

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

1 this state or of the United States; or

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

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

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

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

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

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

15 (4) state jail felony if the value of the property,
16 service, or pecuniary interest is \$2,500 or more but less than
17 \$30,000;

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

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

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

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

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

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

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

14 (A) Section 19.02 (murder);

15 (B) Section 19.03 (capital murder);

16 (C) Section 20.04 (aggravated kidnapping);

17 (D) Section 22.02 (aggravated assault);

18 (E) Section 22.011 (sexual assault);

19 (F) Section 22.021 (aggravated sexual assault);

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

22 (H) Section 32.21 (forgery);

23 (I) Section 32.43 (commercial bribery);

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

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

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

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

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

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

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

- 15 (1) Section 19.02 (murder);
- 16 (2) Section 19.03 (capital murder);
- 17 (3) Section 20.04 (aggravated kidnapping);
- 18 (4) Section 22.02 (aggravated assault);
- 19 (5) Section 22.011 (sexual assault);
- 20 (6) Section 22.021 (aggravated sexual assault);
- 21 (7) Section 22.04 (injury to a child, elderly
22 individual, or disabled individual, but not if the conduct occurred
23 while providing health care as defined by Section 74.001 of this
24 code);
- 25 (8) Section 32.21 (forgery);
- 26 (9) Section 32.43 (commercial bribery);
- 27 (10) Section 32.45 (misapplication of fiduciary

1 property or property of financial institution);

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

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

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

8 (14) Section 49.07 (intoxication assault);

9 (15) Section 49.08 (intoxication manslaughter);

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

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

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

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

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

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

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

26 (4) an offense under Section 32.45, Penal Code
27 (misapplication of fiduciary property or property of financial

1 institution), that is punishable as a Class A misdemeanor or a
2 felony;

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

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

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

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

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