

BILL ANALYSIS

Senate Research Center
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H.B. 1156
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Reports indicate that older Americans collectively lose nearly \$37 billion each year to financial scams and abuse. Concerns have been raised regarding the vulnerability of elderly Texans to these scams, as Texas has one of the largest and fastest growing populations of senior citizens in the country. The number and complexity of reports involving financial abuse of vulnerable and older adults has grown significantly over the past decade. Due to the complexities of elder financial exploitation, many of the victims are left without restitution or any other means of legal protection. The toll that these crimes places on elderly victims frequently results in financial ruin, loss of dignity, diminished health, and other negative effects.

H.B. 1156 seeks to address this issue by creating an offense for the financial abuse of an elderly individual. H.B. 1156 amends the Penal Code to create the offense of financial abuse of an elderly individual for a person who knowingly engages in the wrongful taking, appropriation, obtaining, retention, or use of money or other property of an elderly person or for a person who knowingly assists in such conduct, by any means, including by exerting undue influence and by financial exploitation. The bill establishes penalties for the offense ranging from a Class B misdemeanor to a first degree felony depending on the value of the property taken, appropriated, obtained, retained, or used. If the conduct constituting the offense also constitutes another Penal Code offense, the actor may be prosecuted for either offense or both offenses. The bill defines "financial exploitation," among other terms.

H.B. 1156 amends current law relating to creating the criminal offense of financial abuse of an elderly individual.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 32, Penal Code, by adding Section 32.55, as follows:

Sec. 32.55. FINANCIAL ABUSE OF ELDERLY INDIVIDUAL. (a) Defines "elderly individual," "financial abuse," and "financial exploitation."

(b) Provides that for purposes of Subsection (a)(3) (relating to the definition of "financial exploitation"), a person has a relationship of confidence or trust with another person if the person:

- (1) is a parent, spouse, adult child, or other relative by blood or marriage of the other person;
- (2) is a joint tenant or tenant in common with the other person;
- (3) has a legal or fiduciary relationship with the other person;

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

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

(c) Provides that a person commits an offense if the person knowingly engages in the financial abuse of an elderly individual.

(d) Provides that an offense under this section is:

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

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

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

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

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

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

(e) Authorizes a person who is subject to prosecution under both this section and another section of this code to be prosecuted under either section or both sections.

SECTION 2. Effective date: September 1, 2021.