

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 3006 and 3345**

STATE OF NEW JERSEY

DATED: FEBRUARY 13, 2023

The Senate Budget and Appropriations Committee reports favorably the Senate Committee Substitute for Senate Bill Nos. 3306 and 3345.

This committee substitute establishes the crimes of participant in auto theft trafficking network and persistent auto theft trafficking offender, expands the crime of leader of auto theft trafficking network, and upgrades a crime that involves the use of a juvenile to commit the crime.

Under current law, a person commits the crime of leader of an auto theft trafficking network, a crime of the second degree, if the person conspires with others as an organizer, supervisor, financier, or manager to engage for profit in a scheme or course of conduct to unlawfully take, dispose of, distribute, bring into, or transport in this State motor vehicles as stolen property. This crime currently is punishable by a term of imprisonment of five to 10 years, an enhanced fine of up to \$250,000 or five times the retail value of the motor vehicles seized at the time of arrest, whichever amount is greater, or both imprisonment and a fine.

Under the committee substitute, a person would be guilty of the crime of leader of an auto theft trafficking network if the person conspires with one or more other person as an organizer, supervisor, financier, manager, or recruiter to engage for profit or to commit other criminal activity in a scheme or course of conduct to unlawfully take, dispose of, distribute, bring into, or transport in this State automobiles or automobile parts as stolen property.

The provisions of the committee substitute upgrade the crime of leader of an auto theft trafficking network to a crime of the first degree, punishable by a term of imprisonment of 10 to 20 years, if a person, while engaging in a course of conduct which constitutes leader of an auto theft trafficking network, under the committee substitute, uses, solicits, directs, hires, employs, or recruits a person 17 years of age or younger to join or actively participate in the network. It is not a defense to a prosecution that the actor mistakenly believed that the person who the actor used, solicited, directed, hired, employed, or recruited was older than 17 years of age, even if the mistaken belief was reasonable. The court may impose a fine not to exceed \$250,000

or five times the retail value of the automobiles or automobile parts seized at the time of arrest, whichever is greater.

A person is guilty of the crime of participant in an auto theft trafficking network, under the committee substitute, if the person engages in or conspires with others in any capacity, other than as a leader of an auto trafficking network, to engage for profit or to commit criminal activity in a scheme or course of conduct to unlawfully take, dispose of, distribute, bring into, or transport in this State automobiles or automobile parts as stolen property. Participant in auto theft trafficking network is a crime of the third degree.

Under the committee substitute, participant in an auto theft trafficking network is upgraded to a crime of the second degree if a person who is at least 18 years of age is a participant in an auto theft trafficking network and: knowingly uses, solicits, directs, hires, employs, or recruits a person 17 years of age or younger to commit a violation of participant in an auto theft trafficking network under the substitute; or participates in an auto theft trafficking network that also includes a person 17 years of age or younger who is a participant in the network. It is not a defense to a prosecution that the actor did not know that a person 17 years of age or younger was a participant, or mistakenly believed that the person was 18 years of age or older, even if the mistaken belief was reasonable. For a crime of participant in an auto theft trafficking network, the court may impose a fine not to exceed \$100,000 or five times the retail value of the automobiles or automobile parts seized at the time of the arrest, whichever is greater.

The substitute also provides that a person convicted of a crime of leader of an auto theft trafficking network or participant in an auto theft trafficking network is to be sentenced to an extended term of imprisonment if the person has previously been convicted on two or more prior and separate occasions, regardless of the dates of the convictions, of leader of, or participant in, an auto theft trafficking network, or a crime under any statute of the United States, this State, or any other state that is substantially equivalent to any of those crimes. These provisions of the substitute would not apply unless the prior convictions are for crimes committed on a separate occasion and the crime for which the defendant is being sentenced was committed either: within 10 years of the date of the defendant's last release from confinement for the commission of any crime; or within 10 years of the date of the commission of the most recent of the crimes enumerated in the substitute for which the defendant has a prior conviction. The court is not to sentence a defendant to imprisonment as a persistent auto theft trafficking offender unless the ground therefor has been established at a hearing after the conviction of the defendant and on written notice to the defendant of the ground proposed.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that this bill would generate indeterminate additional costs mainly for the Department of Corrections and the Judiciary. The bill establishes, expands, and upgrades certain auto theft crimes. The OLS does not have sufficient information to quantify the fiscal impact, but the department may incur additional annual costs for housing more inmates and possibly for longer terms of incarceration. The Judiciary's workload may increase if it adjudicates additional cases as a result of the bill's provisions. The State may also receive indeterminate revenue from enhanced fines and penalties imposed on individuals convicted of these crimes; however, the State's ability to collect criminal fines and penalties has historically been limited.