

## 14.07A

### Unauthorized Entry—Limited Authority Doctrine—Burglary

The defendant's entry into a[n] [(building) (house trailer) (watercraft) (aircraft) (railroad car) (motor vehicle) (school) (day care center) (day care home) (group day care home) (part day child care facility) (place of worship)] is “without authority” if, at the time of entry, the defendant has an intent to commit a criminal act within the [(building) (house trailer) (watercraft) (aircraft) (railroad car) (motor vehicle) (school) (day care center) (day care home) (group day care home) (part day child care facility) (place of worship)] regardless of whether the defendant was initially invited in or received consent to enter.

However, the defendant's entry into the [(building) (house trailer) (watercraft) (aircraft) (railroad car) (motor vehicle) (school) (day care center) (day care home) (group day care home) (part day child care facility) (place of worship)] is “with authority” if the defendant enters without criminal intent and was initially invited in or received consent to enter, regardless of what the defendant does after he enters.

#### Committee Note

This instruction should be given *only* when an issue arises regarding the defendant's criminal intent when he entered the building, house trailer, watercraft, aircraft, railroad car, motor vehicle, school, day care center, day care home, group day care home, part day child care facility, or place of worship and whether this intent, or lack thereof, affects the status of his entry—“with authority” or “without authority”. See *People v. Bush*, 157 Ill.2d 248, 253–54, 623 N.E.2d 1361, 1364 (1993).

The “limited-authority” doctrine provides that a defendant's authority to enter a building, house trailer, watercraft, aircraft, railroad car, motor vehicle, school, day care center, day care home, group day care home, part day child care facility, or place of worship is limited only to the specific purpose for which he entered. Thus, the defendant's entry is “without authority” if prior to entering, the defendant intends to commit a criminal act within the building, house trailer, watercraft, aircraft, railroad car, motor vehicle, school, day care center, day care home, group day care home, part day child care facility, or place of worship. When this is the case, the status of his entry is *not affected* by whether he was invited into or received consent to enter the building, house trailer, watercraft, aircraft, railroad car, motor vehicle, school, day care center, day care home, group day care home, part day child care facility, or place of worship. As noted by the court in *Bush*,

No individual who is granted access to a dwelling can be said to be an authorized entrant if he intends to commit criminal acts therein, because, if such intentions had been communicated to the owner at the time of entry, it would have resulted in the individual's being barred from the premises *ab initio*.

*Bush*, 157 Ill.2d at 253–54, 623 N.E.2d at 1364. However, if the defendant does not form his criminal intent until after entering, then his invited or consented entry is “with authority”. *Bush*,

157 Ill. 2d at 253-54, 623 N.E.2d at 1364; *People v. Bailey*, 188 Ill. App. 3d 278, 284-87, 543 N.E. 2d 1338, 1341-43 (5th Dist. 1989).

In *People v. Johnson*, 2019 IL 123318, the Illinois Supreme Court held that this instruction is consistent with the Illinois Supreme Court's holding in *People v. Weaver*, 41 Ill. 2d 434, 243 N.E.2d 245 (1968). *Johnson*, 2019 IL 123318, ¶ 6. In *Weaver*, the Illinois Supreme Court found that the "authority to enter a business building, or other building open to the public, extends only to those who enter with a purpose consistent with the reason the building is open." *Weaver*, 41 Ill. 2d at 439, 243 N.E.2d 245. The *Weaver* court concluded that "[a]n entry with the intent to commit a theft was not within the authority granted patrons." *Id.* Following *Weaver*, courts have consistently applied the limited authority doctrine to burglary by entry of business buildings. *United States v. Glispie*, 2020 IL 125483, ¶ 13.

When urged to extend *Weaver*'s limited authority doctrine to burglary by remaining, the Illinois Supreme Court declined. *People v. Bradford*, 2016 IL 118674, ¶¶ 21-25; see also *Glispie*, 2020 IL 125483, ¶ 13 (*Bradford* "declining to extend *Weaver*'s analysis to burglary by remaining"). Nothing in *Bradford* prevents the application of *Weaver*'s holding to burglary by entry. *Johnson*, 2019 IL 123319, ¶ 21.