

ASSEMBLY, No. 2640

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Assemblywoman GABRIELA M. MOSQUERA

District 4 (Camden and Gloucester)

Co-Sponsored by:

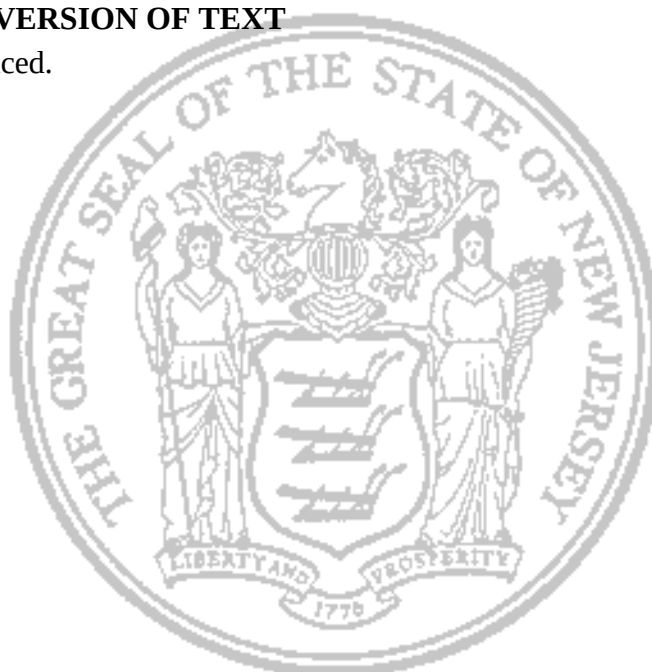
**Assemblywoman Speight, Assemblymen Bramnick, Benson and
Assemblywoman Dunn**

SYNOPSIS

Creates crime of fiscal victimization against senior citizens or disabled persons.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/1/2020)

1 **AN ACT** concerning senior citizens and persons with a disability
2 and 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. Notwithstanding any other provision of law to the
8 contrary, a person is guilty of the crime of fiscal victimization
9 against a senior citizen or a person with a disability if he commits,
10 attempts to commit, conspires with another to commit or threatens
11 the immediate commission of a theft offense specified in chapter 20
12 of Title 2C of the New Jersey Statutes or a violation of
13 N.J.S.2C:21-17 against a senior citizen or a person with a disability.
14 If the victim of an underlying offense is a senior citizen or a person
15 with a disability, the actor shall be strictly liable for the
16 victimization offense and it shall not be a defense that the actor did
17 not know that the victim was a senior citizen or a person with a
18 disability, nor shall it be a defense that the actor believed that the
19 victim was not a senior citizen or a person with a disability, even if
20 the mistaken belief was reasonable.

21 b. Grading. Fiscal victimization is a crime of the fourth degree
22 if the underlying offense referred to in subsection a. of this section
23 is a disorderly persons offense or petty disorderly persons offense.
24 Otherwise, fiscal victimization is a crime one degree higher than the
25 most serious underlying crime referred to in subsection a. of this
26 section, except that when the underlying crime is a crime of the first
27 degree, fiscal victimization is a first degree crime and the defendant
28 upon conviction thereof may, notwithstanding the provisions of
29 paragraph (1) of subsection a. of N.J.S.2C:43-6, be sentenced to an
30 ordinary term of imprisonment between 10 years and 30 years, with
31 a presumptive term of 20 years.

32 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
33 provision of law to the contrary, a conviction of fiscal victimization
34 shall not merge with a conviction of any of the underlying offenses
35 referred to in subsection a. of this section, nor shall any conviction
36 for the underlying offense merge with a conviction for fiscal
37 victimization. The court shall impose separate sentences upon a
38 conviction for fiscal victimization and a conviction of any
39 underlying offense.

40 d. For the purposes of this section:

41 "Senior citizen" means a person 60 years of age or older; and

42 "Person with a disability" means a person who by reason of a
43 pre-existing medically determinable physical or mental impairment
44 is substantially incapable of exercising normal physical or mental
45 power of resistance, and includes, but is not limited to, a person
46 determined disabled pursuant to the federal Social Security Act or
47 any other governmental retirement or benefits program that uses
48 substantially the same criteria for determining eligibility.

1 2. This act shall take effect immediately.

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STATEMENT

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6 This bill creates the separate crime of fiscal victimization of a
7 senior citizen or a person with a disability.

8 Under the provisions of the bill a person would be guilty of fiscal
9 victimization if he commits, attempts to commit, conspires with
10 another to commit or threatens to commit a theft offense specified
11 in chapter 20 of Title 2C of the New Jersey Statutes or a violation
12 of N.J.S.2C:21-17, identity theft, against a senior citizen or a person
13 with a disability. Fiscal victimization is a crime of the fourth
14 degree if the underlying offense is a disorderly persons offense or
15 petty disorderly persons offense. Otherwise, fiscal victimization is
16 a crime one degree higher than the most serious underlying crime,
17 except if the underlying crime is a crime of the first degree. Under
18 those circumstances, fiscal victimization would be a first degree
19 crime and upon conviction the defendant could be sentenced to an
20 ordinary term of imprisonment between 10 years and 30 years, with
21 a presumptive term of 20 years, notwithstanding the provisions of
22 N.J.S.A.2C:43-6.

23 The bill also provides a conviction of fiscal victimization would
24 not merge with a conviction of any of the underlying offenses, nor
25 would any conviction for the underlying offense merge with a
26 conviction for fiscal victimization. Therefore, the court would be
27 authorized to impose separate sentences upon a conviction for fiscal
28 victimization and a conviction of any underlying offense.

29 In addition, the bill provides that if the victim of the underlying
30 offense is a senior citizen or a person with a disability, the actor
31 would be strictly liable for the victimization offense. It would not
32 be a defense that the actor did not know that the victim was a senior
33 citizen or a person with a disability, nor would it be defense that the
34 actor believed that the victim was not a senior citizen or a person
35 with a disability, even if the mistaken belief was reasonable.

36 The bill defines a "senior citizen" as a person 60 years of age or
37 older. "Person with a disability" is defined as a person who by
38 reason of a pre-existing medically determinable physical or mental
39 impairment is substantially incapable of exercising normal physical
40 or mental power of resistance, and includes, but is not limited to, a
41 person determined disabled pursuant to the federal Social Security
42 Act or any other governmental retirement or benefits program that
43 uses substantially the same criteria for determining eligibility.