SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 1649

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 7, 2024

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 1649.

As amended and reported by the committee, this bill establishes the crime of fiscal victimization of a senior citizen or a person with a disability.

Under the provisions of the bill, a person is guilty of fiscal victimization if the person commits, attempts to commit, conspires with another to commit, or threatens to commit the crime of either theft or identity theft against a senior citizen or a person with a disability. The crime of fiscal victimization is a crime separate from the underlying offense of theft or identity theft.

The crime of fiscal victimization under the bill 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 is a first degree crime and, upon conviction, the defendant may be sentenced to an ordinary term of imprisonment between 10 years and 30 years, with a presumptive term of 20 years.

The bill also specifies that a conviction for fiscal victimization is not to merge with a conviction for the underlying offense and a conviction for the underlying offense is not to merge with a conviction for fiscal victimization, effectively authorizing the court to impose separate sentences for the two convictions. Under the amended bill, the fiscal victimization offense is to be dismissed if the underlying theft offense is dismissed or otherwise downgraded by the prosecutor to an offense not involving theft.

Additionally, the bill provides that the defendant is strictly liable for the fiscal victimization. It is not a defense that the defendant did not know that the victim was a senior citizen or a person with a disability. It also is not a defense that the defendant believed that the victim was not a senior citizen or a person with a disability, even if the mistaken belief was reasonable.

A "person with a disability" is defined in the bill 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. The bill defines a "senior citizen" as a person 60 years of age or older.

This bill was prefiled for introduction in the 2024-2025 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

The committee amended the bill to establish that the offense of fiscal victimization is to be dismissed if the underlying theft offense is dismissed or otherwise downgraded by the prosecutor to an offense not involving theft.