SENATE, No. 2318

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED APRIL 9, 2020

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

As introduced.

(Sponsorship Updated As Of: 1/11/2021)

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

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

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

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

b. Grading of theft offenses.

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

(a) The amount involved is $75,000.00 or more <u>but is less than $500,000.00</u>;

(b) The property is taken by extortion;

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

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

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

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

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

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

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

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

Matter underlined <u>thus</u> is new matter.

(c) The property stolen is a controlled dangerous substance or controlled substance analog as defined in N.J.S.2C:35-2 and the amount involved is less than $75,000.00 or is undetermined and the quantity is one kilogram or less;

(d) It is from the person of the victim;

(e) It is in breach of an obligation by a person in his capacity as a fiduciary and the amount involved is less than $50,000.00;

(f) It is by threat not amounting to extortion;

(g) It is of a public record, writing or instrument kept, filed or deposited according to law with or in the keeping of any public office or public servant;

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

(i) The property stolen is any real or personal property related to, necessary for, or derived from research, regardless of value, including, but not limited to, any sample, specimens and components thereof, research subject, including any warm-blooded or cold-blooded animals being used for research or intended for use in research, supplies, records, data or test results, prototypes or equipment, as well as any proprietary information or other type of information related to research;

(j) The property stolen is a New Jersey Prescription Blank as referred to in **[**R.S.45:14-14**]** P.L.2003, c.280 (C.45:14-40 et seq.);

(k) The property stolen consists of an access device or a defaced access device; or

(l) The property stolen consists of anhydrous ammonia and the actor intends it to be used to manufacture methamphetamine.

(3) Theft constitutes a crime of the fourth degree if the amount involved is at least $200.00 but does not exceed $500.00.

(4) Theft constitutes a disorderly persons offense if:

(a) The amount involved was less than $200.00; or

(b) The property stolen is an electronic vehicle identification system transponder.

The amount involved in a theft or computer criminal activity shall be determined by the trier of fact. The amount shall include, but shall not be limited to, the amount of any State tax avoided, evaded or otherwise unpaid, improperly retained or disposed of. Amounts involved in thefts or computer criminal activities committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be aggregated in determining the grade of the offense.

(5) Theft constitutes a crime of the first degree if:

(a) the amount involved is $500,000.00 or more; or

(b) the property stolen is human remains, or any part thereof,

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

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

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

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

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

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

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

2. This act shall take effect immediately.

STATEMENT

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

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

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

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