

THE ADVOCATE

A Publication of Gambone Law – PA (215) 755-9000 - NJ (856) 793-7429

Newsletter



Add me to your contacts!

Pennsylvania's New Porch Pirate Law – How porch package theft could now be a felony in Pennsylvania

Our criminal defense law firm represents individuals charged with a variety of criminal offenses in Pennsylvania and New Jersey. Theft is often graded based on the value of the item in question, but there are circumstances where the law upgrades a charge based on the type of item or the circumstances surrounding the theft.

A person is guilty of Theft of Movable Property in Pennsylvania under PA's Crime's Code, Section 3921, if he or she unlawfully takes, or exercises unlawful control over, movable property of another with intent to deprive him thereof.

What makes a theft a felony as opposed to a misdemeanor in Pennsylvania?

Theft – Felony of the 3rd Degree – Pennsylvania

Theft is a felony of the third degree if the amount involved exceeds \$2,000, or if the property stolen is a car, airplane, motorcycle, motorboat or other motor-propelled vehicle, or in the case of theft by receiving stolen property, if the receiver is in the business of buying or selling stolen property.

Theft Felony of the 2nd Degree – Pennsylvania

Theft is a felony of the second degree if any of the following occurs: The offense is committed during a manmade disaster, a natural disaster or a war-caused disaster

- The property stolen is a firearm.
- In the case of theft by receiving stolen property, the property received, retained or disposed of is a firearm.
- The amount involved is \$100,000 or more but less than \$500,000.

Misdemeanor Theft Charges

Theft is a misdemeanor of the second degree if the amount involved was \$50 or more but less than \$200 the offense constitutes a misdemeanor of the second degree. If the amount involved was less than \$50 the offense constitutes a misdemeanor of the third degree.

Pennsylvania's Porch Pirate Law

Pennsylvania Governor Josh Shapiro signed the bill that increases the penalty for mail theft. Prior to the bill mail theft was based on the value of the package.

The new law, however, does not make mail theft an immediate felony, but only targets repeat offenders. Repeat offenders on their third offense or those who steal mail valued at more than \$2,000 now face a felony of the third degree.

While stealing items delivered by the United States Postal Service is a federal crime, only State laws typically apply to private companies such as Amazon, UPS, and FedEx.

How Common is Porch Theft?

Last year alone over 1.5 million packages were stolen or went missing in the United States. In Pennsylvania, over two million people have been a victim of mail theft with the average value of the package being approximately \$43.00.

As of December 14, 2023, over 3,000 packages have been reported stolen in Philadelphia which is about 10% more than last year.

Porch Theft in New Jersey – Defense Against Porch Pirates Act

New Jersey already has similar legislation on the books. Last year, the Garden State passed Defense Against Porch Pirates Act which makes mail theft an indictable crime (crime of the third degree) with a possible 5 year state prison sentence.

How Serious is Retail Theft (Section 3929) in Pennsylvania?

Retail Theft in Pennsylvania is graded as follows:

- It is a Summary offense when the offense is a first offense and the value of the merchandise is less than \$150.
- It is a Misdemeanor of the second degree when the offense is a second offense and the value of the merchandise is less than \$150
- It is a Misdemeanor of the first degree when the offense is a first or second offense and the value of the merchandise is \$150 or more.
- It is a Felony of the third degree when the offense is a third or subsequent offense, regardless of the value of the merchandise
- It is a Felony of the third degree when the amount involved exceeds \$1,000 or if the merchandise involved is a firearm or a motor vehicle.

Download my Books



DISCOVER INFORMATION ABOUT CRIMINAL CHARGES, YOUR RIGHTS AND MORE WITH OUR FREE BOOKS



What to do if police stop your car

Visit GamboneLaw.com

(PA) (215) 755-9000 Email: alfonso@gambonelaw.com (NJ) (856) 793-7429

Carson Briere Receives Diversion for Criminal Mischief in Erie, PA— He didn't get special treatment, he won't have a record, and why his sentence is absolutely appropriate.

Philadelphia Flyers General Manager Danny Briere's son, Carson Briere, was recently admitted into a criminal diversion program (Accelerated Rehabilitative Disposition) (ARD) in Erie County, Pennsylvania. You may recall that the younger Briere was charged with criminal mischief and disorderly conduct following an incident where he threw a empty wheelchair down a flight of stairs in a local Pub. No one was injured but the incident was captured on video which went viral on social media.

At the time, Briere was a student-athlete at Mercyhurst University and played Division I ice hockey for the team. He was dismissed from the University following the incident but has signed with Slovakia's Tipos Extraliga.

Tipos which is considered the elite league of that eastern European country.

The Philadelphia media may portray that Mr. Briere narrowly avoided jail in this case and that he received some special treatment because of his father's status. In reality, however, Carson Briere, received a very appropriate sentence given his lack of criminal history, his decision not to proceed to trial and the sentencing guidelines associated with the lead charge of criminal mischief.

How serious is a criminal mischief charge in Pennsylvania?

Criminal mischief is a very common crime that our law firm defends in Pennsylvania and New Jersey. It is an extremely broad charge which involves defacing, destroying, or damaging the real or person property of another person. In these cases, our criminal defense law firm has represented juveniles and adult defendants.

Under Section 3304 (Title 18), criminal mischief

is a misdemeanor of the second degree if the loss is in excess of \$1,000 and a misdemeanor of the third degree if the loss is in excess of \$500, but less than \$1,000. Briere was charged with a misdemeanor of the second and it is alleged that the value of the wheelchair exceeded \$1,000.00. The max punishment he faced was 2 years state prison.

What is the benefit of a diversion program like Accelerated Rehabilitative Disposition (ARD)?

A diversion program such as Accelerated Rehabilitative Disposition (ARD) allows Carson Briere to avoid a criminal conviction and a criminal record. In Pennsylvania, misdemeanor and felony convictions are not expungeable regardless of the type of crime or the severity. Provided that Carson satisfies all of the conditions of ARD, the prosecution (District Attorney) will withdraw the case against him. After the case is dismissed, his criminal defense lawyer can file a motion to expunge his record.

Was the ARD sentence appropriate and could Carson Briere have really gone to prison for this crime?

ARD is very common for first time offenders where there is no significant bodily to a victim. There was only property damage in this case. While the victim in this case more than likely had to agree to ARD, it is likely that Briere was required to make full restitution as part of his sentence and complete community service. While Briere is technically on probation for 15 months, it is likely non reporting which means he will not have to check in with a probation officer. If there are check-ins, it will be by phone as he is now playing hockey in a different country.

If Briere does not comply with the conditions of his diversion program, his case would return to the traditional criminal court system where he would likely be convicted. Even if he was convicted in a criminal court, jail was very unlikely based on sentencing guidelines but he would still have a criminal record which could affect future opportunities for him personally and professionally.

What is criminal mischief?

Criminal mischief can include any of the following crimes and offenses in Pennsylvania and New Jersey:

1. Graffiti
2. Tearing up lawns
3. Vehicles

4. Breaking doors
5. Destroying door locks
6. Breaking windows
7. Slashing tires
8. Intentionally damaging vehicles or other personal property

How serious is a criminal mischief charge in New Jersey?

In New Jersey, criminal mischief is graded very similar to Pennsylvania under Section 2C: 17-3 of the New Jersey Crimes Code. It is a crime of the third degree if the person causes the loss of \$2,000 or more and a crime of the fourth degree if it is between \$500 and \$2000. In all other cases it is a disorderly person's offense. Unlike Pennsylvania, New Jersey does not classify crimes as felonies or misdemeanor offenses, but rather crimes and offenses. Offenses are handled in New Jersey's Municipal Court while crimes are handled in New Jersey's Superior Court.



Add me to your contacts!

"Our Family Wishes You a Happy 2024! Be Relentless!"



Ben Dash, Esq., Dash Law LLP

The Indispensable Role of a Real Estate Attorney in Transactions

In the intricate realm of real estate transactions, a trustworthy and knowledgeable guide is essential to navigate the complexities and protect your interests. That's where

a real estate attorney comes into play, serving as an invaluable advocate throughout the process. Whether you're buying, selling, or leasing property, having a competent legal professional by your side can make all the difference.

One of the key reasons to enlist the services of a real estate attorney is their expertise in reviewing and drafting contracts. These legal documents can be dense and filled with intricate clauses that require a keen eye to decipher. An attorney can ensure that your rights and obligations are properly outlined, protecting you from potential pitfalls and ensuring that your interests are safeguarded.

Moreover, a real estate attorney possesses extensive knowledge of local laws and regulations. Each jurisdiction has its own unique set of rules governing real estate transactions, which can be overwhelming for individuals without legal expertise. By engaging an attorney, you gain a trusted advisor who can navigate through the legal framework, ensuring compliance and minimizing any potential legal risks.

Another critical role of a real estate attorney is conducting due diligence. They delve into property records, survey reports, and title searches, unearthing any potential issues that may affect the transaction. This diligent investigation allows them to identify any liens,

easements, or encumbrances on the property, providing you with a clear picture of what you're getting into and helping you make informed decisions.

When it comes to negotiations, having a skilled attorney by your side can tip the scales in your favor. They have experience in handling various aspects of negotiations, from price and terms to contingencies and repairs. Their expertise allows them to advocate for your best interests, ensuring that the transaction is fair and favorable.

Finally, a real estate attorney acts as a shield against potential legal disputes. Should any conflicts arise during or after the transaction, they are well-equipped to handle them. With their knowledge of real estate law and their ability to negotiate and mediate, they can help resolve disputes efficiently and, if necessary, represent you in court.

In conclusion, a real estate attorney is an indispensable ally in any property transaction. Their expertise in contract review, legal compliance, due diligence, negotiations, and dispute resolution provides invaluable protection and peace of mind. Ben's practice commercial litigation, business and corporate transactions, real estate law and employment law. He is our law firm's choice in these areas. Contact Ben at bdash@dashlaw-llp.com or 856-235-8300

The Effect of a No Contest (Nolo Contendere) Plea on Civil Liability for Death, Personal Injury & Property Damage

There are many situations where a lawyer must advise a client on the ramifications of civil an plea criminal proceedings where there is a danger that evidence from either proceeding could become admissible in either case. While most lawyers maintain a focus on one specific area, whether it be criminal or civil, he/she must nevertheless provide the client with sound advice and counsel.

Criminal Defense Lawyers Advising Clients on Civil Matters

Clients, whether lawyers like it or not, expect us to have knowledge in multiple areas of the law regardless of what the client initially expected when he/she retained our services. For a lawyer who focuses his area on criminal defense clients will often ask that we provide counsel on civil liability when the alleged victim sustains property damage, injury, or even death. Advice in this area is especially important when we advise the client to enter a plea and accept responsibility for some type of wrongful act.

What is the benefit of a plea?

While negotiated and open guilty pleas require a defendant (accused) to admit to certain facts, a plea of no contest or no contendere is much different. Procedurally all pleas have the same effect on a case in that it resolves the matter prior to Trial. In most situations, a client will receive a benefit toward a potential sentence given that he/she does not only save the victim, and/or a family further harm or suffering with a Trial, but also save the Commonwealth time and resources which can be devoted to other matters.

No Contest vs. Negotiated or Open Guilty Plea

While any plea option will result in a non-Trial disposition, a no contest plea provides a client with additional protections which could dramatically affect a related civil matter. Pennsylvania Courts have addressed this specific issue and found that while the effect of a no contest, negotiated, or open plea are the same, a no contest plea is **not** an admission of guilt. Unlike a guilty plea, a no contest (nolo contendere) plea does not involve any acknowledgment as to having committed an illegal act but rather simply admits that the allegations, if proven beyond a reasonable doubt, meet the elements of the offense or offenses charged. Therefore between a no contest plea and a plea of guilt is that a plea of guilt is a binding confession of the Defendant and the no contest plea has no effect beyond those criminal proceedings. Evidence of a no contest plea is not admissible against the

Defendant in a civil matter.

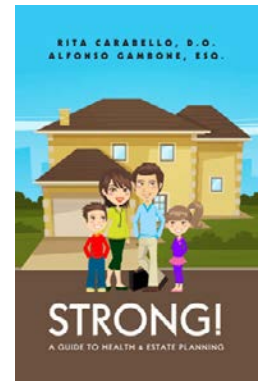
It is important to keep in mind that even if a no contest plea is mentioned during the course of civil proceedings it does not provide grounds for an appeal, provided that the Court clearly states that the conviction was not evidence by which it found admission or which it arrived at a finding of negligence.

Civil Reservations in New Jersey

For those lawyers who maintain practices within the Commonwealth and New Jersey, they should understand that a no contest plea in Pennsylvania is the equivalent of a civil reservation plea in the State of New Jersey for the purposes of determining the effect of a plea on civil proceedings.



Start Your 2024 Strong!
Schedule Your 2024
Appointment with
Dr. Carabello Today



RITA C. CARABELLO, D.O.
Einstein Center One Family Medicine
9880 Bustleton Avenue, Suite 301
Philadelphia, PA 19115
(215) 827-1666

dark berries, whole nuts olive/avocado oils is recommended. Ultimately, overall calorie intake is important but eating these foods with proper exercise will help you reach and maintain your target weight.

Rita Carabello, D.O. is a Board Certified Family Physician with The Jefferson Health System. Dr. Carabello is bilingual (Italian) and has over 20 years of experience providing health care to thousands of families throughout the Philadelphia Metropolitan Area and South Jersey. She consistently ranks as one of top family physicians in the region.

FAMILY MEDICINE UPDATE

New Year Resolution - Obesity & Your 2024 Health Goals

The new year is here, and a very common resolution is to lose weight, especially when your doctor has identified it as an issue. People who are overweight or obese, compared to those with healthy weight, are at increased risk for many serious diseases and health conditions. These include the following:

- All-causes of death
- High blood pressure (hypertension).
- High LDL cholesterol, low HDL cholesterol, or high levels of triglycerides (dyslipidemia).
- Polycystic ovary syndrome (PCOS)
- Type 2 diabetes.
- Coronary heart disease.

- Stroke.
- Osteoarthritis (a breakdown of cartilage and bone within a joint).
- Sleep apnea and breathing problems.
- Some Cancer
- Mental illness such as clinical depression, anxiety, and other mental disorders

Overweight is defined as a body mass index (BMI) of 25 or higher. Obesity is defined as a BMI of 30 or higher. While medications are available, changes in your lifestyle are essential to success. Each week adults need at least 150 minutes of moderate-intensity physical activity and 2 days of muscle strengthening activity. In addition to exercise, a diet focused on single source foods, lean proteins, Cruciferous vegetables, and a limited quantity of starchy vegetables, lower sugar/high fiber fruit such as



CGMB COLLINS GANN
McCLOSKEY & BARRY PLLC
ATTORNEYS AT LAW

138 MINEOLA BOULEVARD • MINEOLA, NY 11501
TEL: (516) 294-0300 FAX: (516) 294-0477 WEB: www.cgmbesq.com

It Legal to Smoke Marijuana in Public in New York?

As of 2021, smoking pot in public is legal in New York. For the most part, the new law treats public marijuana use like cigarette smoking, a unique aspect of New York’s marijuana legislation that distinguishes it from legalization efforts in other states. Law enforcement in New York has been told that

smoking marijuana in public is no longer a legal basis for approaching, stopping, summoning, arresting, or searching an individual, and police are no longer able to use the odor of marijuana as a reason to stop and search a vehicle.

Marijuana Use Dos and Don’ts

While it is legal to consume marijuana products in public in New York, it is important to be aware of some important dos and don’ts when it comes to marijuana if you want to avoid breaking the law:

Do

- Be over 21 to use or possess marijuana products
- Consume marijuana in a private home, if you have permission from the owner
- Consume marijuana in most places where cigarettes are legal, including on public streets
- Share with other adults over age 21 without remuneration or any exchange of services

Don’t

- Possess over 3 ounces of cannabis or 24 grams of cannabis concentrates (edibles, oils)
- Cross state lines with marijuana products
- Distribute or sell cannabis without a license
- Drive under the influence of cannabis
- Consume cannabis in a car
- Consume marijuana in a private business (including restaurant patios)
- Consume marijuana on federal property, including National Parks
- Consume marijuana in any New York State Park or other public outdoor spaces

As of October 2022, smoking either marijuana or tobacco in New York State Parks and other public outdoor spaces is illegal. However, no criminal charges can be brought for doing so. Instead, you will be subject to a \$25 civil fine and up to 20 hours of community service. But keep in mind that marijuana offenses are still crimes under Federal Law.

Collins Gann McCloskey & Barry PLLC - Gambone Law’s Choice for Legal Matters in New York State

Our law firm recommends the attorneys at Collins Gann McCloskey & Barry PLLC, for legal matters in New York City and on Long Island. They have successfully represented our clients in the New York Metropolitan area for nearly a decade and have achieved great results for them in the following areas:

- Criminal Defense
- Personal Injury
- Estate Planning

Add me to your contacts!



Question of the Month
Question - When is theft a felony in Pennsylvania and New Jersey? What is the difference between robbery and theft?
Answer: Theft of movable property (property of another) is graded as a felony of the second degree if it occurs during a natural disaster or some other public emergency. In addition, theft is a felony if the item in question is a firearm. Theft is a felony if the amount exceeds \$2,000 or the property stolen is an automobile or some other vehicle. Over 20,000 cars were stolen in Philadelphia in 2021! This is a 20 year high. Philadelphia already has some of the nation’s highest insurance rates, the theft surge is likely to make those rates even higher! Robbery is a theft committed by force. It is considered a violent felony crime. The degree of force is irrelevant when it comes to robbery, but it will determine the severity of the charge.

123 East Main Street
Moorestown, NJ 08057
(215) 755-9000
(856) 793-7429
alfonso@gambonelaw.com