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

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.
AN ACT concerning senior citizens and persons with a disability and supplementing Title 2C of the New Jersey Statutes.

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

1. a. Notwithstanding any other provision of law to the contrary, a person is guilty of the crime of fiscal victimization against a senior citizen or a person with a disability if he commits, attempts to commit, conspires with another to commit or threatens the immediate commission of a theft offense specified in chapter 20 of Title 2C of the New Jersey Statutes or a violation of N.J.S.2C:21-17 against a senior citizen or a person with a disability. If the victim of an underlying offense is a senior citizen or a person with a disability, the actor shall be strictly liable for the victimization offense and it shall not be a defense that the actor did not know that the victim was a senior citizen or a person with a disability, nor shall it be a defense that the actor believed that the victim was not a senior citizen or a person with a disability, even if the mistaken belief was reasonable.

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

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

d. For the purposes of this section:

"Senior citizen" means a person 60 years of age or older; and

"Person with a disability" means a person who by reason of a pre-existing medically determinable physical or mental impairment is substantially incapable of exercising normal physical or mental power of resistance, and includes, but is not limited to, a person determined disabled pursuant to the federal Social Security Act or any other governmental retirement or benefits program that uses substantially the same criteria for determining eligibility.
2. This act shall take effect immediately.

STATEMENT

This bill creates the separate crime of fiscal victimization of a senior citizen or a person with a disability. Under the provisions of the bill a person would be guilty of fiscal victimization if he commits, attempts to commit, conspires with another to commit or threatens to commit a theft offense specified in chapter 20 of Title 2C of the New Jersey Statutes or a violation of N.J.S.2C:21-17, identity theft, against a senior citizen or a person with a disability. Fiscal victimization is a crime of the fourth degree if the underlying offense is a disorderly persons offense or petty disorderly persons offense. Otherwise, fiscal victimization is a crime one degree higher than the most serious underlying crime, except if the underlying crime is a crime of the first degree. Under those circumstances, fiscal victimization would be a first degree crime and upon conviction the defendant could be sentenced to an ordinary term of imprisonment between 10 years and 30 years, with a presumptive term of 20 years, notwithstanding the provisions of N.J.S.A.2C:43-6.

The bill also provides a conviction of fiscal victimization would not merge with a conviction of any of the underlying offenses, nor would any conviction for the underlying offense merge with a conviction for fiscal victimization. Therefore, the court would be authorized to impose separate sentences upon a conviction for fiscal victimization and a conviction of any underlying offense. In addition, the bill provides that if the victim of the underlying offense is a senior citizen or a person with a disability, the actor would be strictly liable for the victimization offense. It would not be a defense that the actor did not know that the victim was a senior citizen or a person with a disability, nor would it be defense that the actor believed that the victim was not a senior citizen or a person with a disability, even if the mistaken belief was reasonable.

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