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H.B. No. 1156

A BILL TO BE ENTITLED

1 AN ACT

2 relating to creating the criminal offense of financial abuse of an
3 elderly individual.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter D, Chapter 32, Penal Code, is amended
6 by adding Section 32.55 to read as follows:

7 Sec. 32.55. FINANCIAL ABUSE OF ELDERLY INDIVIDUAL. (a) In
8 this section:

9 (1) "Elderly individual" has the meaning assigned by
10 Section 22.04.

11 (2) "Financial abuse" means the wrongful taking,
12 appropriation, obtaining, retention, or use of, or assisting in the
13 wrongful taking, appropriation, obtaining, retention, or use of,
14 money or other property of another person by any means, including by
15 exerting undue influence. The term includes financial
16 exploitation.

17 (3) "Financial exploitation" means the wrongful
18 taking, appropriation, obtaining, retention, or use of money or
19 other property of another person by a person who has a relationship
20 of confidence or trust with the other person. Financial
21 exploitation may involve coercion, manipulation, threats,
22 intimidation, misrepresentation, or the exerting of undue
23 influence. The term includes:

24 (A) the breach of a fiduciary relationship,

1 including the misuse of a durable power of attorney or the abuse of
2 guardianship powers, that results in the unauthorized
3 appropriation, sale, or transfer of another person's property;

4 (B) the unauthorized taking of personal assets;

5 (C) the misappropriation, misuse, or
6 unauthorized transfer of another person's money from a personal or
7 a joint account; and

8 (D) the knowing or intentional failure to
9 effectively use another person's income and assets for the
10 necessities required for the person's support and maintenance.

11 (b) For purposes of Subsection (a)(3), a person has a
12 relationship of confidence or trust with another person if the
13 person:

14 (1) is a parent, spouse, adult child, or other
15 relative by blood or marriage of the other person;

16 (2) is a joint tenant or tenant in common with the
17 other person;

18 (3) has a legal or fiduciary relationship with the
19 other person;

20 (4) is a financial planner or investment professional
21 who provides services to the other person; or

22 (5) is a paid or unpaid caregiver of the other person.

23 (c) A person commits an offense if the person knowingly
24 engages in the financial abuse of an elderly individual.

25 (d) An offense under this section is:

26 (1) a Class B misdemeanor if the value of the property
27 taken, appropriated, obtained, retained, or used is less than \$100;

1 (2) a Class A misdemeanor if the value of the property
2 taken, appropriated, obtained, retained, or used is \$100 or more
3 but less than \$750;

4 (3) a state jail felony if the value of the property
5 taken, appropriated, obtained, retained, or used is \$750 or more
6 but less than \$2,500;

7 (4) a felony of the third degree if the value of the
8 property taken, appropriated, obtained, retained, or used is \$2,500
9 or more but less than \$30,000;

10 (5) a felony of the second degree if the value of the
11 property taken, appropriated, obtained, retained, or used is
12 \$30,000 or more but less than \$150,000; and

13 (6) a felony of the first degree if the value of the
14 property taken, appropriated, obtained, retained, or used is
15 \$150,000 or more.

16 (e) A person who is subject to prosecution under both this
17 section and another section of this code may be prosecuted under
18 either section or both sections.

19 SECTION 2. This Act takes effect September 1, 2021.