By:  Thierry, et al. (Senate Sponsor - Menéndez) H.B. No. 1156

(In the Senate - Received from the House May 14, 2021; May 14, 2021, read first time and referred to Committee on Criminal Justice; May 20, 2021, reported favorably by the following vote: Yeas 6, Nays 0; May 20, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Whitmire        X

Huffman         X

Bettencourt     X

Birdwell                   X

Hinojosa        X

Miles           X

Nichols         X

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, including the misuse of a durable power of attorney or the abuse of guardianship powers, that results in the unauthorized appropriation, sale, or transfer of another person's property;

(B)  the unauthorized taking of personal assets;

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

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

(b)  For purposes of Subsection (a)(3), 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)  A person commits an offense if the person knowingly engages in the financial abuse of an elderly individual.

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

SECTION 2.  This Act takes effect September 1, 2021.

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