

By: Thierry

H.B. No. 3503

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the financial abuse of elderly persons; creating
3 criminal offenses.

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

5 SECTION 1. This Act shall be known as the Financial Elder
6 Abuse and Exploitation Prevention Act.

7 SECTION 2. Subchapter D, Chapter 32, Penal Code, is amended
8 by adding Section 32.55 to read as follows:

9 Sec. 32.55. FINANCIAL ABUSE OF ELDERLY INDIVIDUAL. (a) In
10 this section:

11 (1) "Elderly individual" has the meaning assigned by
12 Section 22.04.

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

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

1 influence. The term includes:

2 (A) the breach of a fiduciary relationship,
3 including the misuse of a durable power of attorney or the abuse of
4 guardianship powers, that results in the unauthorized
5 appropriation, sale, or transfer of another person's property;

6 (B) the unauthorized taking of personal assets;

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

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

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

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

18 (2) is a joint tenant or tenant-in-common with the
19 other person;

20 (3) has a legal or fiduciary relationship with the
21 other person;

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

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

25 (c) A person commits an offense if the person with criminal
26 negligence engages in the financial abuse of an elderly individual.

27 (d) An offense under this section is:

1 (1) a Class A misdemeanor if the value of the property
2 taken, appropriated, obtained, retained, or used is less than \$500;

3 (2) a felony of the third degree if the value of the
4 property taken, appropriated, obtained, retained, or used is \$500
5 or more but less than \$5,000;

6 (3) a felony of the second degree if the value of the
7 property taken, appropriated, obtained, retained, or used is \$5,000
8 or more but less than \$50,000; and

9 (4) a felony of the first degree if the value of the
10 property taken, appropriated, obtained, retained, or used is
11 \$50,000 or more.

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

15 SECTION 3. This Act takes effect September 1, 2017.