

SENATE, No. 601

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator DECLAN J. O'SCANLON, JR.

District 13 (Monmouth)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 1/30/2020)

1 AN ACT concerning senior citizens and persons with a disability
2 and supplementing Title 2C of the New Jersey Statutes.

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

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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.