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E.M. RUIHANO
CLERK APPELLATE COURTS
STATE OF HAWAII

IN THE SUPREME COURT OF THE STATE OF HAWAII

In the Matter of the Publication and Distribution
of the
Hawai'i Pattern Jury Instructions - Criminal

ORDER APPROVING PUBLICATION AND DISTRIBUTION
OF HAWAII PATTERN JURY INSTRUCTIONS - CRIMINAL
(By: Moon, C.J., for the court¹)

Upon consideration of the Pattern Criminal Jury Instructions Standing Committee's request to publish and distribute revisions to Criminal Instructions 10.26, 10.26A, 10.27, 10.27A, 10.28, 10.28A, 10.29, 10.29A, 10.30, 10.30A, 10.31, and 10.31A to the Hawai'i Pattern Jury Instructions - Criminal,

IT IS HEREBY ORDERED that the attached criminal jury instructions 10.26, 10.26A, 10.27, 10.27A, 10.28, 10.28A, 10.29, 10.29A, 10.30, 10.30A, 10.31, and 10.31A are approved for publication and distribution.

IT IS FURTHER ORDERED that this approval for publication and distribution is not and shall not be considered by this court or any other court to be an approval or judgment

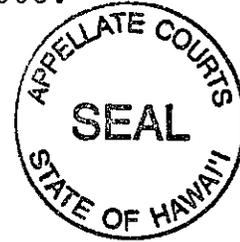
¹ Considered by: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.

concerning the validity or correctness of the substance of any
pattern instruction or notes.

DATED: Honolulu, Hawai'i, October 7, 2008.

FOR THE COURT:


Chief Justice



10.26

ROBBERY IN THE FIRST DEGREE --
ATTEMPT TO KILL OR INFLICT SERIOUS BODILY INJURY:
H.R.S. § 708-840(1) (a)

(Applicable to offenses occurring on or after June 22, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Robbery in the First Degree.

A person commits the offense of Robbery in the First Degree
if, in the course of [committing theft] [taking a motor vehicle
without consent], he/she [attempts to kill another]
[intentionally or knowingly* inflicts or attempts to inflict
serious bodily injury upon another].

There are two material elements of the offense of Robbery in
the First Degree, each of which the prosecution must prove beyond
a reasonable doubt.

These two elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant was in the course of [committing
theft] [taking a motor vehicle without consent]; and

2. That [, while doing so,] the Defendant [attempted to
kill another] [intentionally or knowingly* inflicted or attempted
to inflict serious bodily injury upon another].

[A person commits theft if he/she obtains or exerts
unauthorized control over the property of another with intent to
deprive the person of the property.]

10.26 (proposed 09/09/08)

An act shall be deemed "in the course of [committing a theft] [taking a motor vehicle without consent]" if it occurs in an attempt to [commit theft] [take a motor vehicle without consent,] or in the flight after the attempt or commission.

A person attempts to kill another if, with the intent to kill, he/she intentionally engages in conduct which is a substantial step in a course of conduct intended or known to be practically certain by the Defendant to cause death.

A person attempts to inflict serious bodily injury on another if, with the intent to inflict serious bodily injury, he/she intentionally engages in conduct which is a substantial step in a course of conduct intended or known [by the Defendant] to create a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Notes

H.R.S. §§ 708-840(1)(a), 708-830(1), 708-842, 702-206(1).

For definition of states of mind, see instruction:

6.02 -- "intentionally"

6.03 -- "knowingly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00 -- "control over the property"

10.00 -- "deprive"

10.00 -- "obtain"

10.00 -- "property"

10.00 -- "property of another"

10.00 -- "unauthorized control over property"

For definition of terms not defined by H.R.S. Chapter 708, see instruction:

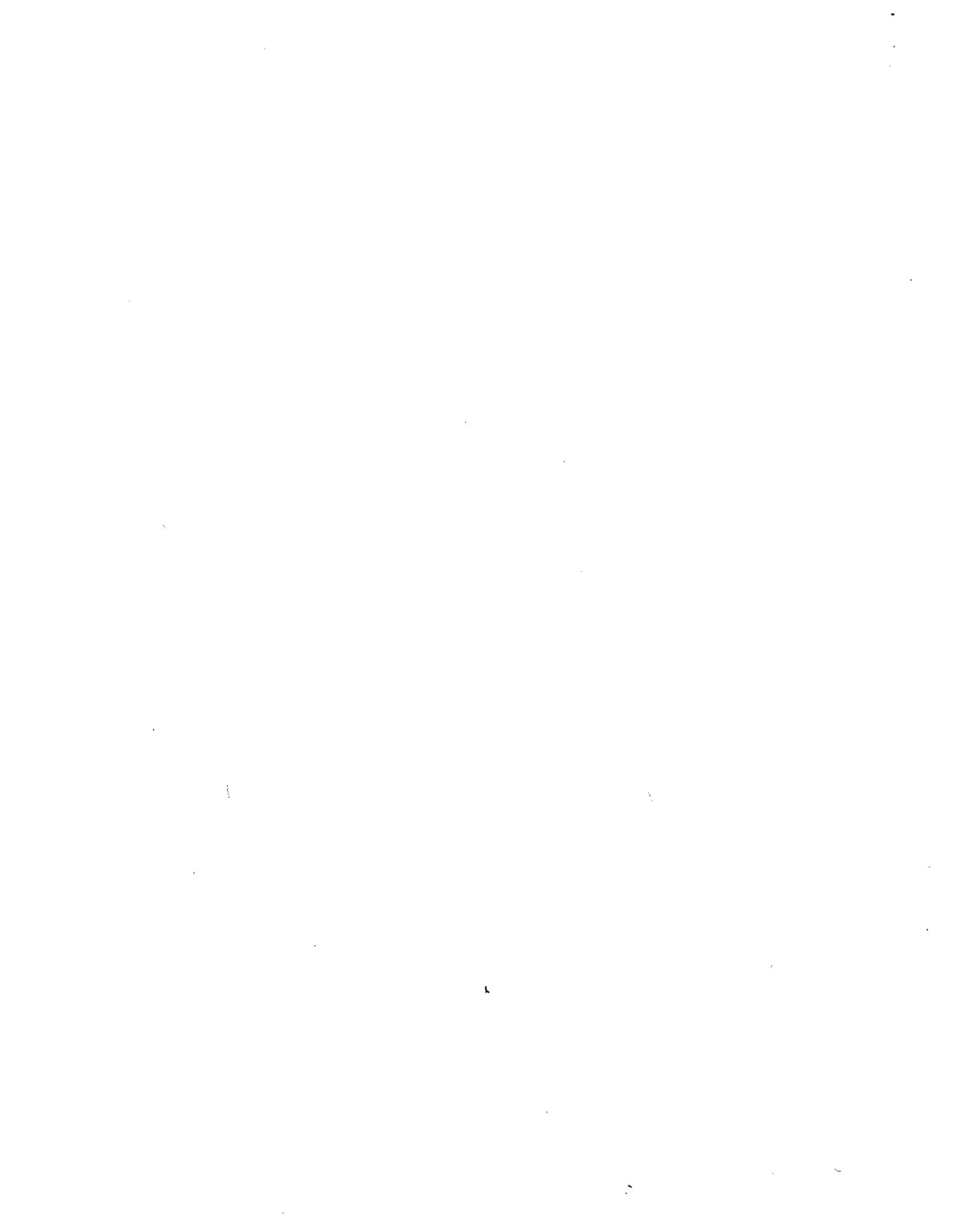
9.00 -- "serious bodily injury"

For elements of attempt, see instructions 14.01 through 14.03.

Only the most common form of theft defined by H.R.S. § 708-830(1) has been included within the instruction; other forms of theft specified by H.R.S. § 708-830 may also be relevant.

For statutory defense to theft, see instruction 10.11A.

*The term "knowingly" is to be included within the general statement and elements of the offense when the incident occurred on or after 04/29/98.



10.26

ROBBERY IN THE FIRST DEGREE --
ATTEMPT TO KILL OR INFLICT SERIOUS BODILY INJURY:
H.R.S. § 708-840(1)(a)

(Applicable to offenses occurring on or after June 22, 2006)

[In Count (count number) of the Indictment/Complaint, the] [The] Defendant, (defendant's name), is charged with the offense of Robbery in the First Degree.

A person commits the offense of Robbery in the First Degree if, in the course of [committing theft] [taking a motor vehicle without consent], he/she [attempts to kill another] [intentionally or knowingly* inflicts or attempts to inflict serious bodily injury upon another].

There are two material elements of the offense of Robbery in the First Degree, each of which the prosecution must prove beyond a reasonable doubt.

These two elements are:

1. That, on or about (date) in the [City and] County of (name of county), the Defendant was in the course of [committing theft] [taking a motor vehicle without consent]; and

2. That [, while doing so,] the Defendant [attempted to kill another] [intentionally or knowingly* inflicted or attempted to inflict serious bodily injury upon another].

[A person commits theft if he/she obtains or exerts unauthorized control over the property of another with intent to deprive the person of the property.]

10.26 (proposed 09/09/08)

An act shall be deemed "in the course of [committing theft] [taking a motor vehicle without consent]" if it occurs in an attempt to [commit theft] [take a motor vehicle without consent,] ~~in the commission of theft,~~ or in the flight after the attempt or commission.

A person attempts to kill another if, with the intent to kill, he/she intentionally engages in conduct which is a substantial step in a course of conduct intended or known to be practically certain by the Defendant to cause death.

A person attempts to inflict serious bodily injury on another if, with the intent to inflict serious bodily injury, he/she intentionally engages in conduct which is a substantial step in a course of conduct intended or known [by the Defendant] to create a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Notes

H.R.S. §§ 708-840(1)(a), 708-830(1), 708-842, 702-206(1).

For definition of states of mind, see instruction:

- 6.02 -- "intentionally"
- 6.03 -- "knowingly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

- 10.00 -- "control over the property"
- 10.00 -- "deprive"
- 10.00 -- "obtain"
- 10.00 -- "property"

10.00 -- "property of another"
10.00 -- "unauthorized control over property"

For definition of terms *not* defined by H.R.S. Chapter 708,
see instruction:

9.00 -- "serious bodily injury"

For elements of attempt, see instructions 14.01 through
14.03.

Only the most common form of theft defined by H.R.S. § 708-
830(1) has been included within the instruction; other forms of
theft specified by H.R.S. § 708-830 may also be relevant.

For statutory defense to theft, see instruction 10.11A.

*The term "knowingly" is to be included within the general
statement and elements of the offense when the incident occurred
on or after 04/29/98.

10.26A

ROBBERY IN THE FIRST DEGREE --
ATTEMPT TO KILL OR INFLICT SERIOUS BODILY INJURY:
H.R.S. § 708-840(1) (a)

(Applicable to offenses that occurred on or before June 21, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Robbery in the First Degree.

A person commits the offense of Robbery in the First Degree
if, in the course of committing theft, he/she [attempts to kill
another] [intentionally or knowingly* inflicts or attempts to
inflict serious bodily injury upon another].

There are two material elements of the offense of Robbery in
the First Degree, each of which the prosecution must prove beyond
a reasonable doubt.

These two elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant was in the course of committing
theft; and

2. That[, while doing so,] the Defendant [attempted to
kill another] [intentionally or knowingly* inflicted or attempted
to inflict serious bodily injury upon another].

A person commits theft if he/she obtains or exerts
unauthorized control over the property of another with intent to
deprive the person of the property.

An act shall be deemed "in the course of committing a theft"

10.26A (proposed 09/09/08)

if it occurs in an attempt to commit theft, in the commission of theft, or in the flight after the attempt or commission.

A person attempts to kill another if, with the intent to kill, he/she intentionally engages in conduct which is a substantial step in a course of conduct intended or known to be practically certain by the Defendant to cause death.

A person attempts to inflict serious bodily injury on another if, with the intent to inflict serious bodily injury, he/she intentionally engages in conduct which is a substantial step in a course of conduct intended or known to create a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Notes

H.R.S. §§ 708-840(1)(a), 708-830(1), 708-842, 702-206(1).

For definition of states of mind, see instruction:

6.02 - "intentionally"

6.03 - "knowingly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00 - "control over the property"

10.00 - "deprive"

10.00 - "obtain"

10.00 - "property"

10.00 - "property of another"

10.00 - "unauthorized control over property"

For definition of terms not defined by H.R.S. Chapter 708, see instruction:

9.00 - "serious bodily injury"

For elements of attempt, see instructions 14.01 through 14.03.

Only the most common form of theft defined by H.R.S. § 708-830(1) has been included within the instruction; other forms of theft specified by H.R.S. § 708-830 may also be relevant.

For statutory defense to theft, see instruction 10.11A.

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10.26A

ROBBERY IN THE FIRST DEGREE --
ATTEMPT TO KILL OR INFLICT SERIOUS BODILY INJURY:
H.R.S. § 708-840(1)(a)

(Applicable to offenses that occurred on or before June 21, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Robbery in the First Degree.

A person commits the offense of Robbery in the First Degree
if, in the course of committing theft, he/she [attempts to kill
another] [intentionally or knowingly* inflicts or attempts to
inflict serious bodily injury upon another].

There are two material elements of the offense of Robbery in
the First Degree, each of which the prosecution must prove beyond
a reasonable doubt.

These two elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant was in the course of committing
theft; and

2. That[, while doing so,] the Defendant [attempted to
kill another] [intentionally or knowingly* inflicted or attempted
to inflict serious bodily injury upon another].

A person commits theft if he/she obtains or exerts
unauthorized control over the property of another with intent to
deprive the person of the property.

An act shall be deemed "in the course of committing a theft"

10.26A (proposed 09/09/08)

if it occurs in an attempt to commit theft, in the commission of theft, or in the flight after the attempt or commission.

A person attempts to kill another if, with the intent to kill, he/she intentionally engages in conduct which is a substantial step in a course of conduct intended or known to be practically certain by the Defendant to cause death.

A person attempts to inflict serious bodily injury on another if, with the intent to inflict serious bodily injury, he/she intentionally engages in conduct which is a substantial step in a course of conduct intended or known to create a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Notes

H.R.S. §§ 708-840(1)(a), 708-830(1), 708-842, 702-206(1).

For definition of states of mind, see instruction:

6.02 - "intentionally"

6.03 - "knowingly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00 - "control over the property"

10.00 - "deprive"

10.00 - "obtain"

10.00 - "property"

10.00 - "property of another"

10.00 - "unauthorized control over property"

For definition of terms not defined by H.R.S. Chapter 708, see instruction:

9.00 - "serious bodily injury"

For elements of attempt, see instructions 14.01 through 14.03.

Only the most common form of theft defined by H.R.S. § 708-830(1) has been included within the instruction; other forms of theft specified by H.R.S. § 708-830 may also be relevant.

For statutory defense to theft, see instruction 10.11A.

*The term "knowingly" is to be included within the general statement and elements of the offense when the incident occurred on or after 04/29/98.

10.27

ROBBERY IN THE FIRST DEGREE --
ARMED WITH DANGEROUS INSTRUMENT AND USE OF FORCE:
H.R.S. § 708-840(1)(b)(i)

(Applicable to offenses occurring on or after June 22, 2006)

[In Count (count number) of the Indictment/Complaint, the] [The] Defendant, (defendant's name), is charged with the offense of Robbery in the First Degree.

A person commits the offense of Robbery in the First Degree if, in the course of [committing theft] [taking a motor vehicle without consent], he/she is armed with a dangerous instrument, and he/she uses force against the person of anyone present with intent to overcome that person's physical resistance or physical power of resistance.

There are three material elements of the offense of Robbery in the First Degree, each of which the prosecution must prove beyond a reasonable doubt.

These three elements are:

1. That, on or about (date) in the [City and] County of (name of county), the Defendant was in the course of [committing theft] [taking a motor vehicle without consent]; and

2. That [, while doing so,] the Defendant was [intentionally] armed with a dangerous instrument; and

3. That [, while doing so,] the Defendant used force

against the person of anyone present with intent to overcome that person's physical resistance or physical power of resistance.

[A person commits theft if he/she obtains or exerts unauthorized control over the property of another with intent to deprive the person of the property.]

An act shall be deemed "in the course of [committing a theft] [taking of a motor vehicle without consent]" if it occurs in an attempt to [commit theft] [take a motor vehicle without consent,] or in the flight after the attempt or commission.

"Dangerous instrument" means any firearm, or other weapon, whether loaded or not, or whether operable or not, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or threatened to be used is capable of producing death or serious bodily injury.

Notes

H.R.S. §§ 708-840(1)(b)(i) and (2), 708-842, 702-206(1).

For definition of states of mind, see instruction:
6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00 - "control over the property"

10.27 (proposed 09/09/08)

- 10.00 - "deprive"
- 10.00 - "obtain"
- 10.00 - "property"
- 10.00 - "property of another"
- 10.00 - "unauthorized control over property"

For statutory defense to theft, see instruction 10.11A.

10.27

ROBBERY IN THE FIRST DEGREE --
ARMED WITH DANGEROUS INSTRUMENT AND USE OF FORCE:
H.R.S. § 708-840(1)(b)(i)

(Applicable to offenses occurring on or after June 22, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Robbery in the First Degree.

A person commits the offense of Robbery in the First Degree
if, in the course of [committing theft] [taking a motor vehicle
without consent], he/she is armed with a dangerous instrument,
and he/she uses force against the person of anyone present with
intent to overcome that person's physical resistance or physical
power of resistance.

There are three material elements of the offense of Robbery
in the First Degree, each of which the prosecution must prove
beyond a reasonable doubt.

These three elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant was in the course of [committing
theft] [taking a motor vehicle without consent]; and

2. That [, while doing so,] the Defendant was
[intentionally] armed with a dangerous instrument; and

3. That [, while doing so,] the Defendant used force

against the person of anyone present with intent to overcome that person's physical resistance or physical power of resistance.

[A person commits theft if he/she obtains or exerts unauthorized control over the property of another with intent to deprive the person of the property.]

An act shall be deemed "in the course of [committing a theft] [taking of a motor vehicle without consent]" if it occurs in an attempt to [commit theft] [take a motor vehicle without consent,] ~~in the commission of theft,~~ or in the flight after the attempt or commission.

"Dangerous instrument" means any firearm, or other weapon, whether loaded or not, ~~and~~ or whether operable or not, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or threatened to be used is capable of producing death or serious bodily injury.

Notes

H.R.S. §§ 708-840(1)(b)(i) and (2), 708-842, 702-206(1).

For definition of states of mind, see instruction:

6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see

instructions:

- 10.00 - "control over the property"
- 10.00 - "deprive"
- 10.00 - "obtain"
- 10.00 - "property"
- 10.00 - "property of another"
- 10.00 - "unauthorized control over property"

For statutory defense to theft, see instruction 10.11A.

10.27A

ROBBERY IN THE FIRST DEGREE --
ARMED WITH DANGEROUS INSTRUMENT AND USE OF FORCE:
H.R.S. § 708-840(1)(b)(i)

(Applicable to offenses that occurred on or before June 21, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Robbery in the First Degree.

A person commits the offense of Robbery in the First Degree
if, in the course of committing theft, he/she is armed with a
dangerous instrument, and he/she uses force against the person of
anyone present with intent to overcome that person's physical
resistance or physical power of resistance.

There are three material elements of the offense of Robbery
in the First Degree, each of which the prosecution must prove
beyond a reasonable doubt.

These three elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant was in the course of committing
theft; and

2. That [, while doing so,] the Defendant was armed with a
dangerous instrument; and

3. That [, while doing so,] the Defendant used force
against the person of anyone present with intent to overcome that

person's physical resistance or physical power of resistance.

A person commits theft if he/she obtains or exerts unauthorized control over the property of another with intent to deprive the person of the property.

An act shall be deemed "in the course of committing a theft" if it occurs in an attempt to commit theft, in the commission of theft, or in the flight after the attempt or commission.

"Dangerous instrument" means any firearm, or other weapon, whether loaded or not, or whether operable or not, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or threatened to be used is capable of producing death or serious bodily injury.

Notes

H.R.S. §§ 708-840(1)(b)(i) and (2), 708-842, 702-206(1).

For definition of states of mind, see instruction:

6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00 - "control over the property"

10.00 - "deprive"

10.00 - "obtain"

10.00 - "property"

10.00 - "property of another"

10.00 - "unauthorized control over property"

For statutory defense to theft, see instruction 10.11A.

10.27A

ROBBERY IN THE FIRST DEGREE --
ARMED WITH DANGEROUS INSTRUMENT AND USE OF FORCE:
H.R.S. § 708-840(1)(b)(i)

(Applicable to offenses that occurred on or before June 21, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Robbery in the First Degree.

A person commits the offense of Robbery in the First Degree
if, in the course of committing theft, he/she is armed with a
dangerous instrument, and he/she uses force against the person of
anyone present with intent to overcome that person's physical
resistance or physical power of resistance.

There are three material elements of the offense of Robbery
in the First Degree, each of which the prosecution must prove
beyond a reasonable doubt.

These three elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant was in the course of committing
theft; and

2. That [, while doing so,] the Defendant was armed with a
dangerous instrument; and

3. That [, while doing so,] the Defendant used force
against the person of anyone present with intent to overcome that

10.27A (proposed 09/09/08)

person's physical resistance or physical power of resistance.

A person commits theft if he/she obtains or exerts unauthorized control over the property of another with intent to deprive the person of the property.

An act shall be deemed "in the course of committing a theft" if it occurs in an attempt to commit theft, in the commission of theft, or in the flight after the attempt or commission.

"Dangerous instrument" means any firearm, or other weapon, whether loaded or not, or whether operable or not, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or threatened to be used is capable of producing death or serious bodily injury.

Notes

H.R.S. §§ 708-840(1)(b)(i) and (2), 708-842, 702-206(1).

For definition of states of mind, see instruction:
6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

- 10.00 - "control over the property"
- 10.00 - "deprive"
- 10.00 - "obtain"
- 10.00 - "property"
- 10.00 - "property of another"
- 10.00 - "unauthorized control over property"

For statutory defense to theft, see instruction 10.11A.

10.28

ROBBERY IN THE FIRST DEGREE --

ARMED WITH DANGEROUS INSTRUMENT AND THREATENED USE OF FORCE:

H.R.S. § 708-840(1)(b)(ii)

(Applicable to offenses occurring on or after June 22, 2006)

[In Count (count number) of the Indictment/Complaint, the] [The] Defendant, (defendant's name), is charged with the offense of Robbery in the First Degree.

A person commits the offense of Robbery in the First Degree if, in the course of [committing theft] [taking a motor vehicle without consent], he/she is armed with a dangerous instrument, and he/she threatens the imminent use of force against the person of anyone who is present, with intent to compel acquiescence to the taking of or escaping with property.

There are three material elements of the offense of Robbery in the First Degree, each of which the prosecution must prove beyond a reasonable doubt.

These three elements are:

1. That, on or about (date) in the [City and] County of (name of county), the Defendant was in the course of [committing theft] [taking a motor vehicle without consent]; and

2. That [, while doing so,] the Defendant was [intentionally] armed with a dangerous instrument; and

10.28 (proposed 09/09/08)

3. That [, while doing so,] the Defendant [intentionally] threatened the imminent use of force against anyone who is present, with intent to compel acquiescence to the taking of or escaping with the property.

[A person commits theft if he/she obtains or exerts unauthorized control over the property of another with intent to deprive the person of the property.]

An act shall be deemed "in the course of [committing a theft] [taking of a motor vehicle without consent]" if it occurs in an attempt to [commit theft] [take a motor vehicle without consent,] or in the flight after the attempt or commission. .

"Dangerous instrument" means any firearm, whether loaded or not, or whether operable or not, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or threatened to be used is capable of producing death or serious bodily injury.

Notes

H.R.S. §§ 708-840(1)(b)(ii) and (2), 708-842, 702-206(1).

For definition of states of mind, see instruction:
6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see

instructions:

- 10.00 - "control over the property"
- 10.00 - "deprive"
- 10.00 - "obtain"
- 10.00 - "property"
- 10.00 - "property of another"
- 10.00 - "unauthorized control over property"

For statutory defense to theft, see instruction 10.11A.

10.28

ROBBERY IN THE FIRST DEGREE --

ARMED WITH DANGEROUS INSTRUMENT AND THREATENED USE OF FORCE:
H.R.S. § 708-840(1)(b)(ii)

(Applicable to offenses occurring on or after June 22, 2006)

[In Count (count number) of the Indictment/Complaint, the] [The] Defendant, (defendant's name), is charged with the offense of Robbery in the First Degree.

A person commits the offense of Robbery in the First Degree if, in the course of [committing theft] [taking a motor vehicle without consent], he/she is armed with a dangerous instrument, and he/she threatens the imminent use of force against the person of anyone who is present, with intent to compel acquiescence to the taking of or escaping with property.

There are three material elements of the offense of Robbery in the First Degree, each of which the prosecution must prove beyond a reasonable doubt.

These three elements are:

1. That, on or about (date) in the [City and] County of (name of county), the Defendant was in the course of [committing theft] [taking a motor vehicle without consent]; and

2. That [, while doing so,] the Defendant was [intentionally] armed with a dangerous instrument; and

3. That [, while doing so,] the Defendant [intentionally]

threatened the imminent use of force against anyone who is present, with intent to compel acquiescence to the taking of or escaping with the property.

[A person commits theft if he/she obtains or exerts unauthorized control over the property of another with intent to deprive the person of the property.]

An act shall be deemed "in the course of [committing a theft] [taking of a motor vehicle without consent]" if it occurs in an attempt to [commit theft] [take a motor vehicle without consent,], ~~in commission of theft,~~ or in the flight after the attempt or commission.

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For definition of states of mind, see instruction:

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- 10.00 - "control over the property"
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For statutory defense to theft, see instruction 10.11A.

10.28A

ROBBERY IN THE FIRST DEGREE --

ARMED WITH DANGEROUS INSTRUMENT AND THREATENED USE OF FORCE:

H.R.S. § 708-840(1)(b)(ii)

(Applicable to offenses that occurred on or before June 21, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Robbery in the First Degree.

A person commits the offense of Robbery in the First Degree
if, in the course of committing theft, he/she is armed with a
dangerous instrument, and he/she threatens the imminent use of
force against the person of anyone who is present, with intent to
compel acquiescence to the taking of or escaping with the
property.

There are three material elements of the offense of Robbery
in the First Degree, each of which the prosecution must prove
beyond a reasonable doubt.

These three elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant was in the course of committing
theft; and

2. That [, while doing so,] the Defendant was armed with a
dangerous instrument; and

3. That [, while doing so,] the Defendant threatened the

imminent use of force against anyone who is present, with intent to compel acquiescence to the taking of or escaping with the property.

A person commits theft if he/she obtains or exerts unauthorized control over the property of another with intent to deprive the person of the property.

An act shall be deemed "in the course of committing a theft" if it occurs in an attempt to commit theft, in the commission of theft, or in the flight after the attempt or commission.

"Dangerous instrument" means any firearm, whether loaded or not, or whether operable or not, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or threatened to be used is capable of producing death or serious bodily injury.

Notes

H.R.S. §§ 708-840(1)(b)(ii), 708-830(1), 708-842, 702-206(1).

For definition of states of mind, see instruction:
6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

10.00 - "control over the property"
10.00 - "deprive"
10.00 - "obtain"

10.00 - "property"

10.00 - "property of another"

10.00 - "unauthorized control over property"

For statutory defense to theft, see instruction 10.11A.

10.28A

ROBBERY IN THE FIRST DEGREE --

ARMED WITH DANGEROUS INSTRUMENT AND THREATENED USE OF FORCE:

H.R.S. § 708-840(1)(b)(ii)

(Applicable to offenses that occurred on or before June 21, 2006)

[In Count (count number) of the Indictment/Complaint, the] [The] Defendant, (defendant's name), is charged with the offense of Robbery in the First Degree.

A person commits the offense of Robbery in the First Degree if, in the course of committing theft, he/she is armed with a dangerous instrument, and he/she threatens the imminent use of force against the person of anyone who is present, with intent to compel acquiescence to the taking of or escaping with the property.

There are three material elements of the offense of Robbery in the First Degree, each of which the prosecution must prove beyond a reasonable doubt.

These three elements are:

1. That, on or about (date) in the [City and] County of (name of county), the Defendant was in the course of committing theft; and

2. That [, while doing so,] the Defendant was armed with a dangerous instrument; and

3. That [, while doing so,] the Defendant threatened the

imminent use of force against anyone who is present, with intent to compel acquiescence to the taking of or escaping with the property.

A person commits theft if he/she obtains or exerts unauthorized control over the property of another with intent to deprive the person of the property.

An act shall be deemed "in the course of committing a theft" if it occurs in an attempt to commit theft, in the commission of theft, or in the flight after the attempt or commission.

"Dangerous instrument" means any firearm, whether loaded or not, or whether operable or not, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or threatened to be used is capable of producing death or serious bodily injury.

Notes

H.R.S. §§ 708-840(1)(b)(ii), 708-830(1), 708-842, 702-206(1).

For definition of states of mind, see instruction:
6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

- 10.00 - "control over the property"
- 10.00 - "deprive"
- 10.00 - "obtain"

- 10.00 - "property"
- 10.00 - "property of another"
- 10.00 - "unauthorized control over property"

For statutory defense to theft, see instruction 10.11A.

10.29 ROBBERY IN THE SECOND DEGREE - USE OF FORCE:
H.R.S. § 708-841(1) (a)

(Applicable to offenses occurring on or after June 22, 2006)

[In count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Robbery in the Second Degree.

A person commits the offense of Robbery in the Second Degree
if, in the course of [committing theft] [taking a motor vehicle
without consent], he/she uses force against the person of anyone
present with intent to overcome the person's physical resistance
or physical power of resistance.

There are two material elements of the offense of Robbery
in the Second Degree, each of which the prosecution must prove
beyond a reasonable doubt.

These two elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant was in the course of [committing
theft] [taking a motor vehicle without consent]; and

2. That [, while doing so,] the Defendant used force
against the person of anyone present with intent to overcome that
person's physical resistance or physical power of resistance.

[A person commits theft if he/she [intentionally] obtains or

exerts unauthorized control over the property of another with intent to deprive the person of the property.]

An act shall be deemed "in the course of [committing a theft] [taking a motor vehicle without consent]" if it occurs in an attempt to [commit theft] [take a motor vehicle without consent,] or in the flight after the attempt or commission.

10.29 ROBBERY IN THE SECOND DEGREE - USE OF FORCE:
 H.R.S. § 708-841(1)(a)

(Applicable to offenses occurring on or after June 22, 2006)

[In count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Robbery in the Second Degree.

A person commits the offense of Robbery in the Second Degree
if, in the course of [committing theft] [taking a motor vehicle
without consent], he/she uses force against the person of anyone
present with intent to overcome the ~~that~~ person's physical
resistance or physical power of resistance.

There are two material elements of the offense of Robbery
in the Second Degree, each of which the prosecution must prove
beyond a reasonable doubt.

These two elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant was in the course of [committing
theft] [taking a motor vehicle without consent]; and

2. That [, while doing so,] the Defendant used force
against the person of anyone present with intent to overcome that
person's physical resistance or physical power of resistance.

[A person commits theft if he/she intentionally obtains or

exerts unauthorized control over the property of another with intent to deprive the person of the property.]

An act shall be deemed "in the course of [committing a theft] [taking a motor vehicle without consent]" if it occurs in an attempt to [commit theft] [take a motor vehicle without consent,] ~~, in the commission of theft,~~ or in the flight after the attempt or commission.

10.29A ROBBERY IN THE SECOND DEGREE -- USE OF FORCE:
H.R.S. § 708-841(1)(a)

(Applicable to offenses that occurred on or before June 21, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Robbery in the Second Degree.

A person commits the offense of Robbery in the Second Degree
if, in the course of committing theft, he/she uses force against
the person of anyone present, with intent to overcome that
person's physical resistance or physical power of resistance.

There are two material elements of the offense of Robbery in
the Second Degree, each of which the prosecution must prove
beyond a reasonable doubt.

These two elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant was in the course of committing
theft; and

2. That [, while doing so,] the Defendant used force
against the person of anyone present, with intent to overcome
that person's physical resistance or physical power of
resistance.

A person commits theft if he/she obtains or exerts

unauthorized control over the property of another with intent to deprive the person of the property.

An act shall be deemed "in the course of committing a theft" if it occurs in an attempt to commit theft, in the commission of theft, or in the flight after the attempt or commission.

Notes

H.R.S. §§ 708-841(1)(a), 708-842, 702-206(1).

For definition of states of mind, see instruction:
6.02 - "intentionally"

For statutory defense to theft, see instruction 10.11A.

10.29A ROBBERY IN THE SECOND DEGREE -- USE OF FORCE:
H.R.S. § 708-841(1) (a)

(Applicable to offenses that occurred on or before June 21, 2006)

[In Count (count number) of the Indictment/Complaint, the] [The] Defendant, (defendant's name), is charged with the offense of Robbery in the Second Degree.

A person commits the offense of Robbery in the Second Degree if, in the course of committing theft, he/she uses force against the person of anyone present, with intent to overcome that person's physical resistance or physical power of resistance.

There are two material elements of the offense of Robbery in the Second Degree, each of which the prosecution must prove beyond a reasonable doubt.

These two elements are:

1. That, on or about (date) in the [City and] County of (name of county), the Defendant was in the course of committing theft; and

2. That [, while doing so,] the Defendant used force against the person of anyone present, with intent to overcome that person's physical resistance or physical power of resistance.

A person commits theft if he/she obtains or exerts

unauthorized control over the property of another with intent to deprive the person of the property.

An act shall be deemed "in the course of committing a theft" if it occurs in an attempt to commit theft, in the commission of theft, or in the flight after the attempt or commission.

Notes

H.R.S. §§ 708-841(1)(a), 708-842, 702-206(1).

For definition of states of mind, see instruction:
6.02 - "intentionally"

For statutory defense to theft, see instruction 10.11A.

10.30

ROBBERY IN THE SECOND DEGREE --
THREATENED USE OF FORCE:
H.R.S. § 708-841(1)(b)

(Applicable to offenses occurring on or after June 22, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Robbery in the Second Degree.

A person commits the offense of Robbery in the Second Degree
if, in the course of [committing theft] [taking a motor vehicle
without consent], he/she threatens the imminent use of force
against the person of anyone who is present, with intent to
compel acquiescence to the taking of or escaping with the
property.

There are two material elements of the offense of Robbery in
the Second Degree, each of which the prosecution must prove
beyond a reasonable doubt.

These two elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant was in the course of [committing
theft] [taking of a motor vehicle without consent]; and

2. That [, while doing so,] the Defendant [intentionally]
threatened the imminent use of force against the person of anyone
who is present, with intent to compel acquiescence to the taking

of or escaping with the property.

[A person commits theft if he/she obtains or exerts unauthorized control over the property of another with intent to deprive the person of the property.]

An act shall be deemed "in the course of [committing a theft] [taking a motor vehicle without consent]" if it occurs in an attempt to [commit theft] [take a motor vehicle without consent,] or in the flight after the attempt or commission.

Notes

H.R.S. §§ 708-841(1)(b), 708-842, 702-206(1).

For definition of states of mind, see instruction:
6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

- 10.00 - "control over the property"
- 10.00 - "deprive"
- 10.00 - "obtain"
- 10.00 - "property"
- 10.00 - "property of another"

For statutory defense to theft, see instruction 10.11A.

10.30

ROBBERY IN THE SECOND DEGREE --
THREATENED USE OF FORCE:
H.R.S. § 708-841(1)(b)

(Applicable to offenses occurring on or after June 22, 2006)

[In Count (count number) of the Indictment/Complaint, the] [The] Defendant, (defendant's name), is charged with the offense of Robbery in the Second Degree.

A person commits the offense of Robbery in the Second Degree if, in the course of [committing theft] [taking of a motor vehicle without consent], he/she threatens the imminent use of force against the person of anyone who is present, with intent to compel acquiescence to the taking of or escaping with the property.

There are two material elements of the offense of Robbery in the Second Degree, each of which the prosecution must prove beyond a reasonable doubt.

These two elements are:

1. That, on or about (date) in the [City and] County of (name of county), the Defendant was in the course of [committing theft] [taking a motor vehicle without consent]; and

2. That [, while doing so,] the Defendant [intentionally] threatened the imminent use of force against anyone who is present, with intent to compel acquiescence to the taking of or

10.30 (proposed 09/09/08)

escaping with the property.

[A person commits theft if he/she obtains or exerts unauthorized control over the property of another with intent to deprive the person of the property.]

An act shall be deemed "in the course of [committing a theft] [taking a motor vehicle without consent]" if it occurs in an attempt to [commit theft] [take a motor vehicle without consent,] ~~in the commission of theft,~~ or in the flight after the attempt or commission.

Notes

H.R.S. §§ 708-841(1)(b), 708-842, 702-206(1).

For definition of states of mind, see instruction:
6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

- 10.00 - "control over the property"
- 10.00 - "deprive"
- 10.00 - "obtain"
- 10.00 - "property"
- 10.00 - "property of another"

For statutory defense to theft, see instruction 10.11A.

10.30A

ROBBERY IN THE SECOND DEGREE --
THREATENED USE OF FORCE:
H.R.S. § 708-841(1) (b)

(Applicable to offenses that occurred on or before June 21, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Robbery in the Second Degree.

A person commits the offense of Robbery in the Second Degree
if, in the course of committing theft, he/she threatens the
imminent use of force against the person of anyone who is
present, with intent to compel acquiescence to the taking of or
escaping with the property.

There are two material elements of the offense of Robbery in
the Second Degree, each of which the prosecution must prove
beyond a reasonable doubt.

These two elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant was in the course of committing
theft; and

2. That [, while doing so,] the Defendant threatened the
imminent use of force against anyone who is present, with intent
to compel acquiescence to the taking of or escaping with the
property.

10.30A (proposed 09/09/08)

A person commits theft if he/she obtains or exerts unauthorized control over the property of another with intent to deprive the person of the property.

An act shall be deemed "in the course of committing a theft" if it occurs in an attempt to commit theft, in the commission of theft, or in the flight after the attempt or commission.

Notes

H.R.S. §§ 708-841(1)(b), 708-842, 702-206(1).

For definition of states of mind, see instruction:
6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

- 10.00 - "control over the property"
- 10.00 - "deprive"
- 10.00 - "obtain"
- 10.00 - "property"
- 10.00 - "property of another"

For statutory defense to theft, see instruction 10.11A.

10.30A

ROBBERY IN THE SECOND DEGREE --
THREATENED USE OF FORCE:
H.R.S. § 708-841(1)(b)

(Applicable to offenses that occurred on or before June 21, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Robbery in the Second Degree.

A person commits the offense of Robbery in the Second Degree
if, in the course of committing theft, he/she threatens the
imminent use of force against the person of anyone who is
present, with intent to compel acquiescence to the taking of or
escaping with the property.

There are two material elements of the offense of Robbery in
the Second Degree, each of which the prosecution must prove
beyond a reasonable doubt.

These two elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant was in the course of committing
theft; and

2. That [, while doing so,] the Defendant threatened the
imminent use of force against anyone who is present, with intent
to compel acquiescence to the taking of or escaping with the
property.

10.30A (proposed 09/09/08)

A person commits theft if he/she obtains or exerts unauthorized control over the property of another with intent to deprive the person of the property.

An act shall be deemed "in the course of committing a theft" if it occurs in an attempt to commit theft, in the commission of theft, or in the flight after the attempt or commission.

Notes

H.R.S. §§ 708-841(1)(b), 708-842, 702-206(1).

For definition of states of mind, see instruction:
6.02 - "intentionally"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

- 10.00 - "control over the property"
- 10.00 - "deprive"
- 10.00 - "obtain"
- 10.00 - "property"
- 10.00 - "property of another"

For statutory defense to theft, see instruction 10.11A.

10.31

ROBBERY IN THE SECOND DEGREE --
RECKLESSLY INFLICTS SERIOUS BODILY INJURY:
H.R.S. § 708-841(1)(c)

(Applicable to offenses occurring on or after June 22, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Robbery in the Second Degree.

A person commits the offense of Robbery in the Second Degree
if, in the course of [committing theft] [taking a motor vehicle
without consent], he/she recklessly inflicts serious bodily
injury on another.

There are two material elements of the offense of Robbery in
the Second Degree, each of which the prosecution must prove
beyond a reasonable doubt.

These two elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant was in the course of [committing
theft] [taking a motor vehicle without consent]; and
2. That [, while doing so,] the Defendant recklessly
inflicted serious bodily injury on another.

A person commits theft if he/she obtains or exerts
unauthorized control over the property of another with intent to
deprive the person of the property.

10.31 (proposed 09/09/08)

An act shall be deemed "in the course of [committing a theft] [taking of a motor vehicle without consent]" if it occurs in an attempt to [commit theft] [take a motor vehicle without consent,] or in the flight after the attempt or commission.

Notes

H.R.S. §§ 708-841(1)(c), 708-842, 702-206(3).

For definition of states of mind, see instruction:
6.04 - "recklessly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

- 10.00 - "control over the property"
- 10.00 - "deprive"
- 10.00 - "obtain"
- 10.00 - "property"
- 10.00 - "property of another"

For definition of terms not defined by H.R.S. Chapter 708, see instructions:

- 9.00 - "serious bodily injury"

For statutory defense to theft, see instruction 10.11A.

10.31

ROBBERY IN THE SECOND DEGREE --
RECKLESSLY INFLECTS SERIOUS BODILY INJURY:
H.R.S. § 708-841(1)(c)

(Applicable to offenses occurring on or after June 22, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Robbery in the Second Degree.

A person commits the offense of Robbery in the Second Degree
if, in the course of [committing theft] [taking a motor vehicle
without consent], he/she recklessly inflicts serious bodily
injury ~~upon~~ on another.

There are two material elements of the offense of Robbery in
the Second Degree, each of which the prosecution must prove
beyond a reasonable doubt.

These two elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant was in the course of [committing
theft] [taking a motor vehicle without consent]; and

2. That [, while doing so,] the Defendant recklessly
inflicted serious bodily injury on another ~~person~~.

A person commits theft if he/she obtains or exerts
unauthorized control over the property of another with intent to
deprive the person of the property.

10.31 (proposed 09/09/08)

An act shall be deemed "in the course of [committing a theft] [taking of a motor vehicle without consent]" if it occurs in an attempt to [commit theft] [take a motor vehicle without consent.] ~~, in the commission of theft,~~ or in the flight after the attempt or commission.

Notes

H.R.S. §§ 708-841(1)(c), 708-842, 702-206(3).

For definition of states of mind, see instruction:
6.04 - "recklessly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

- 10.00 - "control over the property"
- 10.00 - "deprive"
- 10.00 - "obtain"
- 10.00 - "property"
- 10.00 - "property of another"

For definition of terms not defined by H.R.S. Chapter 708, see instructions:

- 9.00 - "serious bodily injury"

For statutory defense to theft, see instruction 10.11A.

10.31A

ROBBERY IN THE SECOND DEGREE --
RECKLESSLY INFLICTS SERIOUS BODILY INJURY:
H.R.S. § 708-841(1)(c)

(Applicable to offenses that occurred on or before June 21, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Robbery in the Second Degree.

A person commits the offense of Robbery in the Second Degree
if, in the course of committing theft, he/she recklessly inflicts
serious bodily injury upon another.

There are two material elements of the offense of Robbery in
the Second Degree, each of which the prosecution must prove
beyond a reasonable doubt.

These two elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant was in the course of committing
theft; and

2. That [, while doing so,] the Defendant recklessly
inflicted serious bodily injury on another person.

A person commits theft if he/she obtains or exerts
unauthorized control over the property of another with intent to
deprive the person of the property.

10.31A (proposed 09/09/08)

An act shall be deemed "in the course of committing a theft" if it occurs in an attempt to commit theft, in the commission of theft, or in the flight after the attempt or commission.

Notes

H.R.S. §§ 708-841(1)(c), 708-842, 702-206(3).

For definition of states of mind, see instruction:
6.04 - "recklessly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

- 10.00 - "control over the property"
- 10.00 - "deprive"
- 10.00 - "obtain"
- 10.00 - "property"
- 10.00 - "property of another"

For definition of terms not defined by H.R.S. Chapter 708, see instructions:

- 9.00 - "serious bodily injury"

For statutory defense to theft, see instruction 10.11A.

10.31A

ROBBERY IN THE SECOND DEGREE --
RECKLESSLY INFLICTS SERIOUS BODILY INJURY:
H.R.S. § 708-841(1)(c)

(Applicable to offenses that occurred on or before June 21, 2006)

[In Count (count number) of the Indictment/Complaint, the]
[The] Defendant, (defendant's name), is charged with the offense
of Robbery in the Second Degree.

A person commits the offense of Robbery in the Second Degree
if, in the course of committing theft, he/she recklessly inflicts
serious bodily injury upon another.

There are two material elements of the offense of Robbery in
the Second Degree, each of which the prosecution must prove
beyond a reasonable doubt.

These two elements are:

1. That, on or about (date) in the [City and] County of
(name of county), the Defendant was in the course of committing
theft; and

2. That [, while doing so,] the Defendant recklessly
inflicted serious bodily injury on another person.

A person commits theft if he/she obtains or exerts
unauthorized control over the property of another with intent to
deprive the person of the property.

10.31A (proposed 09/09/08)

An act shall be deemed "in the course of committing a theft" if it occurs in an attempt to commit theft, in the commission of theft, or in the flight after the attempt or commission.

Notes

H.R.S. §§ 708-841(1)(c), 708-842, 702-206(3).

For definition of states of mind, see instruction:
6.04 - "recklessly"

For definition of terms defined by H.R.S. Chapter 708, see instructions:

- 10.00 - "control over the property"
- 10.00 - "deprive"
- 10.00 - "obtain"
- 10.00 - "property"
- 10.00 - "property of another"

For definition of terms not defined by H.R.S. Chapter 708, see instructions:

- 9.00 - "serious bodily injury"

For statutory defense to theft, see instruction 10.11A.