

ASSEMBLY, No. 748

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

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District 9 (Atlantic, Burlington and Ocean)

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**Assemblywoman N.Munoz, Assemblymen Simonsen, McClellan, Rooney
and DePhillips**

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: 5/8/2023)

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

3

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

6

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

8 2C:21-17. Impersonation; Theft of Identity; crime.

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

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

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

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

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

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

39 As used in this section:

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

44 "Senior citizen" means a natural person 62 years of age or older.

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 thus is new matter.

1 “Veteran” means any citizen and resident of this State honorably
2 discharged or released under honorable circumstances from the
3 active military service of the United States.

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

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

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

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

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

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

38 e. The sentencing court shall issue such orders as are necessary
39 to correct any public record or government document that contains
40 false information as a result of a theft of identity. The sentencing
41 court may provide restitution to the victim in accordance with the
42 provisions of section 4 of P.L.2002, c.85 (C.2C:21-17.1).
43 (cf: P.L.2005, c.224, s.2)

44
45 2. Section 6 of P.L.2003, c.184 (C.2C:21-17.3) is amended to
46 read as follows:

47 6. a. A person who knowingly distributes, manufactures or
48 possesses any item containing personal identifying information

1 pertaining to another person, without that person's authorization,
2 and with knowledge that the actor is facilitating a fraud or injury to
3 be perpetrated by anyone is guilty of a crime of the fourth degree ,
4 except in cases where the item containing personal identifying
5 information was obtained through records owned or maintained by a
6 continuing care retirement community, nursing home, retirement
7 community, or veterans' facility, the offense shall constitute a crime
8 of the third degree.

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

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

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

40 d. As used in this section:

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

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

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

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

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

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

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

29
30 3. This act shall take effect on the first day of the fourth month
31 following enactment.

32 33 34 STATEMENT

35
36 This bill would increase the penalties for identity theft in cases
37 when the victim is a senior citizen or veteran.

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

- 39 • If the offense only involves one victim, and a senior citizen
40 or a veteran is deprived of an amount less than \$500, a first
41 offense would constitute a crime of the third degree, rather
42 than fourth degree, and a second or subsequent offense
43 would constitute a crime of the second degree, rather than
44 third degree;
- 45 • If there are two to five victims or the actor obtains a benefit
46 of \$500 to \$75,000, and any of the victims is a senior citizen
47 or a veteran, the offense would constitute a crime of the
48 second degree, rather than the third degree; and

- 1 • If there are more than five victims or the actor obtains a
2 benefit of \$75,000 or more, any of the victims is a senior
3 citizen or a veteran, the offense would constitute a crime of
4 the first degree, rather than the second degree.
- 5 Similarly, for crimes of trafficking in personal identifying
6 information pertaining to another person, this bill would increase
7 penalties as follows:
- 8 • If the offense only involves one piece of information and
9 that information was obtained through records owned or
10 maintained by a continuing care retirement community,
11 nursing home, retirement community, or veterans' facility,
12 the offense would constitute a crime of the third degree,
13 rather than the fourth degree;
- 14 • If the offense involves 20 or more pieces of information and
15 that information was obtained through records owned or
16 maintained by a continuing care retirement community,
17 nursing home, retirement community, or veterans' facility,
18 the offense would constitute a crime of the second degree,
19 rather than third degree;
- 20 • If the offense only involves 50 or more pieces of information
21 and that information was obtained through records owned or
22 maintained by a continuing care retirement community,
23 nursing home, retirement community, or veterans' facility,
24 the offense would constitute a crime of the first degree,
25 rather than second degree.
- 26 A crime in the fourth degree is punishable by up to 18 months
27 imprisonment, a fine of \$10,000, or both. A crime in the third
28 degree is punishable by three to five years imprisonment, a fine of
29 up to \$15,000, or both, and a crime in the second degree is
30 punishable by five to 10 years imprisonment, a fine of up to
31 \$150,000, or both. A crime in the first degree is punishable by 10
32 to 20 years imprisonment, a fine of up to \$200,000, or both.