

ASSEMBLY, No. 3870

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 23, 2020

Sponsored by:

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Co-Sponsored by:

**Assemblywoman Quijano, Assemblymen Danielsen, Auth,
Assemblywomen Chaparro and Murphy**

SYNOPSIS

“Defense Against Porch Pirates Act”; amends theft statute.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/22/2021)

1 AN ACT concerning certain crimes, designated as Defense Against
2 Porch Pirates Act, and amending N.J.S.2C:20-2.

3

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

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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]** \$75,000 or more;

23 (b) The property is taken by extortion;

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

27 (d) The property stolen is a person's benefits under federal or
28 State law, or from any other source, which the Department of
29 Human Services or an agency acting on its behalf has budgeted for
30 the person's health care and the amount involved is **[\$75,000.00]**
31 \$75,000 or more;

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

37 (f) It is in breach of an obligation by a person in his capacity as
38 a fiduciary and the amount involved is **[\$50,000.00]** \$50,000 or
39 more.

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

41 (a) The amount involved exceeds **[\$500.00]** \$500 but is less
42 than **[\$75,000.00]** \$75,000;

43 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
44 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 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】~~ \$75,000 or is
4 undetermined and the 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 \$50,000;
- 9 (f) It is by threat not amounting to extortion;
- 10 (g) It is of a public record, writing or instrument kept, filed or
11 deposited according to law with or in the keeping of any public
12 office or public servant;
- 13 (h) The property stolen is a person's benefits under federal or
14 State law, or from any other source, which the Department of
15 Human Services or an agency acting on its behalf has budgeted for
16 the person's health care and the amount involved is less than
17 ~~【\$75,000.00】~~ \$75,000;
- 18 (i) The property stolen is any real or personal property related
19 to, necessary for, or derived from research, regardless of value,
20 including, but not limited to, any sample, specimens and
21 components thereof, research subject, including any warm-blooded
22 or cold-blooded animals being used for research or intended for use
23 in research, supplies, records, data or test results, prototypes or
24 equipment, as well as any proprietary information or other type of
25 information related to research;
- 26 (j) The property stolen is a New Jersey Prescription Blank as
27 referred to in R.S.45:14-14;
- 28 (k) The property stolen consists of an access device or a defaced
29 access device; ~~【or】~~
- 30 (l) The property stolen consists of anhydrous ammonia and the
31 actor intends it to be used to manufacture methamphetamine; or
- 32 (m) The property stolen consists of a package delivered to a
33 residential property by a cargo carrier and the amount involved is
34 less than \$75,000 or is undetermined.
- 35 (3) Theft constitutes a crime of the fourth degree if the amount
36 involved is at least ~~【\$200.00】~~ \$200 but does not exceed ~~【\$500.00】~~
37 \$500.
- 38 (4) Theft constitutes a disorderly persons offense if:
- 39 (a) The amount involved was less than ~~【\$200.00】~~ \$200; or
- 40 (b) The property stolen is an electronic vehicle identification
41 system transponder.
- 42 The amount involved in a theft or computer criminal activity
43 shall be determined by the trier of fact. The amount shall include,
44 but shall not be limited to, the amount of any State tax avoided,
45 evaded or otherwise unpaid, improperly retained or disposed of.
46 Amounts involved in thefts or computer criminal activities
47 committed pursuant to one scheme or course of conduct, whether

1 from the same person or several persons, may be aggregated in
2 determining the grade of the offense.

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

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

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

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

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

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

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21 2. This act shall take effect immediately.

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STATEMENT

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26 This bill would upgrade the penalties for theft of a package
27 delivered to a residential property by a cargo carrier and the amount
28 involved is less than \$75,000 or is undetermined. Under current
29 law, theft is a third degree crime if, among other things, the amount
30 involved exceeds \$500 but is less than \$75,000. A crime of the
31 third degree is punishable by three to five years imprisonment, up to
32 a \$15,000 fine, or both. This bill is designated as the "Defense
33 Against Porch Pirates Act."