

By: West

S.B. No. 2279

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

(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 state jail felony if the value of the property  
27 taken, appropriated, obtained, retained, or used is less than \$500;

1           (2) a felony of the third degree if the value of the  
2 property taken, appropriated, obtained, retained, or used is \$500  
3 or more but less than \$10,000;

4           (3) a felony of the second degree if the value of the  
5 property taken, appropriated, obtained, retained, or used is  
6 \$10,000 or more but less than \$100,000; and

7           (4) a felony of the first degree if the value of the  
8 property taken, appropriated, obtained, retained, or used is  
9 \$100,000 or more.

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

13          SECTION 2. This Act takes effect September 1, 2019.