2C:20-2

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

NSA: 2:20:2 (Provides mandatory fines and community service for theft of headstones, headstone markers, flags of flag holders from grave sites). BILL NO: A2976 (Substituted for S3009) SPONSOR(S) Conners and Others JATE INTRODUCED: May 11, 2006 COMMITTEE: ASSEMBLY: Military and Veterans' Affairs: SENATE: Judiciary MENDED DURING PASSAGE: Yes DATE OF PASSAGE: ASSEMBLY: JATE OF PASSAGE: Yes DATE OF PASSAGE: ASSEMBLY: JATE OF APPROVAL: January 3, 2008 DATE OF APPROVAL: January 3, 2008 DATE OF APPROVAL: January 3, 2008 FOLLOWING ARE ATTACHED IF AVAILABLE: EINAL TEXT OF BILL (First reprint enacted) A2976 SPONSOR'S STATEMENT: (Begins on page 4 of original bill) Yes COMMITTEE STATEMENT: ASSEMBLY: Yes CAUdio archived recordings of the committee meetings, corresponding to the date of the committee statement, may possibly be found at www.nijeg.state.ni.us; No LEGISLATIVE FISCAL NOTE: No No SENATE: ASSEMBLY: No LEGISLATIVE FISCAL ESTIMATE: No No	LAWS OF:	2007	CHAPTER:	321			
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REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	No

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. a. Consolidation of Theft and Computer Criminal Activity 11 12 Offenses. Conduct denominated theft or computer criminal activity in this chapter constitutes a single offense, but each episode or 13 transaction may be the subject of a separate prosecution and 14 15 conviction. A charge of theft or computer criminal activity may be 16 supported by evidence that it was committed in any manner that would be theft or computer criminal activity under this chapter, 17 notwithstanding the specification of a different manner in the 18 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 controlled substance analog as defined in N.J.S.2C:35-2 and the 28 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 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 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 <u>thus</u> is new matter.

Matter enclosed in superscript numerals has been adopted as follows: ¹Senate SJU committee amendments adopted December 17, 2007.

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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; (e) It is in breach of an obligation by a person in his capacity as 4 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 the person's health care and the amount involved is less than 13 \$75.000: 14 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 components thereof, research subject, including any warm-blooded 18 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 (1) The property stolen consists of anhydrous ammonia and the 29 actor intends it to be used to manufacture methamphetamine. (3) Theft constitutes a crime of the fourth degree if the amount 30 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, but shall not be limited to, the amount of any State tax avoided, 36 37 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.

42 c. Claim of right. It is an affirmative defense to prosecution43 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.

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.

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 fines, 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 least ten days of community service; for a second offense, at least 27 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.

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33 (cf: P.L.2005, c.207, s.4)]<sup>1</sup>
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1. a. A person is guilty of theft if he unlawfully removes a 35 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.

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A2976 [1R]

c. In addition to imposing any other appropriate penalties 1 2 established for a crime pursuant to Title 2C of the New Jersey Statutes, the court shall impose a term of community service of up 3 to 30 days.¹ 4 5 2. This act shall take effect immediately. 6 7 8 9 10 Provides mandatory fines and community service for theft of 11 headstones, headstone markers, flags or flag holders from grave 12

13 sites.

ASSEMBLY, No. 2976 STATE OF NEW JERSEY 212th LEGISLATURE

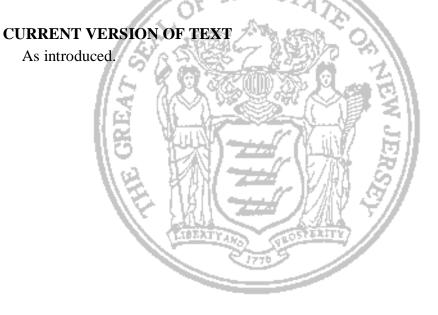
INTRODUCED MAY 11, 2006

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.



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

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AN ACT concerning certain thefts from grave sites and amending

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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. Consolidation of Theft Offenses; Grading; Provisions Applicable to Theft Generally. 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; (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 or more; or (e) The property stolen is human remains or any part thereof. (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; (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;

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 <u>thus</u> 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; (g) It is of a public record, writing or instrument kept, filed or 4 5 deposited according to law with or in the keeping of any public office or public servant; 6 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 to, necessary for, or derived from research, regardless of value, 13 including, but not limited to, any sample, specimens and 14 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 [referred to in R.S.45:14-14] described in section 16 of P.L.2003, 21 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 (1) The property stolen consists of anhydrous ammonia and the 26 actor intends it to be used to manufacture methamphetamine. (3) Theft constitutes a crime of the fourth degree if the amount 27 involved is at least \$200.00 but does not exceed \$500.00. If the 28 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, evaded or otherwise unpaid, improperly retained or disposed of. 34 Amounts involved in thefts or computer criminal activities 35 committed pursuant to one scheme or course of conduct, whether 36 37 from the same person or several persons, may be aggregated in 38 determining the grade of the offense. Claim of right. It is an affirmative defense to prosecution 39 c. 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.

A2976 CONNERS, CHATZIDAKIS

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 fines, 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 or flag-holders stolen, plus restitution, shall be imposed. The 16 additional fines required under this subsection shall be imposed 17 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 be sentenced to a minimum term of imprisonment of not less than 28 29 <u>90 days.</u>

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- 32 2. This act shall take effect immediately.
 - **STATEMENT**

Theft of headstones, headstone markers, flags and flag holders 37 has increased in recent years. This bill would impose a penalty of at 38 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

³⁰ (cf: P.L.2005, c.207, s.4)

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

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

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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" includes, but is not limited to, the American flag. 13 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 established for a crime pursuant to Title 2C of the New Jersey 21 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 **STATEMENT** 28 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.