

Office of the Governor

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NEWS RELEASE

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Governor Signs Bills Protecting Senior Citizens from Fraud and Murder Victims' Rights, Among Other Legislation

Governor Christie Whitman today signed "Nielsa's Law" which amends the murder statute in New Jersey to permit the display of a photograph of a murder victim at the sentencing portion of the murder trial. The Governor also signed the Senior Citizens Fraudulent Claims Act that seeks to amend the New Jersey Consumer Fraud Act to impose heightened penalties against individuals who defraud senior citizens.

Neilsa's Law

"The passage of Nielsa's Law doesn't bring back Nielsa Mason or ease the tremendous pain and suffering of the Mason family, but I believe the bill will ensure that murder victims, who obviously can't be present at trial, are represented in a dignified matter," said Gov. Whitman. "It's something the Mason family wanted at the trial on their murdered daughter's behalf - and we listened to their pleas to make the system more accommodating for survivors."

This bill amends the murder statute to permit the display of a photograph of a murder victim at the sentencing portion of the murder trial, in capital and non-capital murders. It would authorize such a photograph to be shown to a jury during the death penalty phase of a capital case, as well as to a judge during the sentencing portion of a non-capital case.

It also amends the law that permits crime victims to make "victim impact" statements to the sentencing court - authorizing victims to display photographs as part of their victim impact statements to the court in homicide cases.

Under previous law, victims could make victim impact statements to the sentencing court and to the penalty phase jury in a death penalty case. The law was silent as to whether photographs could be displayed and, as a result, some courts permitted such displays while others prohibited them in the absence of statutory guidance on this subject. Nielsa's Law authorizes the Supreme Court to issue court rules governing these displays to ensure uniformity regarding the photo's size, the permissible duration of the display and where in the courtroom the display may take place.

Nielsen's Law, **A-17**, was sponsored by Assembly Members Jack Collins (R-Salem/ Cumberland/Gloucester) and Melvin Cottrell (R-Burlington/Monmouth/Ocean) and Senators Diane B. Allen (R-Burlington/Camden), Dr. Gerald Cardinale (R-Bergen) and Raymond J. Zane (D-Salem/Cumberland/Gloucester).

Senior Citizens Fraudulent Claims Act

Referring to her passage of the Senior Citizens Fraudulent Claims Act, Gov. Whitman said "We need to protect the many faces in our New Jersey family - and that includes our elderly family members. Our state has one of the largest senior citizen populations in the nation - and it's growing. That's why I applaud this Act and its goal of protecting our seniors from fraud."

Introduced following a Feb.1997 report by the Division of Consumer Affairs' Elder Fraud Task Force, the Senior Citizens Fraudulent Claims Act applies to seniors over 60 years old and aims to amend the New Jersey Consumer Fraud Act through enhanced penalties for fraud.

If the Attorney General's Office were to successfully bring an action to enforce the Consumer Fraud Act on behalf of a senior citizen, the courts will now have to order restitution at twice the amount wrongfully acquired from the senior citizen. Also, any person who fails to make such a court-ordered restitution is subject to punishment for criminal contempt. The bill amends the Consumer Fraud Act to clarify that any penalties imposed under the Act are to be exclusive of (and in addition to) any monies or property that are ordered to be paid or restored.

The Senior Citizens Fraudulent Claims Act legislation, A- 1512, was sponsored by Assembly Members Joseph R. Malone (R-Burlington/Monmouth/Ocean) and Melvin Cottrell (R-Burlington/Monmouth/Ocean) and Senator Norman M. Robertson (R- Essex/Passaic).

In addition, Gov. Whitman signed today these pieces of legislation:

S-1235, sponsored by Senators Dr. Gerald Cardinale (R-Bergen) and Leonard T. Connors (R-Atlantic/Burlington/Ocean) and Assemblyman John V. Kelly (R-Bergen/Essex/Passaic), clarifies the 30-year rent control exemption for certain rental multiple dwelling units constructed without initial mortgage financing. The bill's purpose is to increase the availability of newly constructed rental housing for New Jersey residents and clarify the original intent of the Legislature in providing this exemption when it was enacted in 1987.

S-1808, sponsored by Senator Dr. Gerald Cardinale (R-Bergen) and Assembly Members Jeffrey W. Moran (R-Atlantic/Burlington/Ocean) and Anthony Impreveduto (D-Bergen/Hudson), exempts fair market value commercial leases and terminal rental adjustment clause

(TRAC) leases from the provisions of the "Consumer Protection Leasing Act." The initiative is designed to increase leasing opportunities for State businesses as it recognizes that the consumer protections in the Act are not needed for businesses that establish "bargained-for" contracts. Most other states, including New York and California, exempt commercial leases from their leasing statutes.

ACS, A-1352 and A-200, sponsored by Assembly Members Carol J. Murphy (R-Essex/Morris/ Passaic), Alan M. Augustine (R-Middlesex/Morris/Somerset/Union), George F. Geist (R-Camden/Gloucester), Nicholas Asselta (R-Cape May/Atlantic/Cumberland) and Charles K. Zisa (D-Bergen) and Senator John J. Matheussen (R-Camden/Gloucester), clarifies the crime of hindering a prosecution. Hindering is a crime of the third or fourth degree, or a disorderly persons offense, depending on the underlying circumstances. The bill amends the statute to say that hindering: 1) is when a person provides false information to a police officer regardless of whether the information is volunteered or is in response to an inquiry; (2) applies when false information is provided to hinder detention or investigation of a criminal defense; and (3) includes false information given to a police officer connected with a violation of the motor vehicle laws and a civil State investigator in connection with the violation of the Fraud Prevention Act.

SCS, A-1793, sponsored by Assemblyman Paul DiGaetano (R-Bergen/Essex/Passaic), authorizes the creation of a non-lapsing recreation trust fund by counties and municipalities that have not established a board of recreation commissioners. The fund is to be used to offset the costs of operating county or municipal recreational programs. Currently, only counties or municipalities with an established board of recreation commissioners can create a dedicated fund for recreational purposes. The bill gives flexibility to those who do not wish to establish a full board of commissioners.

A-1172, sponsored by Assemblywoman Connie Myers (R-Warren/Hunterdon/Mercer) and Senators Diane B. Allen (R-Burlington/Camden) and William E. Schluter (R-Warren/ Hunterdon/Mercer), creates procedures for the takeover of certain small sewer companies. The bill allows the Department of Environmental Protection and the Board of Public Utilities to order the takeover of a small sewer company where there is a record of significant, unresolved environmental violations. Currently, the BPU can order the takeover of a small water company by another public or private entity, if it determines that the former can't adequately serve its customers.

This legislation authorizes the DEP and BPU to order the acquisition of both a small water company and a small sewer company if either company has a record of significant, unresolved violations, provided both companies serve a common residential development, were

established by a developer to service that development and are under common control and ownership.

Entities taking over a small water sewer company will not be held liable for prior environmental liabilities, including penalties or levies against the previous owner. Public entities will be given expedited access to capital financing provided by the Environmental Infrastructure Trust for upgrades necessary for the proper operation of the small sewer of water company.

A-2395, sponsored by Assembly Members David C. Russo (R-Bergen/ Passaic) and John S. Wisniewski (D- Middlesex) and Senator Joseph A. Palaia (R-Monmouth), provides certain protections for dismissed non-tenured, certified school employees whose names are required to be maintained on a list. The list, maintained by the State Board of Examiners, contains the names and Social Security numbers of these employees, and the reason for dismissal.

The bill clarifies existing law by providing that a name will only be placed on the list if the employee is dismissed prior to the end of the year for just cause as a result of misconduct in office. If a disciplinary grievance arbitration is conducted, an employee's name can only be placed on the list if just cause due to misconduct is found by the arbitrator.

Also, an employee must be notified if his or her name is placed on the list and must be told when a chief school administrator seeks such information. The bill limits those who can obtain information from this list and says that a person may petition their name being included on the list to the Commissioner of Education. Finally, upon application a person's name will be removed if it has been on the list for at least three years.

Governor Whitman conditionally vetoed this legislation in June of this year. The Governor's recommendations were met and the legislation now clarifies the role of the Commissioner of Education. Specifically, the Commissioner can rule on whether a name is properly on a list, however it does not expand his jurisdiction in determining misconduct.