86R11841 TSS-F

By:  West S.B. No. 2115

A BILL TO BE ENTITLED

AN ACT

relating to the criminal offense of fraudulent securing of document execution.

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

SECTION 1.  The heading to Section 32.46, Penal Code, is amended to read as follows:

Sec. 32.46.  FRAUDULENT SECURING OF DOCUMENT EXECUTION [~~OF DOCUMENT BY DECEPTION~~].

SECTION 2.  Sections 32.46(a) and (b), Penal Code, are amended to read as follows:

(a)  A person commits an offense if the person, with the intent to defraud or harm any person[~~, he, by deception~~]:

(1)  by deception causes another to sign or execute any document affecting property or service or the pecuniary interest of any person; [~~or~~]

(2)  by deception causes or induces a public servant to file or record any purported judgment or other document purporting to memorialize or evidence an act, an order, a directive, or process of:

(A)  a purported court that is not expressly created or established under the constitution or the laws of this state or of the United States;

(B)  a purported judicial entity that is not expressly created or established under the constitution or laws of this state or of the United States; or

(C)  a purported judicial officer of a purported court or purported judicial entity described by Paragraph (A) or (B); or

(3)  causes another person, without the effective consent of that person, to sign or execute any document affecting property or service or the pecuniary interest of any person.

(b)  An offense under Subsection (a)(1) or (3) is a:

(1)  Class C misdemeanor if the value of the property, service, or pecuniary interest is less than $100;

(2)  Class B misdemeanor if the value of the property, service, or pecuniary interest is $100 or more but less than $750;

(3)  Class A misdemeanor if the value of the property, service, or pecuniary interest is $750 or more but less than $2,500;

(4)  state jail felony if the value of the property, service, or pecuniary interest is $2,500 or more but less than $30,000;

(5)  felony of the third degree if the value of the property, service, or pecuniary interest is $30,000 or more but less than $150,000;

(6)  felony of the second degree if the value of the property, service, or pecuniary interest is $150,000 or more but less than $300,000; or

(7)  felony of the first degree if the value of the property, service, or pecuniary interest is $300,000 or more.

SECTION 3.  Section 33.013(b), Civil Practice and Remedies Code, is amended to read as follows:

(b)  Notwithstanding Subsection (a), each liable defendant is, in addition to the defendant's [~~his~~] liability under Subsection (a), jointly and severally liable for the damages recoverable by the claimant under Section 33.012 with respect to a cause of action if:

(1)  the percentage of responsibility attributed to the defendant with respect to a cause of action is greater than 50 percent; or

(2)  the defendant, with the specific intent to do harm to others, acted in concert with another person to engage in the conduct described in the following provisions of the Penal Code and in so doing proximately caused the damages legally recoverable by the claimant:

(A)  Section 19.02 (murder);

(B)  Section 19.03 (capital murder);

(C)  Section 20.04 (aggravated kidnapping);

(D)  Section 22.02 (aggravated assault);

(E)  Section 22.011 (sexual assault);

(F)  Section 22.021 (aggravated sexual assault);

(G)  Section 22.04 (injury to a child, elderly individual, or disabled individual);

(H)  Section 32.21 (forgery);

(I)  Section 32.43 (commercial bribery);

(J)  Section 32.45 (misapplication of fiduciary property or property of financial institution);

(K)  Section 32.46 (fraudulent securing of document execution [~~of document by deception~~]);

(L)  Section 32.47 (fraudulent destruction, removal, or concealment of writing);

(M)  conduct described in Chapter 31 the punishment level for which is a felony of the third degree or higher; or

(N)  Section 21.02 (continuous sexual abuse of young child or children).

SECTION 4.  Section 41.008(c), Civil Practice and Remedies Code, is amended to read as follows:

(c)  This section does not apply to a cause of action against a defendant from whom a plaintiff seeks recovery of exemplary damages based on conduct described as a felony in the following sections of the Penal Code if, except for Sections 49.07 and 49.08, the conduct was committed knowingly or intentionally:

(1)  Section 19.02 (murder);

(2)  Section 19.03 (capital murder);

(3)  Section 20.04 (aggravated kidnapping);

(4)  Section 22.02 (aggravated assault);

(5)  Section 22.011 (sexual assault);

(6)  Section 22.021 (aggravated sexual assault);

(7)  Section 22.04 (injury to a child, elderly individual, or disabled individual, but not if the conduct occurred while providing health care as defined by Section 74.001 of this code);

(8)  Section 32.21 (forgery);

(9)  Section 32.43 (commercial bribery);

(10)  Section 32.45 (misapplication of fiduciary property or property of financial institution);

(11)  Section 32.46 (fraudulent securing of document execution [~~of document by deception~~]);

(12)  Section 32.47 (fraudulent destruction, removal, or concealment of writing);

(13)  Chapter 31 (theft) the punishment level for which is a felony of the third degree or higher;

(14)  Section 49.07 (intoxication assault);

(15)  Section 49.08 (intoxication manslaughter);

(16)  Section 21.02 (continuous sexual abuse of young child or children); or

(17)  Chapter 20A (trafficking of persons).

SECTION 5.  Section 250.006(b), Health and Safety Code, is amended to read as follows:

(b)  A person may not be employed in a position the duties of which involve direct contact with a consumer in a facility or may not be employed by an individual employer before the fifth anniversary of the date the person is convicted of:

(1)  an offense under Section 22.01, Penal Code (assault), that is punishable as a Class A misdemeanor or as a felony;

(2)  an offense under Section 30.02, Penal Code (burglary);

(3)  an offense under Chapter 31, Penal Code (theft), that is punishable as a felony;

(4)  an offense under Section 32.45, Penal Code (misapplication of fiduciary property or property of financial institution), that is punishable as a Class A misdemeanor or a felony;

(5)  an offense under Section 32.46, Penal Code (fraudulent securing of document execution [~~of document by deception~~]), that is punishable as a Class A misdemeanor or a felony;

(6)  an offense under Section 37.12, Penal Code (false identification as peace officer; misrepresentation of property); or

(7)  an offense under Section 42.01(a)(7), (8), or (9), Penal Code (disorderly conduct).

SECTION 6.  The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 7.  This Act takes effect September 1, 2019.