

**GRADATION OF THEFT OFFENSES DEPENDENT ON THE AMOUNT  
OF MONEY OR VALUE OF PROPERTY INVOLVED**

**(N.J.S.A. 2C:20-2b)**

The State must prove the amount (or value) of the property beyond a reasonable doubt. If you find the defendant guilty of the offense, then you must indicate whether you find the amount of money (or value of the property) involved:

**[choose appropriate sections]**

- (1) is \$75,000.00 or more;
- (2) exceeds \$500.00, but is less than \$75,000.00;
- (3) is at least \$200.00, but does not exceed \$500.00; or
- (4) is less than \$200.00.

**[charge where appropriate]**

Value means the fair market value of the property at the time and place of the alleged theft.<sup>1</sup> Fair market value is the price that a buyer would be willing to pay and a seller would be willing to accept if both parties were aware of all the relevant surrounding circumstances and neither party were under any compulsion to buy or sell.

The State has the burden of proving the fair market value of the property involved. This means that the State must prove beyond a reasonable doubt that the property is worth what the State claims.

**[charge where appropriate]**

If you find that the amounts involved were taken in thefts committed pursuant to one scheme or course of conduct, the amounts may be added together to form a single total amount,

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<sup>1</sup> N.J.S.A. 2C:1-14m.

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whether stolen from one person or from several persons.<sup>2</sup>

### **NOTE**

The foregoing charge is for use when grading is dependent on the amount of money or value of the property involved. Under N.J.S.A. 2C:20-2b, other factors may also determine grading, as follows:

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

**(select appropriate section)**

- 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.A. 2C:35-2 and the quantity is in excess of one kilogram; or
- 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.

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

**(select appropriate section)**

- 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<sup>3</sup> or airplane;
- c) The property stolen is a controlled dangerous substance or controlled substance analog as defined in N.J.S.A. 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/her capacity as a fiduciary;
- f) It is by threat not amounting to extortion;
- g) It is of a public record, writing or instrument kept, filed or

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<sup>2</sup> N.J.S.A. 2C:20-2b(4).

<sup>3</sup> See N.J.S.A. 2C:20-1u for the definition of a domestic companion animal.

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- 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; or
  - k)** The property stolen consists of an access device or a defaced access device.
- (3) Theft is a crime of the fourth degree if the amount involved is at least \$200.00 but does not exceed \$500.00.
- (4) If the amount is less than \$200.00, the offense constitutes a disorderly persons offense.