

LEGISLATIVE HISTORY CHECKLIST
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(Health care--misappropriation of another's benefits---criminal offense)

JSA: 2C:20-2

WS OF: 1993 CHAPTER: 363

BILL NO: S1372

SPONSOR(S): Bassano

DATE INTRODUCED: November 23, 1992

COMMITTEE: ASSEMBLY: Health and Human Services
SENATE: Health and Human Services

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
First reprint enacted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: December 13, 1993
SENATE: March 15, 1993

DATE OF APPROVAL: January 4, 1994

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: ~~yes~~ NO

FOLLOWING WERE PRINTED:

REPORTS: Yes

HEARINGS: No

974.90 New Jersey. Governor's Task Force on Health Care Fraud.
I59 The fight against fraud: a comprehensive program to combat
1993 health care fraud. December, 1993, Trenton, 1993.

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See newspaper clippings--attached:

"Two laws enacted to crack down on bogus health insurance claims." 1-5-94,
Star Ledger.

"Insurers told to fight fraud," 1-5-94, Trenton Times.

"Health insurance bills signed," 1-5-94, Asbury Park Press.

"Florio signs health-care fraud measures," 1-5-94, Home News.

"Health insurance fraud is targeted," 1-5-94, Philadelphia Inquirer.

"Fighting aim at health fraud," 1-5-94, Bergen Record.

KBG:pp

P.L.1993, CHAPTER 363, approved January 4, 1994
1992 Senate No. 1372 (First Reprint)

1 AN ACT concerning misappropriation of a person's health care
2 benefits and amending N.J.S.2C:20-2.

3
4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

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

7 2C:20-2. Consolidation of Theft Offenses; Grading; Provisions
8 Applicable to Theft Generally. a. Consolidation of Theft
9 Offenses. Conduct denominated theft in this chapter constitutes
10 a single offense, but each episode or transaction may be the
11 subject of a separate prosecution and conviction. A charge of
12 theft may be supported by evidence that it was committed in any
13 manner that would be theft under this chapter, notwithstanding
14 the specification of a different manner in the indictment or
15 accusation, subject only to the power of the court to ensure fair
16 trial by granting a bill of particulars, discovery, a continuance, or
17 other appropriate relief where the conduct of the defense would
18 be prejudiced by lack of fair notice or by surprise.

19 b. Grading of theft offenses.

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

21 (a) The amount involved is \$75,000.00 or more;

22 (b) The property is taken by extortion; ¹[or]¹

23 (c) The property stolen is a controlled dangerous substance or
24 controlled substance analog as defined in N.J.S. 2C:35-2 and the
25 quantity is in excess of one kilogram¹; or

26 (d) The property stolen is a person's benefits under federal or
27 State law, or from any other source, which the Department of
28 Human Services or an agency acting on its behalf has budgeted
29 for the person's health care and the amount involved is \$75,000
30 or more¹.

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

32 (a) The amount involved exceeds \$500.00 but is less than
33 \$75,000.00;

34 (b) The property stolen is a firearm, automobile, boat, horse
35 or airplane;

36 (c) The property stolen is a controlled dangerous substance or
37 controlled substance analog as defined in N.J.S. 2C:35-2 and the
38 amount involved is less than \$75,000.00 or is undetermined and
39 the quantity is one kilogram or less;

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

41 (e) It is in breach of an obligation by a person in his capacity
42 as a fiduciary;

43 (f) It is by threat not amounting to extortion; [or]

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.

Matter enclosed in superscript numerals has been adopted as follows:
Senate floor amendments adopted February 18, 1993.

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

4 (h) The property stolen is a person's benefits under federal or
5 State law, or from any other source, which the Department of
6 Human Services or an agency acting on its behalf has budgeted
7 for the person's health care ¹and the amount involved is less than
8 \$75,000¹.

9 (3) Theft constitutes a crime of the fourth degree if the
10 amount involved is at least \$200.00 but does not exceed \$500.00.
11 If the amount involved was less than \$200.00 the offense
12 constitutes a disorderly persons offense.

13 (4) The amount involved in a theft shall be determined by the
14 trier of fact. The amount shall include, but shall not be limited
15 to, the amount of any State tax avoided, evaded or otherwise
16 unpaid, improperly retained or disposed of. Amounts involved in
17 thefts committed pursuant to one scheme or course of conduct,
18 whether from the same person or several persons, may be
19 aggregated in determining the grade of the offense.

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

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

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

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

30 d. Theft from spouse. It is no defense that theft was from the
31 actor's spouse, except that misappropriation of household and
32 personal effects, or other property normally accessible to both
33 spouses, is theft only if it occurs after the parties have ceased
34 living together.

35 (cf: P.L.1987, c.106, s.5)

36 2. This act shall take effect immediately.

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41 Makes misappropriation of a patient's health care benefits a
42 crime of theft.

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2 Human Services or an agency acting on its behalf has budgeted
3 for the person's health care.

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34 **STATEMENT**

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36 This bill makes it a crime of theft (third degree) for a person to
37 use a patient's health care benefits for some purpose other than
38 to pay for the patient's health care. (A third degree crime is
39 punishable by a fine of up to \$7,500 or a term of imprisonment of
40 between three and five years, or both.) This bill is intended to
41 discourage family members and other persons from
42 misappropriating a health care facility patient's pension or public
43 benefits for their own ends, rather than using it to meet the
44 patient's cost of care, which deprives the facility of the funds to
45 which it is entitled and puts the patient at risk of discharge for
46 nonpayment.

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Makes misappropriation of a patient's health care benefits a
52 crime of theft.

ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 1372

STATE OF NEW JERSEY

DATED: NOVEMBER 22, 1993

The Assembly Health and Human Services Committee favorably reports Senate Bill No. 1372 (1R).

This bill makes it a crime of theft (second degree) for a person to use a patient's public or private benefits, which the Department of Human Services or an agency acting on its behalf has budgeted for the person's health care, for some purpose other than to pay for the patient's health care, when the amount involved is \$75,000 or more. (A second degree crime is punishable by a fine of up to \$100,000 or a term of imprisonment of between five and 10 years, or both.) The bill makes it a crime of theft (third degree) for a person to use a patient's benefits for some purpose other than to pay for the patient's health care, when the amount involved is less than \$75,000. (A third degree crime is punishable by a fine of up to \$7,500 or a term of imprisonment of between three and five years, or both.)

This bill is intended to discourage family members and other persons from misappropriating a health care facility patient's pension or public benefits for their own ends, rather than using it to meet the patient's cost of care, which deprives the facility of the funds to which it is entitled and puts the patient at risk of discharge for nonpayment.

This bill is identical to Assembly Bill No. 2033 Aca, which the committee also reported on this date.

SENATE HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

SENATE, No. 1372

STATE OF NEW JERSEY

DATED: DECEMBER 10, 1992

The Senate Health and Human Services Committee favorably reports Senate Bill No. 1372.

This bill makes it a crime of theft (third degree) for a person to use a patient's health care benefits for some purpose other than to pay for the patient's health care. (A third degree crime is punishable by a fine of up to \$7,600 or a term of imprisonment of between three and five years, or both.) This bill is intended to discourage family members and other persons from misappropriating a health care facility patient's pension or public benefits for their own ends, rather than using it to meet the patient's cost of care, which deprives the facility of the funds to which it is entitled and puts the patient at risk of discharge for nonpayment.