

SENATE, No. 677

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator SAMUEL D. THOMPSON

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Upgrades crowdfunded thefts; imposes mandatory restitution and fines; requires minimum term of imprisonment.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning theft involving crowdfunding and
2 supplementing chapter 20 of 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. Crowdfunding theft. A person who violates
8 N.J.S.2C:20-4 by engaging in crowdfunding shall be guilty of a
9 fourth degree crime if the amount obtained from the crowdfunding
10 source does not exceed \$200 in the aggregate. If the amount
11 obtained from the crowdfunding source exceeds \$200 in the
12 aggregate, the person shall be guilty of a crime one degree higher
13 than the underlying offense.

14 b. Notwithstanding the provisions of N.J.S.2C:43-3 and in
15 addition to any other fine or penalty imposed, a person who
16 commits theft in violation of subsection a. of this section shall be
17 sentenced to make restitution to all the individuals who contributed
18 up to the amount of the contribution, and shall be liable for a fine of
19 up to \$500 for each crowdfunded contribution the person actually
20 collected or over which the person exercised control.

21 c. The court shall impose a term of imprisonment which shall
22 include the imposition of a minimum term, fixed at, or between,
23 one-third and one-half of the sentence imposed by the court, during
24 which the defendant shall be ineligible for parole, except that a
25 person convicted of a crime of the fourth degree shall be sentenced
26 to not more than 90 days imprisonment.

27 As used in this act, “crowdfunding” means the practice of raising
28 funds for a specific purpose or venture by soliciting money from a
29 number of unidentified individuals using the Internet, including but
30 not limited to a crowdfunding platform. As used in this act,
31 “crowdfunding” refers to the charitable giving of contributions and
32 offers no financial return to the individuals who contribute.

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34 2. Fines collected pursuant to subsection b. of section 1 of this
35 act shall be deposited into the fund established pursuant to section 8
36 of P.L.1984, c.180 (C.52:27D-286) in the Department of
37 Community Affairs for the purpose of providing temporary rental
38 and other housing assistance to persons who are homeless or in
39 imminent danger of losing housing.

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41 3. This act shall take effect immediately.

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44 **STATEMENT**

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46 Crowdfunding is the practice of raising funds by soliciting
47 money from individuals using the Internet, and includes but is not
48 limited to using a crowdfunding platform. In recent years, a

1 number of scam operations have exploited the generosity of
2 contributors who donate cash to fund charitable causes. While the
3 actual dollar amount donated by individuals can vary widely, in the
4 aggregate the amounts can total thousands of dollars. A typical
5 unlawful scheme involves posting a story on an Internet site of an
6 individual facing acute personal hardship either caused by or
7 exacerbated by financial need. The story is posted as an appeal for
8 funds to alleviate the financial burden of the person in crisis, and
9 transmitted to potential donors by email and social media.
10 Contributions, upon receipt, are then retained by the fund solicitor
11 or not disposed of as described in the appeal.

12 Currently, the crime of theft is graded based upon the amount
13 involved. Theft by deception, N.J.S.A.2C:20-4, involves obtaining
14 property by deception, or purposely creating or reinforcing a false
15 impression, including but not limited to a false impression that the
16 person is soliciting or collecting funds for a charitable purpose.
17 This bill increases the degree of the offense if the theft employs a
18 crowdfunding source. Under the bill, a person who violates
19 N.J.S.2C:20-4 by engaging in crowdfunding shall be guilty of a
20 fourth degree crime if the amount obtained from the crowdfunding
21 source does not exceed \$200 in the aggregate. If the amount
22 obtained from the crowdfunding source exceeds \$200 in the
23 aggregate, the person shall be guilty of a crime one degree higher
24 than the underlying theft offense.

25 The bill requires that a person convicted under this section shall
26 be sentenced to make restitution and shall be liable to a fine of up to
27 \$500 for each crowdfunded contribution the person actually
28 collected or over which the person exercised control. The fine
29 portion shall be deposited into the fund established pursuant to
30 section 8 of P.L. 1984, c.180 (C.52:27D-286) in the Department of
31 Community Affairs for the purpose of providing temporary rental
32 and other housing assistance to persons who are homeless or in
33 imminent danger of losing housing.

34 The bill further requires a term of imprisonment which shall
35 include the imposition of a minimum term, fixed at, or between,
36 one-third and one-half of the sentence imposed during which the
37 defendant shall be ineligible for parole, except that a person
38 convicted of a crime of the fourth degree shall be sentenced to not
39 more than 90 days imprisonment.

40 It is the sponsor's view that crowdfunding theft schemes can
41 undermine the foundation of charitable giving where sums of cash
42 need to be amassed quickly or where individuals seek to respond to
43 a crisis in a quick and immediate way. The betrayal of trust
44 generated by this type of fraud warrants significant consequences
45 that differ in kind from other types of theft offenses.

46 This bill is in response to a recent incident involving charges
47 filed by the Burlington County Prosecutor against a New Jersey

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1 couple and a homeless man who allegedly set up a GoFundMe page
2 to raise funds for the homeless man, but who kept the money, which
3 totaled in excess of \$400,000, as part of a scheme to defraud
4 contributors.