ASSEMBLY, No. 917

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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SYNOPSIS

Increases penalties for identity theft when victim is a senior citizen or veteran.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 1/27/2020)

AN ACT concerning identity theft penalties and amending N.J.S.2C:21-17 and P.L.2003, c.184.

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

1. N.J.S.2C:21-17 is amended to read as follows:

2C:21-17. Impersonation; Theft of Identity; crime.

a. A person is guilty of an offense if the person:

(1) Impersonates another or assumes a false identity and does an act in such assumed character or false identity for the purpose of obtaining a benefit for himself or another or to injure or defraud another;

(2) Pretends to be a representative of some person or organization and does an act in such pretended capacity for the purpose of obtaining a benefit for himself or another or to injure or defraud another;

(3) Impersonates another, assumes a false identity or makes a false or misleading statement regarding the identity of any person, in an oral or written application for services, for the purpose of obtaining services;

(4) Obtains any personal identifying information pertaining to another person and uses that information, or assists another person in using the information, in order to assume the identity of or represent himself as another person, without that person's authorization and with the purpose to fraudulently obtain or attempt to obtain a benefit or services, or avoid the payment of debt or other legal obligation or avoid prosecution for a crime by using the name of the other person; or

(5) Impersonates another, assumes a false identity or makes a false or misleading statement, in the course of making an oral or written application for services, with the purpose of avoiding payment for prior services. Purpose to avoid payment for prior services may be presumed upon proof that the person has not made full payment for prior services and has impersonated another, assumed a false identity or made a false or misleading statement regarding the identity of any person in the course of making oral or written application for services.

As used in this section:

"Benefit" means, but is not limited to, any property, any pecuniary amount, any services, any pecuniary amount sought to be avoided or any injury or harm perpetrated on another where there is no pecuniary value.

<u>“Senior citizen” means a natural person 62 years of age or older.</u>

<u>“Veteran” means any citizen and resident of this State honorably discharged or released under honorable circumstances from the active military service of the United States.</u>

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.

b. (Deleted by amendment, P.L.2005, c.224).

c. A person who violates subsection a. of this section is guilty of a crime as follows:

(1) If the actor obtains a benefit or deprives another of a benefit in an amount less than $500 and the offense involves the identity of one victim, the actor shall be guilty of a crime of the fourth degree except that a second or subsequent conviction for such an offense constitutes a crime of the third degree , except that if the victim is a senior citizen or a veteran, a first offense constitutes a crime of the third degree and a second or subsequent offense constitutes a crime of the second degree; or

(2) If the actor obtains a benefit or deprives another of a benefit in an amount of at least $500 but less than $75,000, or the offense involves the identity of at least two but less than five victims, the actor shall be guilty of a crime of the third degree , except that if any of the victims is a senior citizen or a veteran, the offense constitutes a crime of the second degree; or

(3) If the actor obtains a benefit or deprives another of a benefit in the amount of $75,000 or more, or the offense involves the identity of five or more victims, the actor shall be guilty of a crime of the second degree , except that if any of the victims is a senior citizen or a veteran, the offense constitutes a crime of the first degree.

d. A violation of N.J.S.2C:28-7, constituting a disorderly persons offense, section 1 of P.L.1979, c.264 (C.2C:33-15), R.S.33:1-81 or section 6 of P.L.1968, c.313 (C.33:1-81.7) in a case where the person uses the personal identifying information of another to illegally purchase an alcoholic beverage or for using the personal identifying information of another to misrepresent his age for the purpose of obtaining tobacco or other consumer product denied to persons under 18 years of age shall not constitute an offense under this section if the actor received only that benefit or service and did not perpetrate or attempt to perpetrate any additional injury or fraud on another.

e. The sentencing court shall issue such orders as are necessary to correct any public record or government document that contains false information as a result of a theft of identity. The sentencing court may provide restitution to the victim in accordance with the provisions of section 4 of P.L.2002, c.85 (C.2C:21-17.1).

(cf: P.L.2005, c.224, s.2)

2. Section 6 of P.L.2003, c.184 (C.2C:21-17.3) is amended to read as follows:

6. a. A person who knowingly distributes, manufactures or possesses any item containing personal identifying information pertaining to another person, without that person's authorization, and with knowledge that the actor is facilitating a fraud or injury to be perpetrated by anyone is guilty of a crime of the fourth degree ,

except in cases where the item containing personal identifying information was obtained through records owned or maintained by a continuing care retirement community, nursing home, retirement community, or veterans' facility, the offense shall constitute a crime of the third degree.

b. (1) If the person distributes, manufactures or possesses 20 or more items containing personal identifying information pertaining to another person, or five or more items containing personal information pertaining to five or more separate persons, without authorization, and with knowledge that the actor is facilitating a fraud or injury to be perpetrated by anyone the person is guilty of a crime of the third degree, except in cases where the items containing personal identifying information were obtained through records owned or maintained by a continuing care retirement community, nursing home, retirement community, or veterans' facility, the offense shall constitute a crime of the second degree.

(2) If the person distributes, manufactures or possesses 50 or more items containing personal identifying information pertaining to another person, or ten or more items containing personal identifying information pertaining to five or more separate persons, without authorization, and with knowledge that the actor is facilitating a fraud or injury to be perpetrated by anyone the person is guilty of a crime of the second degree , except in cases where the items containing personal identifying information were obtained through records owned or maintained by a continuing care retirement community, nursing home, retirement community, or veterans' facility, the offense shall constitute a crime of the first degree.

c. Distribution, manufacture or possession of 20 or more items containing personal identifying information pertaining to another person or of items containing personal identifying information pertaining to five or more separate persons without authorization shall create an inference that the items were distributed, manufactured or possessed with knowledge that the actor is facilitating a fraud or injury to be perpetrated by anyone.

d. As used in this section:

"Continuing care retirement community" means a residential facility primarily for retired persons where lodging and nursing, medical or other health related services at the same or another location are provided as continuing care to an individual pursuant to an agreement effective for the life of the individual or for a period greater than one year, including mutually terminable contracts, and in consideration of the payment of an entrance fee with or without other periodic charges.

"Distribute" means, but is not limited to, any sale, purchase, transfer, gift, delivery, or provision to another, regardless of whether the distribution was for compensation.

"Item" means a writing or document, whether issued by a governmental agency or made by any business or person, recorded by any method that contains personal identifying information. Item includes, but is not limited to, an access device, book, check, paper, card, instrument, or information stored in electronic form by way of e-mail or otherwise, on any computer, computer storage medium, computer program, computer software, computer equipment, computer system or computer network or any part thereof, or by other mechanical or electronic device such as cellular telephone, pager or other electronic device capable of storing information.

"Nursing home" means a facility providing therein nursing care to sick, invalid, infirm, disabled or convalescent persons in addition to lodging and board or health-related service, or any combination of the foregoing and in addition thereto, providing nursing care and health-related service, or either of them, to persons who are not occupants of the facility.

"Retirement community" means a retirement community which is registered with the Division of Housing and Development in the Department of Community Affairs pursuant to "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.).

"Veterans' facility" means any home, institution, hospital, or part thereof, the admission to which is under the jurisdiction of the Department of Military and Veterans' Affairs.

(cf: P.L.2003, c.184, s.6)

3. This act shall take effect on the first day of the fourth month following enactment.

STATEMENT

This bill would increase the penalties for identity theft in cases when the victim is a senior citizen or veteran.

Under the bill, the penalties would be increased as follows:

- If the offense only involves one victim, and a senior citizen or a veteran is deprived of an amount less than $500, a first offense would constitute a crime of the third degree, rather than fourth degree, and a second or subsequent offense would constitute a crime of the second degree, rather than third degree;
- If there are two to five victims or the actor obtains a benefit of $500 to $75,000, and any of the victims is a senior citizen or a veteran, the offense would constitute a crime of the second degree, rather than the third degree; and
- If there are more than five victims or the actor obtains a benefit of $75,000 or more, any of the victims is a senior

citizen or a veteran, the offense would constitute a crime of the first degree, rather than the second degree.

Similarly, for crimes of trafficking in personal identifying information pertaining to another person, this bill would increase penalties as follows:

- If the offense only involves one piece of information and that information was obtained through records owned or maintained by a continuing care retirement community, nursing home, retirement community, or veterans' facility, the offense would constitute a crime of the third degree, rather than the fourth degree;
- If the offense involves 20 or more pieces of information and that information was obtained through records owned or maintained by a continuing care retirement community, nursing home, retirement community, or veterans' facility, the offense would constitute a crime of the second degree, rather than third degree;
- If the offense only involves 50 or more pieces of information and that information was obtained through records owned or maintained by a continuing care retirement community, nursing home, retirement community, or veterans' facility, the offense would constitute a crime of the first degree, rather than second degree.

A crime in the fourth degree is punishable by up to 18 months imprisonment, a fine of $10,000, or both. A crime in the third degree is punishable by three to five years imprisonment, a fine of up to $15,000, or both, and a crime in the second degree is punishable by five to 10 years imprisonment, a fine of up to $150,000, or both. A crime in the first degree is punishable by 10 to 20 years imprisonment, a fine of up to $200,000, or both.