

PROTECTION OF LIBRARY PROPERTY AND MATERIALS

Unfortunately, many local libraries and library districts are the victims of theft. Stolen items range from books, CDs and DVDs, to laptop computers and computer systems, including hard drives, monitors and keyboards. This article summarizes amendments to the Illinois Criminal Code which have redefined offenses related to library theft, and impose greater penalties for committing those offenses.

Prior to January 1, 2012, Article 16B of the Illinois Criminal Code (720 ILCS 5/16B *et seq.*) defined the offenses of library theft, criminal mutilation of library materials and vandalism of library materials. Section 16B also imposed three penalties which were dependent upon the value of the items stolen: fines not to exceed \$500, and reimbursement for actual replacement costs; Class A misdemeanors punishable by up to 364 days in jail, and/or fines not to exceed \$2,500; and Class 3 felonies punishable by between 2 and 5 years, and/or fines not to exceed \$25,000.

Effective January 1, 2012, Article 16B was repealed in its entirety and Sections 16-1 and 16-3 of the Illinois Criminal Code (720 ILCS 5/16 *et seq.*) were amended to create three categories of offenses related to library theft: theft of library property; theft of library materials by means of threat, deception or without consent; and theft of library materials by failure to return. These amendments also imposed penalties greater than those previously imposed.

Theft of Library Property

Under the new statutory scheme, if “governmental property,” which includes library property, is stolen and the value of the property does not exceed \$500, the theft is considered a Class 4 felony punishable by between 1 and 3 years in a State penitentiary and/or fines not to exceed \$25,000 (720 ILCS 5/16-1(b)(1.1)). If the value of the stolen library



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property exceeds \$500, but does not exceed \$10,000, the theft is considered a Class 2 felony punishable by between 3 and 7 years in a State penitentiary and/or fines of up to \$25,000 (720 ILCS 5/16-1(b)(4.1)). If the value of the stolen library property exceeds \$10,000, but does not exceed \$100,000, the theft is considered a Class 1 felony punishable by between 4 and 15 years in a State penitentiary and/or fines of up to \$25,000 (720 ILCS 5/16-1(b)(5.1)). Finally, if the value of the stolen library property exceeds \$100,000, the theft is considered a Class X felony punishable by between 6 and 30 years in a State penitentiary and/or fines of up to \$25,000 (720 ILCS 5/16-1(b)(6.1)).

What, however, is considered library “property” for purposes of section 16-1(b)? The Illinois Criminal Code defines “property” as “anything of value” and includes, among other things, real estate, money, tickets, fixtures to real property, electricity, gas, water, telecommunications services, birds, animals, fish, food, drink, records, recordings, documents, blueprints, drawings, maps, photographs, computer programs and data (720 ILCS 5/15-1). Essentially, for purposes of section 16-1(b), library property is anything that a library owns except library materials, which are discussed more fully below. In other words, anything that a library owns that it does not loan to patrons is library property, the theft of which is subject to the foregoing penalties.

Theft of Library Materials by Threat, Deception or Without Consent

Under the new statutory scheme, if a person knowingly obtains temporary use of library materials by means of threat or deception or knowing that its use is without consent, theft has been committed (720 ILCS 5/16-3(a)). If the stolen library materials have an aggregate value of \$300 or less, the theft is considered a Class A misdemeanor punishable by up to 1 year in jail and/or a fine not to exceed \$2,500 (720 ILCS 5/16-3(d)). If the stolen library materials have an aggregate value in excess of \$300, the theft is considered a Class 3 felony punishable by between 2 and 5 years in a State penitentiary and/or a fine not to exceed \$25,000 (720 ILCS 5/16-3(d)).

What, however, is considered “library materials” for purposes of section 16-3? The Illinois Criminal Code defines “library materials” as including, among other things, books, pictures, photographs, engravings, paintings, sculptures, statues, artifacts, drawings, maps, newspapers, pamphlets, broadsides, magazines, manuscripts, documents, letters, microfilms, sound recordings, audiovisual materials, magnetic or other tapes, electronic data processing records or other documentaries, written or printed materials regardless of physical form or characteristics, or any part thereof, belonging to, or on loan to or otherwise in the custody of a library facility (720 ILCS 5/16-0.1).

Essentially, library materials are anything that a library owns except library property, which is discussed more fully above. In other words, anything that a library owns that it loans to patrons constitutes library materials, the theft of which is subject to the foregoing and following penalties.

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Theft of Library Material by Failure to Return

Finally, under the new statutory scheme, if a person borrows library materials which have an aggregate value of \$50 or more in accordance with an agreement with or procedure established by the library for the return thereof and knowingly and without good cause fails to return the borrowed library materials and further knowingly and without good cause fails to return such library materials within 30 days after receiving written notice by certified mail from the library facility demanding the return thereof, theft has been committed (720 ILCS 5/16-3(c)).

If the unreturned library materials have an aggregate value of \$300 or less, the theft is considered a petty offense punishable by a fine not to exceed \$500 and mandatory reimbursement of the library's fees and costs, including attorneys' fees, actual replacement costs of the material not returned and postage costs (720 ILCS 5/16-3(d)). If the unreturned library materials have an aggregate value in excess of \$300, the theft is considered a Class 3 felony punishable by between 2 and 5 years in a State penitentiary and/or a fine not to exceed \$25,000 (720 ILCS 5/16-3(d)).

Finally, multiple failures to return library materials by the same person occurring within a 90-day period and totaling more than \$300 will be prosecuted as a single offense (720 ILCS 5/16-3(d)).

To deter theft of library materials in your library, you may want to consider posting a warning in a conspicuous location. For example, the warning may state:

WARNING

Theft of library property is a criminal felony with a minimum punishment of between 1 and 3 years in a State penitentiary and/or fines not to exceed \$25,000 and a maximum punishment of between 6 and 30 years in a State penitentiary and/or fines of up to \$25,000 (720 ILCS 5/16-1(b) et seq.).

Theft of library materials is: a petty offense punishable by a fine not to exceed \$500 and mandatory reimbursement of the library's fees and costs, including attorneys' fees, actual replacement costs of the material not returned and postage costs; a criminal misdemeanor punishable by up to 1 year in jail and/or a fine not to exceed \$2,500 (720 ILCS 5/16-3(d)); or a criminal felony punishable by between 2 and 5 years in a State penitentiary and/or a fine not to exceed \$25,000.

If your library is the victim of theft of library property or theft of library materials, you should contact your local authorities, make a criminal complaint and contact your general liability insurer to make a claim. Should you so desire, your library attorney can assist you with any of these endeavors.

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