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RWH 6/5/08

P.L. 2007, CHAPTER 321, *approved January 13, 2008*
Assembly, No. 2976 (*First Reprint*)

1 AN ACT concerning certain thefts from grave sites and ¹[amending
2 N.J.S.2C:20-2] supplementing Title 2C of the New Jersey
3 Statutes¹.
4

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

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

9 2C:20-2. Consolidation of Theft Offenses; Grading; Provisions
10 Applicable to Theft Generally.

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

23 b. Grading of theft offenses.

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

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

26 (b) The property is taken by extortion;

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

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

35 (e) The property stolen is human remains or any part thereof.

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

37 (a) The amount involved exceeds \$500.00 but is less than
38 \$75,000.00;

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

41 (c) The property stolen is a controlled dangerous substance or
42 controlled substance analog as defined in N.J.S.2C:35-2 and the

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 SJU committee amendments adopted December 17, 2007.

1 amount involved is less than \$75,000.00 or is undetermined and the
2 quantity is one kilogram or less;

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

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

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

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

10 (h) The property stolen is a person's benefits under federal or
11 State law, or from any other source, which the Department of
12 Human Services or an agency acting on its behalf has budgeted for
13 the person's health care and the amount involved is less than
14 \$75,000;

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

23 (j) The property stolen is a New Jersey Prescription Blank as
24 referred to in R.S.45:14-14 described in section 16 of P.L.2003,
25 c.280 (C.45:14-55);

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

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

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

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

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

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

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

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

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

10 e. (1) Theft of headstones, headstone markers, flags or flag-
11 holders from grave site. Notwithstanding the grading of a theft
12 offense pursuant to the provisions of this section and corresponding
13 finances, restitution, and community service pursuant to other
14 provisions of Title 2C of the New Jersey Statutes for convictions
15 when the stolen property at issue is a headstone, headstone marker,
16 flag or flag-holder set at a grave site, an additional mandatory fine
17 of at least \$1,000 and not to exceed \$2,500, as determined by the
18 court based on the quantity of headstones, headstone markers, flags
19 or flag-holders stolen, plus restitution, shall be imposed. The
20 additional fines required under this subsection shall be imposed
21 unless a greater fine based on the material value of the stolen
22 headstones, headstone makers, flags or flag-holders is imposed as
23 otherwise permitted. "Flag" as referred to in this subsection
24 includes, but is not limited to, the American flag.

25 (2) In addition to any other penalty imposed, a court shall order
26 performance of community service as follows: for a first offense, at
27 least ten days of community service; for a second offense, at least
28 15 days of community service; and for a third or subsequent
29 offense, at least 20 but not more than 25 days of community
30 service. A person convicted of a third or subsequent offense shall
31 be sentenced to a minimum term of imprisonment of not less than
32 90 days.

33 (cf: P.L.2005, c.207, s.4)]¹

34
35 ¹a. A person is guilty of theft if he unlawfully removes a
36 headstone, headstone marker, flag or flag holder from a grave site
37 or exercises control over a headstone, headstone marker, flag or flag
38 holder without license or privilege to do so under circumstances
39 which would cause a reasonable person to believe that the object
40 was unlawfully removed. For purposes of this section, "flag"
41 includes, but is not limited to, the American flag.

42 b. Notwithstanding the provisions of N.J.S.2C:43-3 and in
43 addition to any other fine or penalty imposed, a person who
44 commits theft in violation of subsection a. of this section shall be
45 liable to a fine of up to \$1,000 for each headstone, headstone
46 marker, flag or flag holder that the person removed or over which
47 the person exercised control.

1 c. In addition to imposing any other appropriate penalties
2 established for a crime pursuant to Title 2C of the New Jersey
3 Statutes, the court shall impose a term of community service of up
4 to 30 days.¹

5
6 2. This act shall take effect immediately.

7
8
9

10
11 _____
12 Provides mandatory fines and community service for theft of
13 headstones, headstone markers, flags or flag holders from grave
 sites.

ASSEMBLY, No. 2976

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED MAY 11, 2006

Sponsored by:

Assemblyman JACK CONNERS
District 7 (Burlington and Camden)
Assemblyman LARRY CHATZIDAKIS
District 8 (Burlington)
Assemblyman DAVID R. MAYER
District 4 (Camden and Gloucester)
Assemblywoman JOAN M. VOSS
District 38 (Bergen)

Co-Sponsored by:

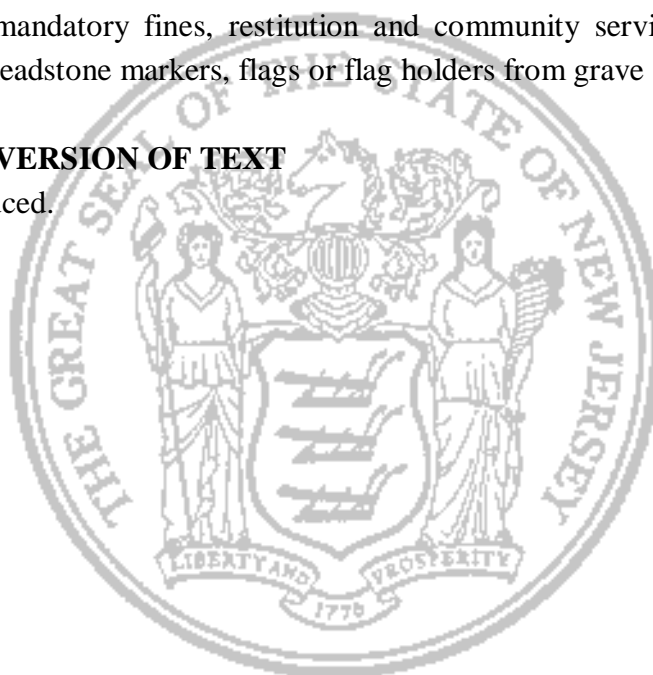
Assemblymen Gregg, Greenwald and Conaway

SYNOPSIS

Provides mandatory fines, restitution and community service for theft of headstones, headstone markers, flags or flag holders from grave sites.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/9/2006)

1 AN ACT concerning certain thefts from grave sites 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. Consolidation of Theft Offenses; Grading; Provisions
9 Applicable to Theft Generally.

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

22 b. Grading of theft offenses.

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

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

25 (b) The property is taken by extortion;

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

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

34 (e) The property stolen is human remains or any part thereof.

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

36 (a) The amount involved exceeds \$500.00 but is less than
37 \$75,000.00;

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

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

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

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

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

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

7 (h) The property stolen is a person's benefits under federal or
8 State law, or from any other source, which the Department of
9 Human Services or an agency acting on its behalf has budgeted for
10 the person's health care and the amount involved is less than
11 \$75,000;

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

20 (j) The property stolen is a New Jersey Prescription Blank as
21 **[referred to in R.S.45:14-14]** described in section 16 of P.L.2003,
22 c.280 (C.45:14-55);

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

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

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

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

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

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

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

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

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

7 e. (1) Theft of headstones, headstone markers, flags or flag-
8 holders from grave site. Notwithstanding the grading of a theft
9 offense pursuant to the provisions of this section and corresponding
10 finer, restitution, and community service pursuant to other
11 provisions of Title 2C of the New Jersey Statutes for convictions
12 when the stolen property at issue is a headstone, headstone marker,
13 flag or flag-holder set at a grave site, an additional mandatory fine
14 of at least \$1,000 and not to exceed \$2,500, as determined by the
15 court based on the quantity of headstones, headstone markers, flags
16 or flag-holders stolen, plus restitution, shall be imposed. The
17 additional fines required under this subsection shall be imposed
18 unless a greater fine based on the material value of the stolen
19 headstones, headstone makers, flags or flag-holders is imposed as
20 otherwise permitted. "Flag" as referred to in this subsection
21 includes, but is not limited to, the American flag.

22 (2) In addition to any other penalty imposed, a court shall order
23 performance of community service as follows: for a first offense, at
24 least ten days of community service; for a second offense, at least
25 15 days of community service; and for a third or subsequent
26 offense, at least 20 but not more than 25 days of community
27 service. A person convicted of a third or subsequent offense shall
28 be sentenced to a minimum term of imprisonment of not less than
29 90 days.

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

31
32 2. This act shall take effect immediately.

33
34
35 STATEMENT

36
37 Theft of headstones, headstone markers, flags and flag holders
38 has increased in recent years. This bill would impose a penalty of at
39 least \$1,000 and no more than \$2,500, plus restitution and
40 community service, for theft of these items. This penalty is in
41 addition to penalties the court imposes based upon the grade of the
42 offense. This bill requires that the additional fines be determined
43 by the monetary value of the materials stolen.

44 The community service penalty will be as follows: for a first
45 offense, at least ten days of community service; for a second
46 offense, at least 15 days of community service; and for a third or
47 subsequent offense, at least 20 but not more than 25 days of
48 community service. A person convicted of a third or subsequent

A2976 CONNERS, CHATZIDAKIS

5

- 1 offense will be sentenced to a minimum term of imprisonment of
- 2 not less than 90 days.

ASSEMBLY MILITARY AND VETERANS' AFFAIRS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2976

STATE OF NEW JERSEY

DATED: MAY 15, 2006

The Military and Veterans' Affairs Committee reports favorably Assembly, No. 2976.

Theft of headstones, headstone markers, flags and flag holders has increased in recent years. This bill would impose a penalty of at least \$1,000 and no more than \$2,500, plus restitution and community service, for theft of these items. This penalty is in addition to penalties the court imposes based upon the grade of the offense. This bill requires that the additional fines be determined by the monetary value of the materials stolen if greater than the fines noted above.

The community service penalty will be as follows: for a first offense, at least ten days of community service; for a second offense, at least 15 days of community service; and for a third or subsequent offense, at least 20 but not more than 25 days of community service. A person convicted of a third or subsequent offense will be sentenced to a minimum term of imprisonment of not less than 90 days.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2976

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 13, 2007

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2976.

This bill, as amended, provides that a person would be guilty of theft if he unlawfully removes a headstone, headstone marker, flag or flag holder from a grave site or exercises control over a headstone, headstone marker, flag or flag holder without license or privilege to do so under circumstances which would cause a reasonable person to believe that the object was unlawfully removed. The bill provides that “flag” includes, but is not limited to, the American flag.

The bill provides for an additional fine of up to \$1,000 for each headstone, headstone marker, flag or flag holder that the person removed or over which the person exercised control.

The bill requires the court to impose, in addition any other fines, a term of community service of up to 30 days.

SENATE, No. 3009

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED DECEMBER 17, 2007

Sponsored by:
Senator JOHN H. ADLER
District 6 (Camden)

Co-Sponsored by:
Senator Allen

SYNOPSIS

Provides mandatory fines and community service for theft of headstones, headstone markers, flags or flag holders from grave sites.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/4/2008)

S3009 ADLER

2

1 AN ACT concerning certain thefts from grave sites and
2 supplementing Title 2C of the New Jersey Statutes.

3

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

6

7 1. a. A person is guilty of theft if he unlawfully removes a
8 headstone, headstone marker, flag or flag holder from a grave site
9 or exercises control over a headstone, headstone marker, flag or flag
10 holder without license or privilege to do so under circumstances
11 which would cause a reasonable person to believe that the object
12 was unlawfully removed. For purposes of this section, "flag"
13 includes, but is not limited to, the American flag.

14 b. Notwithstanding the provisions of N.J.S.2C:43-3 and in
15 addition to any other fine or penalty imposed, a person who
16 commits theft in violation of subsection a. of this section shall be
17 liable to a fine of up to \$1,000 for each headstone, headstone
18 marker, flag or flag holder that the person removed or over which
19 the person exercised control.

20 c. In addition to imposing any other appropriate penalties
21 established for a crime pursuant to Title 2C of the New Jersey
22 Statutes, the court shall impose a term of community service of up
23 to 30 days.

24

25 2. This act shall take effect immediately.

26

27

28

STATEMENT

29

30 This bill provides that a person would be guilty of theft if he
31 unlawfully removes a headstone, headstone marker, flag or flag
32 holder from a grave site or exercises control over a headstone,
33 headstone marker, flag or flag holder without license or privilege to
34 do so under circumstances which would cause a reasonable person
35 to believe that the object was unlawfully removed. The bill provides
36 that "flag" includes, but is not limited to, the American flag.

37 The bill provides for an additional fine of up to \$1,000 for each
38 headstone, headstone marker, flag or flag holder that the person
39 removed or over which the person exercised control.

40 The bill requires the court to impose, in addition to any other
41 fines, a term of community service of up to 30 days.