing or detonating device for use with any explosive compound or incendiary device)]; and

Second Proposition: That the defendant knew that another intended to use such [(explosive compound) (timing or detonating device)] to commit the offense[s] of _____.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

Instruction and Committee Note Approved October 26, 2018

720 ILCS 5/20-2(a) (West 2018).

Give Instruction 15.05.

Insert in the blank the name of the appropriate felony offense(s).

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

15.07
Definition Of Residential Arson

A person commits the offense of residential arson when, in the course of committing an arson, he knowingly damages, partially or totally, any building or structure that is the dwelling place of another.

[The term dwelling place “of another” means a dwelling place in which a person other than the defendant has an interest which the defendant has no authority to defeat or impair, even though the defendant may also have an interest in the dwelling place].

Committee Note

Instruction and Committee Note Approved October 26, 2018

720 ILCS 5/20-1(b) (West 2018).

Give Instruction 15.01.

Give Instruction 4.03, defining the term “dwelling place”.

Give Instruction 15.08.

The bracketed portion of the second paragraph is adapted from Instruction 15.01.

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

15.08
Issues In Residential Arson

To sustain the charge of residential arson, the State must prove the following propositions:

First Proposition: That the defendant, in the course of committing an arson, knowingly damaged, partially or totally, a building or structure that was the dwelling place of [(another); (____)]; and

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions have not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

Instruction and Committee Note Approved October 26, 2018

720 ILCS 5/20-1(b) (West 2018).

Give Instruction 15.07.

If the owner of the dwelling place is specifically named in the charge, he or she may be named in this instruction in both the first and second propositions. Blank spaces appear in each proposition for this purpose.

Whenever the jury is to be instructed on an affirmative defense, combine this instruction with the appropriate instructions from Chapter 24-25.00. Because the additional proposition or propositions that will thereby be included will require the jury to find that the defendant acted without consent, the Committee has concluded that the phrase “without his consent” need not be used in this issues instruction.

Use applicable bracketed material.

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

When accountability is an issue, ordinarily insert the phrase “or one of whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

15.09
Definition Of Place of Worship Arson

A person commits the offense of place of worship arson when, in the course of committing an arson, he knowingly damages, partially or totally, any place of worship.

Committee Note

Instruction and Committee Note Approved October 26, 2018

720 ILCS 5/20-1(b-5) (West 2018).

Give Instruction 15.01.

Give Instruction 15.10.

15.10
Issues In Place of Worship Arson

To sustain the charge of place of worship arson, the State must prove the following propositions:

First Proposition: That the defendant, in the course of committing an arson, knowingly damaged, partially or totally, any place of worship; and

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions have not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

Instruction and Committee Note Approved October 26, 2018

720 ILCS 5/20-1(b-5) (West 2018).

Give Instruction 15.09.

Whenever the jury is to be instructed on an affirmative defense, combine this instruction with the appropriate instructions from Chapter 24-25.00. Because the additional proposition or propositions that will thereby be included will require the jury to find that the defendant acted without consent, the Committee has concluded that the phrase “without his consent” need not be used in this issues instruction.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one of whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.