

ASSEMBLY, No. 348

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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SYNOPSIS

Upgrades theft to a crime of the first degree if amount involved is \$500,000 or more.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the theft of \$500,000 or more and amending
2 N.J.S.2C:20-2.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. N.J.S.2C:20-2 is amended to read as follows:

8 2C:20-2. a. Consolidation of Theft and Computer Criminal
9 Activity Offenses. Conduct denominated theft or computer
10 criminal activity in this chapter constitutes a single offense, but
11 each episode or transaction may be the subject of a separate
12 prosecution and conviction. A charge of theft or computer criminal
13 activity may be supported by evidence that it was committed in any
14 manner that would be theft or computer criminal activity under this
15 chapter, notwithstanding the specification of a different manner in
16 the indictment or accusation, subject only to the power of the court
17 to ensure fair trial by granting a bill of particulars, discovery, a
18 continuance, or other appropriate relief where the conduct of the
19 defense would be prejudiced by lack of fair notice or by surprise.

20 b. Grading of theft offenses.

21 (1) Theft constitutes a crime of the second degree if:

22 (a) The amount involved is \$75,000.00 or more but is less than
23 \$500,000.00;

24 (b) The property is taken by extortion;

25 (c) The property stolen is a controlled dangerous substance or
26 controlled substance analog as defined in N.J.S.2C:35-2 and the
27 quantity is in excess of one kilogram;

28 (d) The property stolen is a person's benefits under federal or
29 State law, or from any other source, which the Department of
30 Human Services or an agency acting on its behalf has budgeted for
31 the person's health care and the amount involved is \$75,000.00 or
32 more;

33 (e) The property stolen is human remains or any part thereof;
34 except **that**, if the human remains are stolen by deception or
35 falsification of a document by which a gift of all or part of a human
36 body may be made pursuant to P.L.2008, c.50 (C.26:6-77 et al.), the
37 theft constitutes a crime of the first degree **as provided in**
38 subparagraph (b) of paragraph (5) of this subsection; or

39 (f) It is in breach of an obligation by a person in his capacity as
40 a fiduciary and the amount involved is \$50,000.00 or more.

41 (2) Theft constitutes a crime of the third degree if:

42 (a) The amount involved exceeds \$500.00 but is less than
43 \$75,000.00;

44 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
45 horse, domestic companion animal or airplane;

EXPLANATION – Matter enclosed in bold-faced brackets **that in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

- 1 (c) The property stolen is a controlled dangerous substance or
2 controlled substance analog as defined in N.J.S.2C:35-2 and the
3 amount involved is less than \$75,000.00 or is undetermined and the
4 quantity is one kilogram or less;
- 5 (d) It is from the person of the victim;
- 6 (e) It is in breach of an obligation by a person in his capacity as
7 a fiduciary and the amount involved is less than \$50,000.00;
- 8 (f) It is by threat not amounting to extortion;
- 9 (g) It is of a public record, writing or instrument kept, filed or
10 deposited according to law with or in the keeping of any public
11 office or public servant;
- 12 (h) The property stolen is a person's benefits under federal or
13 State law, or from any other source, which the Department of
14 Human Services or an agency acting on its behalf has budgeted for
15 the person's health care and the amount involved is less than
16 \$75,000.00;
- 17 (i) The property stolen is any real or personal property related
18 to, necessary for, or derived from research, regardless of value,
19 including, but not limited to, any sample, specimens and
20 components thereof, research subject, including any warm-blooded
21 or cold-blooded animals being used for research or intended for use
22 in research, supplies, records, data or test results, prototypes or
23 equipment, as well as any proprietary information or other type of
24 information related to research;
- 25 (j) The property stolen is a New Jersey Prescription Blank as
26 referred to in **【R.S.45:14-14】** P.L.2003, c.280 (C.45:14-40 et seq.);
- 27 (k) The property stolen consists of an access device or a defaced
28 access device; or
- 29 (l) The property stolen consists of anhydrous ammonia and the
30 actor intends it to be used to manufacture methamphetamine.
- 31 (3) Theft constitutes a crime of the fourth degree if the amount
32 involved is at least \$200.00 but does not exceed \$500.00.
- 33 (4) Theft constitutes a disorderly persons offense if:
- 34 (a) The amount involved was less than \$200.00; or
- 35 (b) The property stolen is an electronic vehicle identification
36 system transponder.
- 37 The amount involved in a theft or computer criminal activity
38 shall be determined by the trier of fact. The amount shall include,
39 but shall not be limited to, the amount of any State tax avoided,
40 evaded or otherwise unpaid, improperly retained or disposed of.
41 Amounts involved in thefts or computer criminal activities
42 committed pursuant to one scheme or course of conduct, whether
43 from the same person or several persons, may be aggregated in
44 determining the grade of the offense.
- 45 (5) Theft constitutes a crime of the first degree if:
- 46 (a) the amount involved is \$500,000.00 or more; or
- 47 (b) the property stolen is human remains, or any part thereof,

1 stolen by deception or falsification of a document by which a gift of
2 all or part of a human body may be made pursuant to P.L.2008,
3 c.50 (C.26:6-77 et al.).

4 c. Claim of right. It is an affirmative defense to prosecution
5 for theft that the actor:

6 (1) Was unaware that the property or service was that of
7 another;

8 (2) Acted under an honest claim of right to the property or
9 service involved or that he had a right to acquire or dispose of it as
10 he did; or

11 (3) Took property exposed for sale, intending to purchase and
12 pay for it promptly, or reasonably believing that the owner, if
13 present, would have consented.

14 d. Theft from spouse. It is no defense that theft or computer
15 criminal activity was from or committed against the actor's spouse,
16 except that misappropriation of household and personal effects, or
17 other property normally accessible to both spouses, is theft or
18 computer criminal activity only if it occurs after the parties have
19 ceased living together.

20 (cf: P.L.2013, c.58, s.2)

21
22 2. This act shall take effect immediately.
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25 STATEMENT

26
27 This bill would upgrade the crime of theft if the amount involved
28 is \$500,000 or more.

29 Under the theft statute, N.J.S.2C:20-2, the grading of theft ranges
30 from a disorderly persons offense to a crime of the first degree
31 depending on the amount involved, the particular type of property
32 taken, and certain other circumstances. For example, theft is
33 currently a crime of the second degree if the amount involved is
34 \$75,000 or more; if the property is taken by extortion; if the
35 property consists of a controlled dangerous substance or analog in a
36 quantity over one kilogram; if the property consists of certain health
37 care benefits; if the theft is in breach of an obligation by a person in
38 his capacity as a fiduciary and the amount involved is \$50,000 or
39 more; or if the property consists of human remains. Theft is
40 currently a crime of the first degree only if the property is human
41 remains that were stolen by deception or falsification of a document
42 under the "Revised Uniform Anatomical Gift Act," P.L.2008,
43 c.50 (C.26:6-77 et al.).

44 This bill would create a new crime of the first degree for theft of
45 property in an amount of \$500,000 or more. Under the bill, theft
46 would remain a crime of the second degree if the amount involved
47 is \$75,000 but less than \$500,000.

1 The bill also makes technical changes to clarify that theft of
2 human remains by deception or falsification of a document under
3 the “Revised Uniform Anatomical Gift Act” would remain a crime
4 of the first degree.