

ASSEMBLY, No. 4593

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 17, 2024

Sponsored by:

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District 9 (Ocean)

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SYNOPSIS

Creates offense of financial exploitation of the elderly.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/24/2024)

1 AN ACT creating the offense of financial exploitation of the elderly
2 and amending N.J.S.2C:20-1 and N.J.S.2C:20-2 and
3 supplementing chapter 20 of Title 2C of the New Jersey Statutes.

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

7
8 1. N.J.S.2C:20-1 is amended to read as follows:
9 2C:20-1. Definitions. In chapters 20 and 21, unless a different
10 meaning plainly is required:

11 a. "Deprive" means: (1) to withhold or cause to be withheld
12 property of another permanently or for so extended a period as to
13 appropriate a substantial portion of its economic value, or with
14 purpose to restore only upon payment of reward or other
15 compensation; or (2) to dispose or cause disposal of the property so
16 as to make it unlikely that the owner will recover it.

17 b. "Fiduciary" means an executor, general administrator of an
18 intestate, administrator with the will annexed, substituted
19 administrator, guardian, substituted guardian, trustee under any
20 trust, express, implied, resulting or constructive, substituted trustee,
21 executor, conservator, curator, receiver, trustee in bankruptcy,
22 assignee for the benefit of creditors, partner, agent or officer of a
23 corporation, public or private, temporary administrator,
24 administrator, administrator pendente lite, administrator ad
25 prosequendum, administrator ad litem or other person acting in a
26 similar capacity. "Fiduciary" shall also include an employee or an
27 agent of a cargo carrier, as the term is defined in subsection w. of
28 this section, while acting in that capacity, or an independent
29 contractor providing services to a cargo carrier as that term is
30 defined in subsection w. of this section.

31 c. "Financial institution" means a bank, insurance company,
32 credit union, savings and loan association, investment trust or other
33 organization held out to the public as a place of deposit of funds or
34 medium of savings or collective investment.

35 d. "Government" means the United States, any state, county,
36 municipality, or other political unit, or any department, agency or
37 subdivision of any of the foregoing, or any corporation or other
38 association carrying out the functions of government.

39 e. "Movable property" means property the location of which
40 can be changed, including things growing on, affixed to, or found in
41 land, and documents, although the rights represented thereby have
42 no physical location. "Immovable property" is all other property.

43 f. "Obtain" means: (1) in relation to property, to bring about a
44 transfer or purported transfer of a legal interest in the property,

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 whether to the obtainer or another; or (2) in relation to labor or
2 service, to secure performance thereof.

3 g. "Property" means anything of value, including real estate,
4 tangible and intangible personal property, trade secrets, contract
5 rights, choses in action and other interests in or claims to wealth,
6 admission or transportation tickets, captured or domestic animals,
7 food and drink, electric, gas, steam or other power, financial
8 instruments, information, data, and computer software, in either
9 human readable or computer readable form, copies or originals.

10 h. "Property of another" includes property in which any person
11 other than the actor has an interest which the actor is not privileged
12 to infringe, regardless of the fact that the actor also has an interest
13 in the property and regardless of the fact that the other person might
14 be precluded from civil recovery because the property was used in
15 an unlawful transaction or was subject to forfeiture as contraband.
16 Property in possession of the actor shall not be deemed property of
17 another who has only a security interest therein, even if legal title is
18 in the creditor pursuant to a conditional sales contract or other
19 security agreement.

20 i. "Trade secret" means the whole or any portion or phase of
21 any scientific or technical information, design, process, procedure,
22 formula or improvement which is secret and of value. A trade
23 secret shall be presumed to be secret when the owner thereof takes
24 measures to prevent it from becoming available to persons other
25 than those selected by the owner to have access thereto for limited
26 purposes.

27 j. "Dealer in property" means a person who buys and sells
28 property as a business.

29 k. "Traffic" means:

30 (1) To sell, transfer, distribute, dispense or otherwise dispose of
31 property to another person; or

32 (2) To buy, receive, possess, or obtain control of or use
33 property, with intent to sell, transfer, distribute, dispense or
34 otherwise dispose of such property to another person.

35 l. "Broken succession of title" means lack of regular
36 documents of purchase and transfer by any seller except the
37 manufacturer of the subject property, or possession of documents of
38 purchase and transfer by any buyer without corresponding
39 documents of sale and transfer in possession of seller, or possession
40 of documents of sale and transfer by seller without corresponding
41 documents of purchase and transfer in possession of any buyer.

42 m. "Person" includes any individual or entity or enterprise, as
43 defined herein, holding or capable of holding a legal or beneficial
44 interest in property.

45 n. "Anything of value" means any direct or indirect gain or
46 advantage to any person.

47 o. "Interest in property which has been stolen" means title or
48 right of possession to such property.

- 1 p. "Stolen property" means property that has been the subject
2 of any unlawful taking.
- 3 q. "Enterprise" includes any individual, sole proprietorship,
4 partnership, corporation, business trust, association, or other legal
5 entity, and any union or group of individuals associated in fact,
6 although not a legal entity, and it includes illicit as well as licit
7 enterprises and governmental as well as other entities.
- 8 r. "Attorney General" includes the Attorney General of New
9 Jersey, his assistants and deputies. The term shall also include a
10 county prosecutor or his designated assistant prosecutor, if a county
11 prosecutor is expressly authorized in writing by the Attorney
12 General to carry out the powers conferred on the Attorney General
13 by this chapter.
- 14 s. "Access device" means property consisting of any telephone
15 calling card number, credit card number, account number, mobile
16 identification number, electronic serial number, personal
17 identification number, or any other data intended to control or limit
18 access to telecommunications or other computer networks in either
19 human readable or computer readable form, either copy or original,
20 that can be used to obtain telephone service. Access device also
21 means property consisting of a card, code or other means of access
22 to an account held by a financial institution, or any combination
23 thereof, that may be used by the account holder for the purpose of
24 initiating electronic fund transfers.
- 25 t. "Defaced access device" means any access device, in either
26 human readable or computer readable form, either copy or original,
27 which has been removed, erased, defaced, altered, destroyed,
28 covered or otherwise changed in any manner from its original
29 configuration.
- 30 u. "Domestic companion animal" means any animal commonly
31 referred to as a pet or one that has been bought, bred, raised or
32 otherwise acquired, in accordance with local ordinances and State
33 and federal law for the primary purpose of providing
34 companionship to the owner, rather than for business or agricultural
35 purposes.
- 36 v. "Personal identifying information" means any name, number
37 or other information that may be used, alone or in conjunction with
38 any other information, to identify a specific individual and includes,
39 but is not limited to, the name, address, telephone number, date of
40 birth, social security number, official State issued identification
41 number, employer or taxpayer number, place of employment,
42 employee identification number, demand deposit account number,
43 savings account number, credit card number, mother's maiden
44 name, unique biometric data, such as fingerprint, voice print, retina
45 or iris image or other unique physical representation, or unique
46 electronic identification number, address or routing code of the
47 individual.

1 w. "Cargo carrier" means: (1) any business or establishment
2 regularly operating for the purpose of conveying goods or property
3 for compensation from one place to another by road, highway, rail,
4 water or air, by any means including but not limited to any pipeline
5 system, railroad car, motor truck, truck, trailer, semi-trailer,
6 commercial motor vehicle or other vehicle, any steamboat, vessel or
7 aircraft, and any business or establishment regularly engaged in the
8 temporary storage of goods or property incident to further
9 distribution of the goods or property elsewhere for commercial
10 purposes, including but not limited to businesses or establishments
11 operating a tank or storage facility, warehouse, terminal, station,
12 station house, platform, depot, wharf, pier, or from any ocean,
13 intermodal, container freight station or freight consolidation
14 facility; or (2) any business or establishment that conveys goods or
15 property which it owns or has title to, from one place to another, by
16 road, highway, rail, water or air by any means including but not
17 limited to any pipeline system, railroad car, motor truck, truck,
18 trailer, semi-trailer, commercial motor vehicle or other vehicle, any
19 steamboat, vessel or aircraft, and including the storage and
20 warehousing of goods and property incidental to their conveyance
21 from one place to another.

22 x. "Elderly" means any person who is 60 years of age or older
23 and is suffering from a disease or infirmity associated with
24 advanced age or suffers from a mental disease, defect or condition
25 which renders the person incapable of deciding whether to give or
26 withhold consent to taking, obtaining or withholding of his
27 property.

28 y. "Person in a position of trust" means a person who:

29 (a) is the parent, spouse, adult child or other relative by blood or
30 affinity of an elderly person; or

31 (b) is a joint tenant or tenant in common with an elderly person;
32 or

33 (c) has a fiduciary obligation to an elderly person; or

34 (d) receives monetary or other valuable consideration for
35 providing care for the elderly person ; or

36 (e) lives with or provides some component of home care
37 services on a continuing basis to the elderly person including, but
38 not limited to, a neighbor or friend who does not provide such
39 services on a compensated basis but has access to the elderly person
40 based on such relationship.

41 (cf: P.L.2013, c.58, s.1)

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43 2. N.J.S.2C:20-2 is amended to read as follows:

44 2C:20-2. a. Consolidation of Theft and Computer Criminal
45 Activity Offenses. Conduct denominated theft or computer
46 criminal activity in this chapter constitutes a single offense, but
47 each episode or transaction may be the subject of a separate
48 prosecution and conviction. A charge of theft or computer criminal

1 activity may be supported by evidence that it was committed in any
2 manner that would be theft or computer criminal activity under this
3 chapter, notwithstanding the specification of a different manner in
4 the indictment or accusation, subject only to the power of the court
5 to ensure fair trial by granting a bill of particulars, discovery, a
6 continuance, or other appropriate relief where the conduct of the
7 defense would be prejudiced by lack of fair notice or by surprise.

8 b. Grading of theft offenses.

9 (1) Theft constitutes a crime of the second degree if:

10 (a) The amount involved is \$75,000 or more;

11 (b) The property is taken by extortion;

12 (c) The property stolen is a controlled dangerous substance or
13 controlled substance analog as defined in N.J.S.2C:35-2 and the
14 quantity is in excess of one kilogram;

15 (d) The property stolen is a person's benefits under federal or
16 State law, or from any other source, which the Department of
17 Human Services or an agency acting on its behalf has budgeted for
18 the person's health care and the amount involved is \$75,000 or
19 more;

20 (e) The property stolen is human remains or any part thereof;
21 except that, if the human remains are stolen by deception or
22 falsification of a document by which a gift of all or part of a human
23 body may be made pursuant to P.L.2008, c.50 (C.26:6-77 et al.), the
24 theft constitutes a crime of the first degree; or

25 (f) It is in breach of an obligation by a person in his capacity as a
26 fiduciary and the amount involved is \$50,000 or more.

27 (2) Theft constitutes a crime of the third degree if:

28 (a) The amount involved exceeds \$500 but is less than \$75,000;

29 (b) The property stolen is a firearm, vessel, boat, horse, domestic
30 companion animal or airplane;

31 (c) The property stolen is a controlled dangerous substance or
32 controlled substance analog as defined in N.J.S.2C:35-2 and the
33 amount involved is less than \$75,000 or is undetermined and the
34 quantity is one kilogram or less;

35 (d) It is from the person of the victim;

36 (e) It is in breach of an obligation by a person in his capacity as a
37 fiduciary and the amount involved is less than \$50,000;

38 (f) It is by threat not amounting to extortion;

39 (g) It is of a public record, writing or instrument kept, filed or
40 deposited according to law with or in the keeping of any public
41 office or public servant;

42 (h) The property stolen is a person's benefits under federal or
43 State law, or from any other source, which the Department of
44 Human Services or an agency acting on its behalf has budgeted for
45 the person's health care and the amount involved is less than
46 \$75,000;

47 (i) The property stolen is any real or personal property related to,
48 necessary for, or derived from research, regardless of value,

1 including, but not limited to, any sample, specimens and
2 components thereof, research subject, including any warm-blooded
3 or cold-blooded animals being used for research or intended for use
4 in research, supplies, records, data or test results, prototypes or
5 equipment, as well as any proprietary information or other type of
6 information related to research;

7 (j) The property stolen is a New Jersey Prescription Blank as
8 referred to in R.S.45:14-14;

9 (k) The property stolen consists of an access device or a defaced
10 access device;

11 (l) The property stolen consists of anhydrous ammonia and the
12 actor intends it to be used to manufacture methamphetamine; or

13 (m) The property stolen consists of a package delivered to a
14 residential property by a cargo carrier and the amount involved is
15 less than \$75,000 or is undetermined.

16 (3) Theft constitutes a crime of the fourth degree if the amount
17 involved is at least \$200 but does not exceed \$500; except that if
18 the theft involved financial exploitation of the elderly pursuant to
19 section 3 of P.L. , c. (C.) (now pending before the Legislature
20 as this bill), the theft constitutes a crime of the third degree.

21 (4) Theft constitutes a disorderly persons offense if:

22 (a) The amount involved was less than \$200; except that if the
23 theft involved financial exploitation of the elderly pursuant to
24 section 3 of P.L. , c. (C.) (now pending before the Legislature
25 as this bill), the theft constitutes a crime of the third degree; or

26 (b) The property stolen is an electronic vehicle identification
27 system transponder.

28 The amount involved in a theft or computer criminal activity
29 shall be determined by the trier of fact. The amount shall include,
30 but shall not be limited to, the amount of any State tax avoided,
31 evaded or otherwise unpaid, improperly retained or disposed of.
32 Amounts involved in thefts, thefts of motor vehicles, or computer
33 criminal activities committed pursuant to one scheme or course of
34 conduct, whether from the same person or several persons, may be
35 aggregated in determining the grade of the offense.

36 c. Claim of right. It is an affirmative defense to prosecution
37 for theft that the actor:

38 (1) Was unaware that the property or service was that of another;

39 (2) Acted under an honest claim of right to the property or
40 service involved or that he had a right to acquire or dispose of it as
41 he did; or

42 (3) Took property exposed for sale, intending to purchase and
43 pay for it promptly, or reasonably believing that the owner, if
44 present, would have consented.

45 d. Theft from spouse. It is no defense that theft or computer
46 criminal activity was from or committed against the actor's spouse,
47 except that misappropriation of household and personal effects, or
48 other property normally accessible to both spouses, is theft or

1 computer criminal activity only if it occurs after the parties have
2 ceased living together.

3 (cf: P.L. 2023, c.101, s.4)

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5 3. (New section) Financial exploitation of the elderly.

6 a. A person obtains property by financial exploitation of the
7 elderly when, being a person in a position of trust, he compels or
8 induces an elderly person to deliver such property to him or to a
9 third person by means of fraud, false promise, extortion or
10 intimidation.

11 b. No provision of this paragraph shall be deemed to impose
12 criminal liability upon any person who in good faith seeks to assist
13 an elderly person in the management of his property, but through no
14 fault of such person is unable to assist the elderly person.

15 c. In any prosecution for theft committed by financial
16 exploitation of the elderly, it is an affirmative defense that the
17 defendant did not know, or could not have known, the facts or
18 conditions which render the person an elderly person as defined in
19 subsection w. of N.J.S. 2C:20-1.

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21 4. This act shall take effect immediately.

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STATEMENT

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26 This bill creates the offense of Financial Exploitation of the
27 Elderly. Under the bill, a person obtains property by financial
28 exploitation of the elderly when, being a person in a position of
29 trust, he compels or induces an elderly person to deliver such
30 property to him or to a third person by means of fraud, false
31 promise, extortion or intimidation. "Elderly person" is defined as
32 any person who is 60 years of age or older and is suffering from a
33 disease or infirmity associated with advanced age or who suffers
34 from a mental disease, defect or condition which renders the person
35 incapable of deciding whether to give or withhold consent to taking,
36 obtaining or withholding of his or her property.

37 A "person in a position of trust" means a person who:

38 (a) is the parent, spouse, adult child or other relative by blood or
39 affinity of an elderly person; or (b) is a joint tenant or tenant in
40 common with an elderly person; or (c) has a fiduciary obligation to
41 an elderly person; or (d) receives monetary or other valuable
42 consideration for providing care for the elderly person; or (e) lives
43 with or provides some component of home care services on a
44 continuing basis to the elderly person including, but not limited to,
45 a neighbor or friend who does not provide such services but has
46 access to the elderly person based on such relationship. The offense
47 is graded as a crime of the third degree punishable by up to five
48 years imprisonment, a fine of up to \$15,000, or both when the

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1 amount involved is at least \$200.00 but does not exceed \$500.00.
2 Ordinarily thefts of this amount are graded as crimes of the fourth
3 degree. The bill also upgrades theft when the amount is less than
4 \$200.00 to a crime of the fourth degree from a disorderly persons
5 offense.

6 Theft from an elderly person when the amount involved exceeds
7 \$500.00 but is less than \$75,000.00 continues to be a crime of the
8 third degree.