To: New Jersey Law Revision Commission
From: Samuel M. Silver, Deputy Director
Date: November 8, 2021
Re: "Mentally Incapacitated" as defined by N.J.S. 2C:14-1(i)

M E M O R A N D U M

Project Summary

The term "mentally incapacitated" as defined in N.J.S. 2C:14-1(i) is subject to competing, plausible interpretations based on textual analysis. One interpretation would find that an individual was mentally incapacitated only if he, or she, was administered a narcotic, anesthetic, intoxicant, or other substance without their prior knowledge or consent. An alternative reading of the statute would find the same individual mentally incapacitated if he, or she, was rendered temporarily incapable of understanding or controlling their conduct because they either voluntarily or involuntarily ingested a narcotic, anesthetic, or an intoxicant.

Statute Considered

The term "mentally incapacitated" is defined in N.J.S. 2C:14-1 subsection (i), which reads, in relevant part:

* * *

> i. "[m]entally incapacitated" means that condition in which a person is rendered temporarily incapable of understanding or controlling his conduct due to the influence of a narcotic, anesthetic, intoxicant, or other substance administered to that person without his prior knowledge or consent, or due to any other act committed upon that person which rendered that person incapable of appraising or controlling his conduct;

* * *

Background

A question that arises when examining subsection (i) of N.J.S. 2C14-1 is whether the phrase "administered to that person without his prior knowledge or consent" qualifies only "other substances" or whether it also qualifies "narcotics", "anesthetics", and "intoxicants." If the phrase "administered to that person without his, or her, prior knowledge or consent" qualifies all four possible intoxicants, then a victim could only be considered mentally incapacitated if the items that rendered them temporarily incapable of understanding or controlling their conduct occurred without their knowledge or consent.

If the phrase only qualifies "other substances," then an individual may be rendered "mentally incapacitated" even when the consumption of a narcotic, anesthetic or an intoxicant is voluntary. An examination of each interpretation follows.

Under the first interpretation, the four possible intoxicants (narcotics, anesthetics, intoxicants and other substances) constitute a single, integrated list of closely-related terms. When read in this manner, the qualifier "without prior knowledge or consent" seems to be associated with each of the terms.

Under the second interpretation, the limiting clause or phrase modifies only the noun or phrase that it immediately follows. In subsection i., the phrase "administered to that person without his prior knowledge or consent" immediately follows "other substance," and would therefore only apply to it, and not the previous three terms.

The New Jersey Superior Court, Appellate Division has inconsistently interpreted what it means to be mentally incapacitated for purposes of New Jersey's sexual assault statute.

Case Law

• *State v. Malik*[1]

In *State v. Malik*, the defendant was convicted by a jury of first degree aggravated sexual assault and sentenced to a ten-year prison term subject to the "No Early Release Act" (NERA).[2] The Defendant appealed his conviction to the Superior Court of New Jersey, Appellate Division.[3] The defendant argued that he had asked the trial court judge to charge the jury with the definition of "mentally incapacitated" set forth in N.J.S. 2C:14-1(i).[4] The defendant, however, withdrew the request after the trial court opined that it did not see how it would assist the defendant and that the State had not charged mentally incapacitated in the indictment.[5]

The Appellate Court observed that the indictment in *State v. Malik* was predicated upon the fact that the defendant "knew" or "should have known" that the victim was "physically helpless."[6] The State offered evidence that the victim had voluntarily consumed alcohol and proffered that her intoxicated state proved that she met the definition of "physically helpless" and not "mentally incapacitated."[7]

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[1] *State v. Malik*, 2018 WL 6441507 *1 (App. Div. Dec. 10, 2018).
[2] *Id.* at *1.
[3] *Id.*
[4] *Id.* at *9. The defendant raised seven points in his appellate brief. Only Point IV, however, is germane to the discussion raised in this Memorandum. The other six points raised in the defendant's brief have been omitted for purposes of this Memorandum.
[5] *Id.*
[6] *Id.* at *10.
[7] *Id. See* N.J.S. 2C:14-1(h) for the definition of "physically helpless."

In considering whether it was appropriate to charge the jury on the element of "mental incapacitation" the Court examined the definition set forth in N.J.S. 2C:14-1(i).[8] The Court determined that, "[t]here was no evidence that [the victim] ingested any substance without her knowledge or consent, or under any situation of which she did not have knowledge or control."[9] The Court concluded that, absent such proof, it would have been improper and confusing to jury to include this definition in a jury charge.[10]

The Court determined that the phrase "administered to that person without his prior knowledge or consent" qualified all four statutory terms - narcotics, anesthetics, intoxicants and other substances.[11] This reading of the statute essentially limits the term "mentally incapacitated" to victims that are rendered temporarily incapable of understanding or controlling their conduct only when they are administered substances without prior knowledge or consent.

• *C.R. v. M.T.*[12]

In *C.R. v. M.T.* the Plaintiff initiated an action under the Sexual Assault Survivor Protection Act (SASPA) to restrain the defendant, M.T., from having any contact with her.[13] The parties did not dispute that sexual contact occurred.[14] After hearing the testimony of the parties, the judge found the parties' competing versions to be "equally plausible."[15] Thereafter, the trial court found that the plaintiff failed to prove that her version was more likely true than defendant's.[16] The Plaintiff appealed.

Examining this matter in the context of SASPA, the Appellate Division noted that "the remaining factual dispute about consent turned on whether there was a ground upon which it could be found plaintiff was incapable of consenting."[17] A sexual assault victim is "one whom the actor knew or should have known was," among other things, "mentally incapacitated."[18]

The Court in *C.R.* recognized that one reading of the statute "might suggest a requirement that the alleged victim prove her involuntary intoxication, that is, that she ingested intoxicants

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[8] *Id.*
[9] *Id.*
[10] *Id.*
[11] This method of interpretation is predicated upon the "Series Qualifier Canon" see *Lockhart*, 136 S. Ct. at 970, and *Series Qualifier Canon,* BLACK'S LAW DICTIONARY (10th ed. 2014).
[12] *C.R. v. M.T.*, 461 N.J. Super. 341 (App. Div. 2019), *rev'd,* No. 083760, 2021 WL 4432912 (N.J. Sept. 28, 2021) (finding that trial courts should utilize the affirmative-consent standard and not the prostration of faculties standard when determining whether sexual activity was nonconsensual under SASPA). The Court's opinion in *C.R. v. M.T.*, does not address the issue that is the focus of this memorandum. *Id.*
[13] *Id.* at 343-344. *See* N.J.S. 2C:14-13 to -21.
[14] *Id.* at 344.
[15] *Id.*
[16] *Id.* at 347.
[17] *Id.*
[18] *Id.* Citing N.J.S. 2C:14-2(a)(7).

'administered to [her] without [her] prior knowledge or consent.'"[19] The Court relied on the doctrine of the last antecedent after noting that the Legislature listed the substances that could generate mental incapacity and followed them with a qualifying phrase.[20]

The Court determined that the absence of a comma after the last antecedent, "other substance," in conjunction with the doctrine of last antecedent, "requires our conclusion that the qualifying phrase applies only to 'other substance' and not 'intoxicant.'"[21] The Court continued that, "[t]o convey some other meaning, the Legislature would have had to insert a comma after 'other substance'."[22] The Court stated that although the comma is, "a mere punctuation mark to be sure, but one that would grammatically call for a different result."[23] Finally, the Court "confidently conclude[d] that the Legislature's omission of a comma after 'other substance' was intended to invoke the doctrine of the last antecedent in the construction of N.J.S.A. 2C:14-1(i), thereby conveying the Legislature's intent that the phrase would qualify only 'other substance.'"[24]

Analysis

As both syntax and the law have become more complicated, so too has the problem of ascertaining the intent or meaning of a statute. Linguists have observed that the English language has a tendency to "cluster," or "group," words next to each other that can be interpreted by readers to form a unit of thought.[25] In the late 1880s, Jabez Gridley Sutherland analyzed complicated and litigated statutes in an attempt to resolve future problems of statutory interpretation.[26] The result of Sutherland's work was his creation of a grammar and punctuation rule that would become known as the Doctrine of the Last Antecedent.[27]

The Doctrine of the Last Antecedent provides, in pertinent part, that:

> [r]eferential and qualifying phrases, where no contrary intention appears, refer solely to the last antecedent. The last antecedent is the last word, phrase, or clause that can be made an antecedent without impairing the meaning of the sentence. This proviso usually is construed to apply to the provision or clause immediately preceding it….[28]

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[19] *Id. See discussion of State v. Malik*, 2018 WL 6441507 *1 (App. Div. Dec. 10, 2018), *supra.*
[20] *Id.* at 348.
[21] *Id.*
[22] *Id.*
[23] *Id.*
[24] *Id.* at 348-349.
[25] Lyn Frazier, *Syntactic Complexity*, in NATURAL LANGUAGE PARSING 135 (David Dowty et. al. eds., 1985).
[26] Jabez Sutherland authored SUTHERLAND ON STATUTORY CONSTRUCTION (1st ed. 1891).
[27] This doctrine is also known as "the last antecedent rule," "the rule of last antecedent," and *ad proximum antecedens fiat relatio nisi impediatur sententia origin* (relative words must ordinarily be referred to the last antecedent, the last antecedent being the last word which can be made an antecedent so as to give a meaning).
[28] 2A SUTHERLAND STATUTORY CONSTRUCTION § 47.33, at 487–88 (7th ed. 2007).

Although the doctrine is not the law, "[t]he rule is another aid to the discovery of intent or meaning [of a statute] **and** is not inflexible and uniformly binding."[29] The doctrine further provides that, "where the sense of an entire act requires that a qualifying word or phrase apply to several preceding or even succeeding sections, the qualifying word or phrase is not restricted to its immediate antecedent…."[30]

Critics of the doctrine have remarked that, "[b]ecause the question of whether to apply [the doctrine] essentially amounts to a coin toss, it seems implausible to rely on it as a method of inferring actual congressional intent or meaning."[31] This criticism, however, has not diminished the use of the doctrine by the judiciary. Since 2003, despite its detractors, the use of the doctrine has increased in the United States Supreme Court, the federal Circuit Courts[32], and the New Jersey Judiciary.[33]

• *Barnhart v. Thomas*[34] *and Lockhart v. United States*[35]

Since 1799, whenever the United States Supreme Court interpreted statutes that included a list of terms followed by a limiting clause, the Court would refer to the interpretive approach known as "the doctrine of the last antecedent."[36] In 2003, however, the Supreme Court's practice changed, and the doctrine was announced as a grammatical rule in *Barnhart v. Thomas*.[37]

In *Barnhart,* the Court was asked to interpret the federal Social Security Income (SSI) statutes to determine whether the applicant was eligible for benefits.[38] 42 U.S.C. §§ 423(d)(2)(A and 1382c(a)(3)(B) provide that a person is disabled, "only if his physical or mental impairment… [is] of such severity that he is not only unable to do his previous work but cannot, considering his

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[29] *Id.* Emphasis added. *See Borenstein v. Comm'r of Internal Revenue*, 919 F.3d 746 (2d Cir. 2019) and *Barnhart v. Thomas*, 540 U.S. 20 (2003) (the last antecedent rule is not absolute and can assuredly be overcome by other indicia of meaning, but construing a statute in accord with the rule is quite sensible as a matter of grammar); *and see* Terri LeClercq, *Doctrine of the Last Antecedent: The Mystifying Morass of Ambiguous Modifiers*, 2 Legal Writing Inst. at 89 (discussing that linguistic principles are neither rules nor the law; rather, the principles of linguistics help readers infer meaning).

[30] 2A SUTHERLAND STATUTORY CONSTRUCTION § 47.33, at 487–88 (7th ed. 2007). *See U.S. v. Babbit*, 66 U.S. 55, (1861); *Allstate Ins. Co. v. Mun*, 751 F.3d 94 (2d Cir. 2014); *In re Federal-Mogul Global Inc.*, 684 F.3d 355 (3d Cir. 2012); *Shendock v. Dir., Office of Workers' Comp. Programs*, 893 F.2d 1458 (3d Cir. 1990); *U.S. v. Brandenburg*, 144 F.2d 656, (C.C.A. 3d Cir. 1944).

[31] Joseph Kimble, *The Doctrine of the Last Antecedent, the Example in Barnhart, Why Both are Weak, and How Textualism Postures,* The Scribes Journal of Legal Writing 8 (2014-2015), *quoting* Jeremy Ross, *A Rule of Last Resort: A History of the Doctrine of the Last Antecedent in the United States Supreme Court*, 39 Sw. L. Rev. 325, 336 (2009).

[32] *Id.* at 8.

[33] *See State v. Gelman,* 195 N.J. 475 (2008); *State v. Malik*, 2018 WL 6441507 *1 (App. Div. Dec. 10, 2018); and *C.R. v. M.T.,* 461 N.J. Super. 341, rev'd, No. 083760, 2021 WL 4432912 (N.J. Sept. 28, 2021) *infra.*

[34] *Barnhart v. Thomas*, 540 U.S. 20, 26 (2003).

[35] *Lockhart v. United States*, 136 S.Ct. 958, 963 (2016).

[36] *Lockhart v. United States*, 136 S.Ct. at 963, *citing Sims Lessee v. Irvine,* 3 Dall. 425 (1799); *FTC v. Mandel Brothers Inc.*, 359 U.S. 385, 389 n. 4; and, *Barnhart v. Thomas*, 540 U.S. 20, 26 (2003).

[37] *Barnhart v. Thomas*, 540 U.S. 20, 26 (2003).

[38] *Id.* at 20.

age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy."[39]

After analyzing the syntax of the statute, the Court determined that the statutes establish two requirements.[40] First, an impairment must render the individual "unable to do his previous work." [41] In addition, the impairment must also preclude him from "engag[ing] in any other kind of substantial gainful work."[42] Invoking the "rule" of the last antecedent, the Court found that the clause "which exists in the national economy" clearly qualifies the latter requirement.[43]

Pursuant to this newly announced "rule," a

> limiting clause or phrase…should ordinarily be read as modifying only the noun or phrase that it immediately follows…. While **this rule** is not an absolute and can assuredly be overcome by other indicia of meaning, we have said that construing a statute in accord with the rule is "quite sensible as a matter of grammar."[44]

Such a reading "reflects the basic intuition that when a modifier appears at the end of a list, it is easier to apply that modifier only to the item directly before it."[45]

Thirteen years after the *Barnhart* decision, the defendant in *Lockhart v. United States* plead guilty in federal court to the possession of child pornography.[46] The defendant had a prior state-court conviction for first-degree sexual abuse involving his adult girlfriend.[47] The defendant's pre-sentence report concluded that he was subject to a 10-year mandatory minimum sentence.[48] The report also noted that the sentence enhancement set forth in 18 U.S.C. § 2252(b)(2) was triggered by the defendant's prior state convictions for crimes "relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct *involving a minor or ward*."[49]

At the time of his sentencing, the defendant argued that the limiting phrase, "*involving a minor or ward*," applied to all three state crimes.[50] The District Court disagreed and sentenced the

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[39] *Id.*
[40] *Id.*
[41] *Id.*
[42] *Id.*
[43] *Id.*
[44] *Barnhart v. Thomas*, 540 U.S. at 26. Emphasis added.
[45] *Lockhart v. United States*, 136 S.Ct. at 963.
[46] *Id.*
[47] *Id.* at 960.
[48] *Id.*
[49] *Id. Emphasis added.* The *italicized* portion of the statute is commonly referred to as the "limiting phrase", "limiting clause", or the "qualifying phrase."
[50] *Id.*

defendant to the mandatory minimum.[51] After the Second Circuit affirmed, the Supreme Court granted certiorari to definitively interpret this portion of the statute.[52]

The last antecedent inference may be rebutted by structural or contextual evidence.[53] The Court, therefore, examined the internal logic of the statute[54], its place in the overall statutory scheme[55], and the legislative history of this statute.[56] After conducting an examination of each, the Court affirmed the Second Circuit's decision and concluded that the doctrine of the last antecedent is well supported by the context and structure of the statute.[57]

• *State v. Gelman*[58]

In 2004, the defendant Janet Gelman[59] was arrested as part of a New Jersey Prosecutor's operation targeting businesses and individuals suspected of involvement in prostitution activities.[60] It was undisputed that the defendant had been convicted of prostitution in 1989.[61] Finding that the defendant's 1989 petty disorderly persons conviction for soliciting in a public place did not constitute a predicate offense for enhanced punishment, the trial court dismissed the indictment.[62] The Appellate Division, however, granted the State's motion for leave to appeal.[63] The Appellate

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[51] *Id.*
[52] *Id.* at 968-969. The Eighth Circuit interpreted the qualifying phrase "involving a minor or ward" to apply to each of the offenses
[53] *Id.* at 965.
[54] *Id.*
[55] *Id.*
[56] *Id.* at 967.
[57] *Id.* at 968.
[58] *State v. Gelman,* 195 N.J. 475 (2008). This doctrine was subsequently discussed by the Appellate Division in *Mountain Hill, L.L.C. v. Zoning Bd. of Adjustment of Twp. of Middletown*, 403 N.J. Super. 201 (App. Div. 2008) (confirming that where no contrary intention appears, qualifying words refer solely to the last antecedent); *Alexander v. Bd. of Rev.*, 405 N.J. Super. 408 (App. Div. 2009) (explaining that if the modifier is intended to relate to more than the last antecedent, a "comma" is used to set off the modifier from the entire series); *Maccarone v. State*, 2011 WL 2478636 (App. Div. Jun. 23, 2011) (finding that a the use of a semicolon indicates an intention on the part of the legislature to separate the first group in the statutory list from those set forth in the modifying clause); *Mahway Realty Assoc. v. Twp. of Mahwah*, 430 N.J. Super. 247 (App. Div. 2013) (noting that in the absence of intrinsic or extrinsic evidence to the contrary, the court must logically interpret a statute according to its literal wording and natural connotation); and, *Kamienski v. State, Dept. of Treas.*, 451 N.J. Super. 499 (App. Div. 2017) *following State v. Gelman,* 195 N.J. 475, 484 (2008) (the doctrine of last antecedent holds that unless a contrary intention otherwise appears, a qualifying phrase within a statute refers to the last antecedent phrase). In addition, the doctrine was most recently discussed by the Tax Court in *Bentz v. Twp. of Little Egg Harbor*, 30 N.J. Tax 530 (Tax 2018) (noting that the general rule of statutory construction is that the modifying phrase applies to the last antecedent phrase, absent contrary intent and the use of a comma to separate a modifier from an antecedent phrase indicates an intent to apply the modifier to all previous antecedent phrases).
[59] At the time that this matter was heard by the New Jersey Supreme Court, the defendant was known as Caitlin Ryerson.
[60] *Id.* at 478.
[61] *Id.* at 479.
[62] *Id.* at 479-480.
[63] *Id.* at 480.

Division reversed the trial court decision and reinstated the indictment.[64] Ultimately, the New Jersey Supreme Court granted the defendant's motion for leave to appeal and limited the issue to that of statutory construction and interpretation.[65]

The Court addressed the issue of whether the defendant's prior conviction of a prior petty disorderly persons conviction under a differently-worded predecessor statute was a legally cognizable predicate offense under the then-enacted prostitution statute.[66] At the time, N.J.S. 2C:34-1(c)(4) provided, in relevant part, that "[a]n offense under subsection b. constitutes a disorderly persons offense if the offense falls within paragraph (1) of that subsection except that a second or subsequent conviction *for such an offense* constitutes a crime of the fourth degree…"

After examining the legislative history of the statute, the Court was left with what it characterized as an "irresolvable ambiguity that inheres in [the] statute."[67] The ambiguity resulted in two diametrically opposed interpretations that were proffered by the defendant and the County Prosecutor.

The Court noted that the defendant's most persuasive argument followed from the doctrine of the last antecedent.[68] The Court said that doctrine sets forth a "principle of statutory construction that holds that, unless a contrary intention otherwise appears, a qualifying phrase within a statute refers to the last antecedent phrase."[69] When this doctrine is applied to the statute, the qualifying phrase "second or subsequent conviction for such an offense" refers to "[a]n offense under subsection b.[1] [engaging in prostitution which] constitutes a disorderly persons offense."[70] Following the doctrine, only a prior conviction for a disorderly persons offense under this statute would qualify for an upgrade to an indictable offense.[71]

The County Prosecutor argued that a petty disorderly person offense under the superseded prostitution statute was the "functional equivalent" of a disorderly persons offense under the current law.[72] The State maintained that because the prior and current versions of the statute contained virtually identical elements and addressed the same prohibited activity, a conviction under the prior statute served as a proper predicate for a subsequent upgraded charge.[73]

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[64] *Id.*
[65] *Id.* at 481.
[66] *Id.* at 477. The portion of the prostitution statute before the Court was section (c), subsection (4) of N.J.S. 2C:34-1. A 2013 amendment to this statute reordered the subsections set forth in section (c). To this date, the current, corresponding statutory subsection referenced in the opinion is now N.J.S. 2C:34(c)(5).
[67] *Id.* at 486-87. The Court noted that "the legislative history of the statutory amendments [is] unenlightening in resolving the textual ambiguity."
[68] *Id.* at 484.
[69] *Id. citing* 2A *Sutherland Statutory Construction* §47.33, at 487-88 (7th ed. 2007).
[70] *Id.*
[71] *Id.*
[72] *Id.* at 485.
[73] *Id.*

The Court acknowledged that each of the parties offered competing, plausible interpretations of the statute based on textual analysis.[74] The Court noted that it "could not rewrite a criminal statute to increase sentencing penalties that do not appear clearly on the face of that statute."[75]

Although the Court chose to resolve the statutory ambiguity in favor of the defendant under the doctrine of lenity, this decision represents the New Jersey Supreme Court's most recent opinion discussing the doctrine of the last antecedent.[76]

Structure, Internal Logic, and Legislative History

The last antecedent inference, as discussed in *Lockhart*, can be rebutted if an examination of its place in the overall statutory scheme, the internal logic of the statute, and the legislative history of the statute suggests otherwise.[77]

• *Structure and Internal Logic*

The statute, N.J.S. 2C:14-1, entitled "Definitions" begins with by stating that "[t]he following definitions apply to this chapter…."

The term "mentally incapacitated" is only used twice in Chapter 14, in N.J.S. 2C:14-1[78] and in 2C:14-2. In N.J.S. 2C:14-2, the term "mentally incapacitated" appears in subsection 7. This subsection provides:

> (7) The victim, at the time of sexual penetration, is one whom the actor knew or should have known was:
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> (a) physically helpless or incapacitated;
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> (b) intellectually or *mentally incapacitated*; or
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> (c) had a mental disease or defect which rendered the victim temporarily or permanently incapable of understanding the distinctly sexual nature of the conduct, including, but not limited to, being incapable of providing consent, or incapable of understanding or exercising the right to refuse to engage in the conduct.[79]

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[74] *Id.* at 486.
[75] *Id.* at 487.
[76] *Id.* Noting that Justice Rivera-Soto, dissented, adopted an interpretation of the statute similar to the one proffered by the State.
[77] *Id.* at 967.
[78] *See* discussion of *Lockhart* and the doctrine of the last antecedent, *supra.*
[79] *Emphasis added.*

The use of the term "mentally incapacitated" in N.J.S. 2C:14-2 does little to assist the reader in determining whether the last antecedent in the definition applies to each of the enumerated methods of incapacity, or only the method directly preceding the qualifying phrase.

• *Legislative History*

N.J.S. 2C:14-1 was enacted in 1978 and became effective September 1, 1979.[80] It was later amended on three occasions.[81]

In 1983, N.J.S. 14-1(i) was amended to remove the term "appraising" from the definition of mentally incapacitated.[82] The newly drafted definition provided that an individual was mentally incapacitated if he or she was "rendered temporarily incapable of *understanding* or controlling his [or her] conduct."[83] This statutory amendment did not provide insight into the interpretation of "mentally incapacitated." Subsequent statutory amendments in 1989 and 2011 provide no further guidance regarding how "mentally incapacitated" should be interpreted.[84]

The absence of legislative history, and the limited insight provided by the structure and internal logic of the statute make it difficult to ascertain the intent of the Legislature.

Conclusion

The term "mentally incapacitated," as defined in N.J.S. 14-1(i), is subject to competing, plausible interpretations based on a textual analysis. Staff seeks authorization to conduct additional research and outreach to determine whether the statute could be modified to more clearly indicate the appropriate application of the provision.

[80] L.1978, c. 95, § 2C:14-1, eff. Sept. 1, 1979.
[81] Amended by L.1983, c. 249, § 1, eff. July 7, 1983; L.1989, c. 228, § 2, eff. Dec. 29, 1989; L.2011, c. 232, § 3, eff. Mar. 17, 2012.
[82] *See* Legislative History of A.B. 1844, 200th Leg. (N.J. 1983).
[83] *Id.* Emphasis added.
[84] *See* Legislative History of A.B. 3320, 203rd Leg. (N.J. 1989); and A.B. 4403, 214th Leg. (N.J. 2011).