

SENATE, No. 893

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 27, 2020

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Creates crime of victimization of persons with disabilities and senior citizens.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 4/9/2020)

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 victimization against a
9 senior citizen or a person with a disability if he commits, attempts
10 to commit, conspires with another to commit, or threatens the
11 immediate commission of, an offense specified in chapters 11
12 through 18 of Title 2C of the New Jersey Statutes against a senior
13 citizen or a person with a disability. If the victim of an underlying
14 offense is a senior citizen or a person with a disability, the actor
15 shall be strictly liable for the victimization offense and it shall not
16 be a defense that the actor did not know that the victim was a senior
17 citizen or a person with a disability, nor shall it be a defense that the
18 actor believed that the victim was not a senior citizen or a person
19 with a disability, even if the mistaken belief was reasonable.

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

31 c. In any prosecution under subsection a. of this section when
32 the underlying crime was solely a third degree violation of
33 N.J.S.2C:18-2, it is an affirmative defense that the property entered
34 was an unoccupied motor vehicle or other unoccupied structure. In
35 any prosecution under subsection a. of this section when the
36 underlying crime was solely a violation of N.J.S.2C:17-3, it is an
37 affirmative defense that no person other than the actor was present
38 at the time the offense was committed.

39 d. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
40 provision of law to the contrary, a conviction of victimization shall
41 not merge with a conviction of any of the underlying offenses
42 referred to in subsection a. of this section, nor shall any conviction
43 for the underlying offense merge with a conviction for
44 victimization. The court shall impose separate sentences upon a
45 conviction for victimization and a conviction of any underlying
46 offense.

47 e. For the purposes of this section:

48 "Person with a disability" means a person who by reason of a

1 pre-existing medically determinable physical or mental impairment
2 is substantially incapable of exercising normal physical or mental
3 power of resistance, and includes, but is not limited to, a person
4 determined disabled pursuant to the federal Social Security Act or
5 any other governmental retirement or benefits program that uses
6 substantially the same criteria for determining eligibility; and

7 "Senior citizen" means a person 60 years of age or older.

8
9 2. This act shall take effect immediately.

10
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12 STATEMENT

13
14 This bill creates the separate crime of victimization of a senior
15 citizen or a person with a disability, which would be graded one
16 degree higher than the offense that was committed.

17 A person would be guilty of victimization if the person commits,
18 attempts to commit, conspires with another to commit, or threatens
19 the immediate commission of, an offense specified in chapters 11
20 through 18 of Title 2C of the New Jersey Statutes (criminal
21 homicide; assault, reckless endangerment and terroristic threats;
22 kidnapping and related offenses, coercion; sexual offenses; robbery;
23 bias intimidation; arson, criminal mischief and other property
24 destruction; and burglary and other criminal intrusion) against a
25 senior citizen or a person with a disability. If the victim of an
26 underlying offense is a senior citizen or a person with a disability,
27 the actor would be strictly liable for the victimization offense and it
28 would not be a defense that the actor did not know that the victim
29 was a senior citizen or a person with a disability.

30 Under the provisions of the bill, victimization is a crime of the
31 fourth degree if the underlying offense is a disorderly persons
32 offense or petty disorderly persons offense. Otherwise, it is a crime
33 one degree higher than the most serious underlying crime, except
34 that when the underlying crime is a crime of the first degree,
35 victimization is a first degree crime and the defendant, upon
36 conviction thereof, may be sentenced to an ordinary term of
37 imprisonment between 10 years and 30 years, with a presumptive
38 term of 20 years.

39 The bill also provides that when the underlying crime was solely
40 a third degree violation of N.J.S.A.2C:18-2 (burglary), it is an
41 affirmative defense that the property entered was an unoccupied
42 motor vehicle or other unoccupied structure. In a prosecution when
43 the underlying crime was solely a violation of N.J.S.A.2C:17-3
44 (criminal mischief), it is an affirmative defense that no person other
45 than the actor was present at the time the offense was committed.
46 In addition, a conviction of victimization would not merge with a
47 conviction of any of the underlying offenses. The court would
48 impose separate sentences upon a conviction for victimization and a

1 conviction of any underlying offense.

2 A "person with a disability" is defined as a person who by reason
3 of a pre-existing medically determinable physical or mental
4 impairment is substantially incapable of exercising normal physical
5 or mental power of resistance, and includes, but is not limited to, a
6 person determined disabled pursuant to the federal Social Security
7 Act or any other governmental retirement or benefits program that
8 uses substantially the same criteria for determining eligibility. A
9 "senior citizen" is defined as a person 60 years of age or older.