

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>.

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

“A tougher body-parts theft ban,” The Star-Ledger, January 30, 2007, p. 14

RWH 4/9/08

P.L. 2007, CHAPTER 36, *approved January 29, 2007*
Senate, No. 2032 (*First Reprint*)

1 AN ACT concerning the disposition of parts of human bodies,
2 supplementing Title 2C of the New Jersey Statutes, and
3 amending N.J.S.2C:20-2.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) a. ¹~~Except as otherwise provided in subsection~~
9 b. of this section, a] A¹ person who knowingly, for valuable
10 consideration, purchases or sells a part for transplantation or
11 therapy, if removal of a part from a donor is intended to occur after
12 the donor's death, is guilty of a crime of the third degree and,
13 notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to
14 a fine of not more than \$50,000, as well as the term of
15 imprisonment provided under N.J.S.2C:43-6, or both.

16 ¹~~[b. A] Nothing in this subsection shall be construed to prohibit~~
17 ~~a~~¹ person ¹~~[may charge] from charging~~¹ a reasonable amount for ¹~~[:~~

18 (1)]¹ the removal, processing, disposal, preservation, quality
19 control, storage, transportation, or implantation of a part ¹~~[:~~ or

20 (2) the cremation of the unclaimed remains of a donor]¹.

21 ¹~~[c.] b.~~¹ A person who intentionally falsifies, forges, conceals,
22 defaces, or obliterates a document by which a gift of all or part of a
23 human body may be made pursuant to P.L.1969, c.161 (C.26:6-57
24 22 et seq.), an amendment or revocation of such a document, ¹~~or~~
25 any death record or document of medical or social history
26 pertaining to the body or part of the donor,¹ or a refusal to make a
27 gift, in order to obtain a financial benefit or gain, is guilty of a
28 crime of the ¹~~[third] second~~¹ degree and, notwithstanding the
29 provisions of N.J.S.2C:43-3, shall be subject to a fine of not more
30 than \$50,000, as well as the term of imprisonment provided under
31 N.J.S.2C:43-6, or both.

32 ¹~~[d.] c.~~¹ As used in this section, the terms "decedent," "donor,"
33 "part," and "person" have the meaning ascribed to them in section 1
34 of P.L.1969, c.161 (C.26:6-57).
35

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

37 2C:20-2. a. Consolidation of Theft and Computer Criminal
38 Activity Offenses. Conduct denominated theft or computer
39 criminal activity in this chapter constitutes a single offense, but
40 each episode or transaction may be the subject of a separate
41 prosecution and conviction. A charge of theft or computer criminal
42 activity may be supported by evidence that it was committed in any

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted October 16, 2006 .

1 manner that would be theft or computer criminal activity under this
2 chapter, notwithstanding the specification of a different manner in
3 the indictment or accusation, subject only to the power of the court
4 to ensure fair trial by granting a bill of particulars, discovery, a
5 continuance, or other appropriate relief where the conduct of the
6 defense would be prejudiced by lack of fair notice or by surprise.

7 b. Grading of theft offenses.

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

9 (a) The amount involved is \$75,000.00 or more;

10 (b) The property is taken by extortion;

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

14 (d) The property stolen is a person's benefits under federal or
15 State law, or from any other source, which the Department of
16 Human Services or an agency acting on its behalf has budgeted for
17 the person's health care and the amount involved is \$75,000 or
18 more; or

19 (e) The property stolen is human remains or any part thereof;
20 except that, if the human remains are stolen by deception or
21 falsification of a document by which a gift of all or part of a human
22 body may be made pursuant to P.L.1969, c.161 (C.26:6-57 et seq.),
23 the theft constitutes a crime of the first degree.

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

25 (a) The amount involved exceeds \$500.00 but is less than
26 \$75,000.00;

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

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

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

34 (e) It is in breach of an obligation by a person in his capacity as
35 a fiduciary;

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

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

40 (h) The property stolen is a person's benefits under federal or
41 State law, or from any other source, which the Department of
42 Human Services or an agency acting on its behalf has budgeted for
43 the person's health care and the amount involved is less than
44 \$75,000;

45 (i) The property stolen is any real or personal property related
46 to, necessary for, or derived from research, regardless of value,
47 including, but not limited to, any sample, specimens and
48 components thereof, research subject, including any warm-blooded

1 or cold-blooded animals being used for research or intended for use
2 in research, supplies, records, data or test results, prototypes or
3 equipment, as well as any proprietary information or other type of
4 information related to research;

5 (j) The property stolen is a New Jersey Prescription Blank as
6 referred to in R.S.45:14-14;

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

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

11 (3) Theft constitutes a crime of the fourth degree if the amount
12 involved is at least \$200.00 but does not exceed \$500.00. If the
13 amount involved was less than \$200.00 the offense constitutes a
14 disorderly persons offense.

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

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

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

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

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

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

39 (cf: P.L.2005, c.207, s.4)

40

41 3. This act shall take effect immediately.

42

43

44

45

46 Imposes criminal penalties for certain actions concerning
47 disposition of decedent's body parts.

SENATE, No. 2032

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 12, 2006

Sponsored by:

Senator BARBARA BUONO

District 18 (Middlesex)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Imposes criminal penalties for certain actions concerning disposition of decedent's body parts.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/23/2006)

1 AN ACT concerning the disposition of parts of human bodies,
2 supplementing Title 2C of the New Jersey Statutes, and
3 amending N.J.S.2C:20-2.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) a. Except as otherwise provided in subsection
9 b. of this section, a person who knowingly, for valuable
10 consideration, purchases or sells a part for transplantation or
11 therapy, if removal of a part from a donor is intended to occur after
12 the donor's death, is guilty of a crime of the third degree and,
13 notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to
14 a fine of not more than \$50,000, as well as the term of
15 imprisonment provided under N.J.S.2C:43-6, or both.

16 b. A person may charge a reasonable amount for:

17 (1) the removal, processing, disposal, preservation, quality
18 control, storage, transportation, or implantation of a part; or

19 (2) the cremation of the unclaimed remains of a donor.

20 c. A person who intentionally falsifies, forges, conceals,
21 defaces, or obliterates a document by which a gift of all or part of a
22 human body may be made pursuant to P.L.1969, c.161 (C.26:6-57
23 et seq.), an amendment or revocation of such a document, or a
24 refusal to make a gift, in order to obtain a financial benefit or gain,
25 is guilty of a crime of the third degree and, notwithstanding the
26 provisions of N.J.S.2C:43-3, shall be subject to a fine of not more
27 than \$50,000, as well as the term of imprisonment provided under
28 N.J.S.2C:43-6, or both.

29 d. As used in this section, the terms "decedent," "donor,"
30 "part," and "person" have the meaning ascribed to them in section 1
31 of P.L.1969, c.161 (C.26:6-57).
32

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

34 2C:20-2. a. Consolidation of Theft and Computer Criminal
35 Activity Offenses. Conduct denominated theft or computer
36 criminal activity in this chapter constitutes a single offense, but
37 each episode or transaction may be the subject of a separate
38 prosecution and conviction. A charge of theft or computer criminal
39 activity may be supported by evidence that it was committed in any
40 manner that would be theft or computer criminal activity under this
41 chapter, notwithstanding the specification of a different manner in
42 the indictment or accusation, subject only to the power of the court
43 to ensure fair trial by granting a bill of particulars, discovery, a
44 continuance, or other appropriate relief where the conduct of the
45 defense would be prejudiced by lack of fair notice or by surprise.

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.

S2032 BUONO

- 1 b. Grading of theft offenses.
- 2 (1) Theft constitutes a crime of the second degree if:
- 3 (a) The amount involved is \$75,000.00 or more;
- 4 (b) The property is taken by extortion;
- 5 (c) The property stolen is a controlled dangerous substance or
- 6 controlled substance analog as defined in N.J.S.2C:35-2 and the
- 7 quantity is in excess of one kilogram;
- 8 (d) The property stolen is a person's benefits under federal or
- 9 State law, or from any other source, which the Department of
- 10 Human Services or an agency acting on its behalf has budgeted for
- 11 the person's health care and the amount involved is \$75,000 or
- 12 more; or
- 13 (e) The property stolen is human remains or any part thereof;
- 14 except that, if the human remains are stolen by deception or
- 15 falsification of a document by which a gift of all or part of a human
- 16 body may be made pursuant to P.L.1969, c.161 (C.26:6-57 et seq.),
- 17 the theft constitutes a crime of the first degree.
- 18 (2) Theft constitutes a crime of the third degree if:
- 19 (a) The amount involved exceeds \$500.00 but is less than
- 20 \$75,000.00;
- 21 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
- 22 horse, domestic companion animal or airplane;
- 23 (c) The property stolen is a controlled dangerous substance or
- 24 controlled substance analog as defined in N.J.S.2C:35-2 and the
- 25 amount involved is less than \$75,000.00 or is undetermined and the
- 26 quantity is one kilogram or less;
- 27 (d) It is from the person of the victim;
- 28 (e) It is in breach of an obligation by a person in his capacity as
- 29 a fiduciary;
- 30 (f) It is by threat not amounting to extortion;
- 31 (g) It is of a public record, writing or instrument kept, filed or
- 32 deposited according to law with or in the keeping of any public
- 33 office or public servant;
- 34 (h) The property stolen is a person's benefits under federal or
- 35 State law, or from any other source, which the Department of
- 36 Human Services or an agency acting on its behalf has budgeted for
- 37 the person's health care and the amount involved is less than
- 38 \$75,000;
- 39 (i) The property stolen is any real or personal property related
- 40 to, necessary for, or derived from research, regardless of value,
- 41 including, but not limited to, any sample, specimens and
- 42 components thereof, research subject, including any warm-blooded
- 43 or cold-blooded animals being used for research or intended for use
- 44 in research, supplies, records, data or test results, prototypes or
- 45 equipment, as well as any proprietary information or other type of
- 46 information related to research;
- 47 (j) The property stolen is a New Jersey Prescription Blank as
- 48 referred to in R.S.45:14-14;

S2032 BUONO

4

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

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

5 (3) Theft constitutes a crime of the fourth degree if the amount
6 involved is at least \$200.00 but does not exceed \$500.00. If the
7 amount involved was less than \$200.00 the offense constitutes a
8 disorderly persons offense.

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

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

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

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

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

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

33 (cf: P.L.2005, c.207, s.4)

34

35 3. This act shall take effect immediately.

36

37

38

STATEMENT

39

40 This bill imposes criminal penalties for certain actions
41 concerning the disposition of a human decedent's body parts.

42 The bill provides specifically as follows:

- 43 • A person who knowingly, for valuable consideration, purchases
44 or sells a human body part for transplantation or therapy, if
45 removal of a part from a donor is intended to occur after the
46 donor's death, is guilty of a crime of the third degree and,
47 notwithstanding the provisions of N.J.S.A.2C:43-3, is subject to a
48 fine of not more than \$50,000, as well as the term of

S2032 BUONO

- 1 imprisonment provided under N.J.S.A.2C:43-6 (from three to five
2 years), or both.
- 3 • The provisions of this bill are not to preclude a person from
4 charging a reasonable amount for:
 - 5 -- the removal, processing, disposal, preservation, quality
6 control, storage, transportation, or implantation of a human body
7 part; or
 - 8 -- the cremation of the unclaimed remains of a donor.
 - 9 • A person who intentionally falsifies, forges, conceals, defaces, or
10 obliterates a document by which a gift of all or part of a human
11 body may be made pursuant to the “Uniform Anatomical Gift
12 Act” (N.J.S.A.26:6-57 et seq.), an amendment or revocation of
13 such a document, or a refusal to make a gift, in order to obtain a
14 financial benefit or gain, is guilty of a crime of the third degree
15 and, notwithstanding the provisions of N.J.S.A.2C:43-3, is
16 subject to a fine of not more than \$50,000, as well as the term of
17 imprisonment provided under N.J.S.A.2C:43-6, or both.
 - 18 • The bill also amends N.J.S.A.2C:20-2 to make it a crime of the
19 first degree (punishable by a term of imprisonment from 10 to 20
20 years or a fine of up to \$200,000, or both) to steal human remains
21 by deception or falsification of a document by which a gift of all
22 or part of a human body may be made pursuant to the “Uniform
23 Anatomical Gift Act.”

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 2032

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 16, 2006

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 2032.

As amended by the committee, this bill imposes criminal penalties for certain actions concerning the disposition of a human decedent's body parts. Specifically:

- A person who knowingly, for valuable consideration, purchases or sells a human body part for transplantation or therapy that was intended by the decedent to be donated after death, is guilty of a crime of the third degree (punishable by a fine of up to \$50,000, three to five years imprisonment, or both).
- This bill does not preclude a person from charging a reasonable amount for removing, processing, disposing, preserving, maintaining quality control, storing, transporting, or implanting a human body part.
- A person who intentionally falsifies, forges, conceals, defaces, or obliterates a document by which a gift of all or part of a human body may be made pursuant to the "Uniform Anatomical Gift Act" (N.J.S.A.26:6-57 et seq.), amends or revokes such a document, or any death record or document of medical or social history pertaining to the body or part of the donor, or a refuses to make a gift, in order to obtain a financial benefit or gain, is guilty of a crime of the second degree (punishable by a fine of up to \$50,000, imprisonment for five to 10 years, or both).
- The bill also amends N.J.S.A.2C:20-2 to make it a crime of the first degree (punishable by a fine of up to \$200,000, imprisonment for 10 to 20 years, or both) to steal human remains by deception or falsification of a document by which a gift of all or part of a human body may be made pursuant to the "Uniform Anatomical Gift Act."

COMMITTEE AMENDMENTS

The committee amendments:

- delete the provision that permitted a person to charge for cremating a donor's unclaimed remains;
- upgrade from a third degree crime to a second degree crime falsifying, forging, concealing, defacing or obliterating a document involving a gift made under the Uniform Anatomical Gift Act, or refusing to make a gift, in order to obtain a financial benefit or gain; and
- provide, also that it is a second degree crime to amend or revoke such a document or any death record or document of medical or social history pertaining to the body or part of the donor.

As amended, this bill is similar to Assembly Bill No. 3016 (Vainieri Huttle/Conaway/Bodine/Quigley/Greenstein), which is pending in the Assembly.

ASSEMBLY, No. 3016

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MAY 15, 2006

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington and Camden)

Co-Sponsored by:

Assemblymen Greenwald, Gordon and Assemblywoman Voss

SYNOPSIS

Imposes criminal penalties for certain actions concerning disposition of decedent's body parts.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/2/2006)

A3016 VAINIERI HUTTLE, CONAWAY

2

1 AN ACT concerning the disposition of parts of human bodies,
2 supplementing Title 2C of the New Jersey Statutes, and
3 amending N.J.S.2C:20-2.

4

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

7

8 1. (New section) a. Except as otherwise provided in subsection
9 b. of this section, a person who knowingly, for valuable
10 consideration, purchases or sells a part for transplantation or
11 therapy, if removal of a part from a donor is intended to occur after
12 the donor's death, is guilty of a crime of the third degree and,
13 notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to
14 a fine of not more than \$50,000, as well as the term of
15 imprisonment provided under N.J.S.2C:43-6, or both.

16 b. A person may charge a reasonable amount for:

17 (1) the removal, processing, disposal, preservation, quality
18 control, storage, transportation, or implantation of a part; or

19 (2) the cremation of the unclaimed remains of a donor.

20 c. A person who intentionally falsifies, forges, conceals,
21 defaces, or obliterates a document by which a gift of all or part of a
22 human body may be made pursuant to P.L.1969, c.161 (C.26:6-57
23 et seq.), an amendment or revocation of such a document, or a
24 refusal to make a gift, in order to obtain a financial benefit or gain,
25 is guilty of a crime of the third degree and, notwithstanding the
26 provisions of N.J.S.2C:43-3, shall be subject to a fine of not more
27 than \$50,000, as well as the term of imprisonment provided under
28 N.J.S.2C:43-6, or both.

29 d. As used in this section, the terms "decedent," "donor," "part,"
30 and "person" have the meaning ascribed to them in section 1 of
31 P.L.1969, c.161 (C.26:6-57).

32

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

34 2C:20-2. a. Consolidation of Theft and Computer Criminal
35 Activity Offenses. Conduct denominated theft or computer
36 criminal activity in this chapter constitutes a single offense, but
37 each episode or transaction may be the subject of a separate
38 prosecution and conviction. A charge of theft or computer criminal
39 activity may be supported by evidence that it was committed in any
40 manner that would be theft or computer criminal activity under this
41 chapter, notwithstanding the specification of a different manner in
42 the indictment or accusation, subject only to the power of the court
43 to ensure fair trial by granting a bill of particulars, discovery, a
44 continuance, or other appropriate relief where the conduct of the
45 defense would be prejudiced by lack of fair notice or by surprise.

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 b. Grading of theft offenses.
- 2 (1) Theft constitutes a crime of the second degree if:
- 3 (a) The amount involved is \$75,000.00 or more;
- 4 (b) The property is taken by extortion;
- 5 (c) The property stolen is a controlled dangerous substance or
- 6 controlled substance analog as defined in N.J.S.2C:35-2 and the
- 7 quantity is in excess of one kilogram;
- 8 (d) The property stolen is a person's benefits under federal or
- 9 State law, or from any other source, which the Department of
- 10 Human Services or an agency acting on its behalf has budgeted for
- 11 the person's health care and the amount involved is \$75,000 or
- 12 more; or
- 13 (e) The property stolen is human remains or any part thereof;
- 14 except that, if the human remains are stolen by deception or
- 15 falsification of a document by which a gift of all or part of a human
- 16 body may be made pursuant to P.L.1969, c.161 (C.26:6-57 et seq.),
- 17 the theft constitutes a crime of the first degree.
- 18 (2) Theft constitutes a crime of the third degree if:
- 19 (a) The amount involved exceeds \$500.00 but is less than
- 20 \$75,000.00;
- 21 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
- 22 horse, domestic companion animal or airplane;
- 23 (c) The property stolen is a controlled dangerous substance or
- 24 controlled substance analog as defined in N.J.S.2C:35-2 and the
- 25 amount involved is less than \$75,000.00 or is undetermined and the
- 26 quantity is one kilogram or less;
- 27 (d) It is from the person of the victim;
- 28 (e) It is in breach of an obligation by a person in his capacity as
- 29 a fiduciary;
- 30 (f) It is by threat not amounting to extortion;
- 31 (g) It is of a public record, writing or instrument kept, filed or
- 32 deposited according to law with or in the keeping of any public
- 33 office or public servant;
- 34 (h) The property stolen is a person's benefits under federal or
- 35 State law, or from any other source, which the Department of
- 36 Human Services or an agency acting on its behalf has budgeted for
- 37 the person's health care and the amount involved is less than
- 38 \$75,000;
- 39 (i) The property stolen is any real or personal property related
- 40 to, necessary for, or derived from research, regardless of value,
- 41 including, but not limited to, any sample, specimens and
- 42 components thereof, research subject, including any warm-blooded
- 43 or cold-blooded animals being used for research or intended for use
- 44 in research, supplies, records, data or test results, prototypes or
- 45 equipment, as well as any proprietary information or other type of
- 46 information related to research;
- 47 (j) The property stolen is a New Jersey Prescription Blank as
- 48 referred to in R.S.45:14-14;

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

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

5 (3) Theft constitutes a crime of the fourth degree if the amount
6 involved is at least \$200.00 but does not exceed \$500.00. If the
7 amount involved was less than \$200.00 the offense constitutes a
8 disorderly persons offense.

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

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

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

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

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

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

33 (cf: P.L.2005, c.207, s.4)

34

35 3. This act shall take effect immediately.

36

37

38

STATEMENT

39

40 This bill imposes criminal penalties for certain actions
41 concerning the disposition of a human decedent's body parts.

42 The bill provides specifically as follows:

- 43 • A person who knowingly, for valuable consideration, purchases
44 or sells a human body part for transplantation or therapy, if
45 removal of a part from a donor is intended to occur after the
46 donor's death, is guilty of a crime of the third degree and,
47 notwithstanding the provisions of N.J.S.A.2C:43-3, is subject to a
48 fine of not more than \$50,000, as well as the term of

- 1 imprisonment provided under N.J.S.A.2C:43-6 (from three to five
2 years), or both.
- 3 • The provisions of this bill are not to preclude a person from
4 charging a reasonable amount for:
 - 5 -- the removal, processing, disposal, preservation, quality
6 control, storage, transportation, or implantation of a human body
7 part; or
 - 8 -- the cremation of the unclaimed remains of a donor.
 - 9 • A person who intentionally falsifies, forges, conceals, defaces, or
10 obliterates a document by which a gift of all or part of a human
11 body may be made pursuant to the “Uniform Anatomical Gift
12 Act” (N.J.S.A.26:6-57 et seq.), an amendment or revocation of
13 such a document, or a refusal to make a gift, in order to obtain a
14 financial benefit or gain, is guilty of a crime of the third degree
15 and, notwithstanding the provisions of N.J.S.A.2C:43-3, is
16 subject to a fine of not more than \$50,000, as well as the term of
17 imprisonment provided under N.J.S.A.2C:43-6, or both.
 - 18 • The bill also amends N.J.S.A.2C:20-2 to make it a crime of the
19 first degree (punishable by a term of imprisonment from 10 to 20
20 years or a fine of up to \$200,000, or both) to steal human remains
21 by deception or falsification of a document by which a gift of all
22 or part of a human body may be made pursuant to the “Uniform
23 Anatomical Gift Act.”

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3016

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 12, 2006

The Assembly Health and Senior Services Committee reports favorably and with committee amendments Assembly Bill No. 3016.

As amended by the committee, this bill imposes criminal penalties for certain actions concerning the disposition of a human decedent's body parts.

The bill provides specifically as follows:

- A person who knowingly, for valuable consideration, purchases or sells a human body part for transplantation or therapy, if removal of a part from a donor is intended to occur after the donor's death, is guilty of a crime of the third degree and, notwithstanding the provisions of N.J.S.2C:43-3, is subject to a fine of not more than \$50,000, as well as the term of imprisonment provided under N.J.S.2C:43-6 (from three to five years), or both.
- The provisions of this bill are not to be construed to prohibit a person from charging a reasonable amount for the removal, processing, disposal, preservation, quality control, storage, transportation, or implantation of a human body part.
- A person who intentionally falsifies, forges, conceals, defaces, or obliterates a document by which a gift of all or part of a human body may be made pursuant to the "Uniform Anatomical Gift Act," P.L.1969, c.161 (C.26:6-57 et seq.), an amendment or revocation of such a document, or a refusal to make a gift, in order to obtain a financial benefit or gain, is guilty of a crime of the second degree and, notwithstanding the provisions of N.J.S.2C:43-3, is subject to a fine of not more than \$50,000, as well as the term of imprisonment provided under N.J.S.2C:43-6, or both.
- The bill also amends N.J.S.2C:20-2 to make it a crime of the first degree (punishable by a term of imprisonment from 10 to 20 years or a fine of up to \$200,000, or both) to steal human remains by deception or falsification of a document by which a gift of all or part of a human body may be made pursuant to the "Uniform Anatomical Gift Act."

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

- delete a provision which permits a person to charge for the cremation of the unclaimed remains of a donor, and make technical changes accordingly; and
- make it a crime of the second degree (instead of a crime of the third degree) to falsify, conceal, deface or obliterate a document by which a gift of all or part of a human body may be made pursuant “Uniform Anatomical Gift Act,” an amendment or revocation of such a document, or a refusal to make a gift, in order to obtain a financial benefit or gain.

As amended by the committee, this bill is similar to Senate Bill No. 2032 (Buono), which is currently pending in the Senate Health, Human Services and Senior Citizens Committee.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 3016

with Assembly Floor Amendments
(Proposed By Assemblywoman VAINIERI HUTTLE)

ADOPTED: DECEMBER 11, 2006

This floor amendment provides that a person who intentionally falsifies, forges, conceals, defaces, or obliterates a document of medical or social history pertaining to the body or part of a donor in order to obtain a financial benefit or gain (as well as a death record as the bill currently provides), is guilty of a crime of the second degree and, notwithstanding the provisions of N.J.S.2C:43-3, is subject to a fine of not more than \$50,000, as well as the term of imprisonment provided under N.J.S.2C:43-6, or both.