

**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, whether real or personal, 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**

720 ILCS 5/20-1(a) and (b) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §20-1(a) and (b) (1991)).

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.

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

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 \_\_\_\_; and

*Second Proposition:* That the defendant did so without the consent 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**

720 ILCS 5/20-1(a) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §20-1(a) (1991)).

Give Instruction 15.01.

Give the last paragraph of Instruction 15.01, if an issue is raised as to whether the property is the “property of another.”

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

If the property is specifically named in the charge, it must be named in this instruction.

Insert in the blanks the name of the property owner. 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; and

*Third Proposition:* That the defendant did so without the consent 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

720 ILCS 5/20-1(a) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §20-1(a) (1991)).

Give Instruction 15.01.

Give the last paragraph of Instruction 15.01, if an issue is raised as to whether the property is the “property of another.”

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

If the property is specifically named in the charge, it must be named in this instruction.

Insert in the blanks the name of the property owner. 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**

720 ILCS 5/20-1(b) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §20-1(b) (1991)).

Give Instruction 15.01.

Give the last paragraph of Instruction 15.01, if an issue is raised as to whether the property is “property of another.”

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

If the property is specifically named in the charge, it must be named in this 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.

**15.03**  
**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

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

**Committee Note**

720 ILCS 5/20-1.1 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §20-1.1 (1991)), as amended by P.A. 84-1100, effective December 9, 1985.

Give Instruction 15.04.

Give Instruction 15.01, defining arson, before this instruction.

The change in the first paragraph substituting the phrase “in the course of committing arson” for “by means of fire or explosive” reflects the legislative change effective December 9, 1985, which was intended to cure the constitutional defect noted in *People v. Wick*, 107 Ill.2d 62, 481 N.E.2d 676, 89 Ill.Dec. 833 (1985), and *People v. Johnson*, 114 Ill.2d 69, 499 N.E.2d 470, 101 Ill.Dec. 882 (1986).

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.

**15.04**  
**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

*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) ] 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**

720 ILCS 5/20-1.1 (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §20-1.1 (1991)), amended by P.A. 84-1100, effective December 9, 1985.

Give Instruction 15.03.

Insert in the blank the name of the victim.

In *People v. Benoit*, 240 Ill.App.3d 185, 190, 608 N.E.2d 250, 255, 181 Ill.Dec. 177, 182 (1st Dist.1992), the court held that this instruction needed to include the word “reasonably” in the first alternative of the Second Proposition. The Committee revised this instruction accordingly.

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.

## 15.05

### 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) ] 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

720 ILCS 5/20-2 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §20-2 (1991)).

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.” Chapter 720, Section 4-2; *People v. Smith*, 20 Ill.2d 345, 169 N.E.2d 777 (1960). See also *People v. Thomas*, 3 Ill.App.3d 1079, 279 N.E.2d 784 (3d Dist.1972); *People v. Green*, 14 Ill.App.3d 972, 304 N.E.2d 32 (1st Dist.1973).

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

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

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) ]; 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

720 ILCS 5/20-2 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §20-2 (1991)).

Give Instruction 15.05.

See Committee Note to Instruction 15.05.

Insert in the blank 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.

## 15.06A

### 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) ]; 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

720 ILCS 5/20-2 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §20-2 (1991)).

Give Instruction 15.05.

See Committee Note to 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**

720 ILCS 5/20-1.2(a) (West 2003).

Give Instruction 15.01, defining arson, before this instruction.

Give Instruction 4.03, defining the term “dwelling place”. Use applicable bracketed definition.

Give Instruction 15.08.

The bracketed portion of the second paragraph is adapted from Instruction 15.01 and should be given only when the evidence suggests the defendant has some interest in the property.

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

*Second Proposition:* That the defendant did so without [lawful consent.] [the consent 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 have not been proved beyond a reasonable doubt, you should find the defendant not guilty.

**Committee Note**

720 ILCS 5/20-1.2(a) (West 2003).

Give Instruction 15.01, defining arson.

Give Instruction 15.07. Give the bracketed portion of the second paragraph of Instruction 15.07, only when the evidence suggests the defendant has some interest in the property.

Give Instruction 4.03 defining the term “dwelling place”. Use applicable bracketed definition.

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.

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.