

A woman was in the process of moving and decided to hire a mover to move the contents of her apartment across town. Upon the completion of the move, the mover sought payment from the woman for the moving services. The woman, without justification, refused to pay the mover.

In a jurisdiction that has adopted the Model Penal Code with regard to theft, is the woman likely guilty of theft?

- A. No, because the woman did not take or carry away.
- B. No, because the woman did not take tangible property from the mover.
- C. Yes, because the asportation requirement was satisfied when the contents of the apartment were moved.
- D. Yes, because the mover rendered services for which the woman has refused to pay.

Explanation:

Legislative changes to theft crimes

Common law	Larceny, embezzlement, false pretenses & receipt of stolen goods are separate offenses Property limited to tangible personal property
MPC & state criminal codes	Theft is a single statutory crime that encompasses larceny, embezzlement, false pretenses & receiving stolen goods Property broadened to include anything of value—including intangibles, services, documents

MPC = Model Penal Code.

Under the **Model Penal Code** and state criminal codes, the common-law property offenses of larceny, embezzlement, false pretenses, and receipt of stolen goods are treated as a single statutory crime of theft. Additionally, the definition of property has been expanded from tangible personal property (the common law view) to include **anything of value**—eg, intangibles, **services**, and documents. This means that a theft conviction can stem from the unlawful taking of anything of value.

Here, the woman refused to pay the mover for services it had rendered. Since the woman took something of value from the mover, she is likely guilty of theft.

(Choices A & C) Although larceny requires the unlawful taking and carrying away (ie, asportation) of another's personal property with the specific intent to steal, theft of services has no asportation requirement. That is because intangible property and services cannot be held or moved.

(Choice B) At common law, the definition of property was limited to tangible personal property—ie, property that can be seen, measured, felt, or otherwise perceived (eg, furniture). However, this definition has since been expanded to include the theft of services (as seen here).

Educational objective:

Under the Model Penal Code and state criminal codes, the theft of property includes the unlawful taking of anything of value—eg, intangibles, services, and documents. This expands the common law definition, where only tangible personal property can be the subject of a theft crime.

References

Model Penal Code § 223.1 (Am. Law Inst. 2019) (consolidating theft offenses).

Charles E. Torcia, 3 Wharton's Criminal Law § 371 (15th ed. 2020) (discussing the broadening of the definition of property to include anything of value, including services).

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