

By: West

S.B. No. 109

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. Section 32.46(a), Penal Code, is 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) causes another person, without that person's effective consent, to sign or execute any document affecting property or service or the pecuniary interest of any person; or

(2) causes [~~or induces~~] a public servant, without the public servant's effective consent, 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).

5 SECTION 3. Section 32.46(d), Penal Code, is amended by
6 adding Subdivision (3) to read as follows:

7 (3) "Effective consent" includes consent by a person
8 legally authorized to act for the owner. Consent is not effective
9 if:

10 (A) induced by deception or coercion;

11 (B) given by a person who by reason of youth,
12 mental disease or defect, or intoxication is known by the actor to
13 be unable to make reasonable property dispositions; or

14 (C) given by a person who by reason of advanced
15 age is known by the actor to have a diminished capacity to make
16 informed and rational decisions about the reasonable disposition of
17 property.

18 SECTION 4. Section 33.013(b), Civil Practice and Remedies
19 Code, is amended to read as follows:

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

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

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

- 6 (A) Section 19.02 (murder);
- 7 (B) Section 19.03 (capital murder);
- 8 (C) Section 20.04 (aggravated kidnapping);
- 9 (D) Section 22.02 (aggravated assault);
- 10 (E) Section 22.011 (sexual assault);
- 11 (F) Section 22.021 (aggravated sexual assault);
- 12 (G) Section 22.04 (injury to a child, elderly
13 individual, or disabled individual);
- 14 (H) Section 32.21 (forgery);
- 15 (I) Section 32.43 (commercial bribery);
- 16 (J) Section 32.45 (misapplication of fiduciary
17 property or property of financial institution);
- 18 (K) Section 32.46 (fraudulent securing of
19 document execution [~~of document by deception~~]);
- 20 (L) Section 32.47 (fraudulent destruction,
21 removal, or concealment of writing);
- 22 (M) conduct described in Chapter 31 the
23 punishment level for which is a felony of the third degree or
24 higher; or
- 25 (N) Section 21.02 (continuous sexual abuse of
26 young child or children).

27 SECTION 5. Section 41.008(c), Civil Practice and Remedies

1 Code, is amended to read as follows:

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

- 7 (1) Section 19.02 (murder);
- 8 (2) Section 19.03 (capital murder);
- 9 (3) Section 20.04 (aggravated kidnapping);
- 10 (4) Section 22.02 (aggravated assault);
- 11 (5) Section 22.011 (sexual assault);
- 12 (6) Section 22.021 (aggravated sexual assault);
- 13 (7) Section 22.04 (injury to a child, elderly
14 individual, or disabled individual, but not if the conduct occurred
15 while providing health care as defined by Section 74.001 of this
16 code);
- 17 (8) Section 32.21 (forgery);
- 18 (9) Section 32.43 (commercial bribery);
- 19 (10) Section 32.45 (misapplication of fiduciary
20 property or property of financial institution);
- 21 (11) Section 32.46 (fraudulent securing of document
22 execution [of document by deception]);
- 23 (12) Section 32.47 (fraudulent destruction, removal,
24 or concealment of writing);
- 25 (13) Chapter 31 (theft) the punishment level for which
26 is a felony of the third degree or higher;
- 27 (14) Section 49.07 (intoxication assault);

1 (15) Section 49.08 (intoxication manslaughter);

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

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

5 SECTION 6. Article 12.01, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 12.01. FELONIES. Except as provided in Article 12.03,
8 felony indictments may be presented within these limits, and not
9 afterward:

10 (1) no limitation:

11 (A) murder and manslaughter;

12 (B) sexual assault under Section 22.011(a)(2),
13 Penal Code, or aggravated sexual assault under Section
14 22.021(a)(1)(B), Penal Code;

15 (C) sexual assault, if:

16 (i) during the investigation of the offense
17 biological matter is collected and the matter:

18 (a) has not yet been subjected to
19 forensic DNA testing; or

20 (b) has been subjected to forensic DNA
21 testing and the testing results show that the matter does not match
22 the victim or any other person whose identity is readily
23 ascertained; or

24 (ii) probable cause exists to believe that
25 the defendant has committed the same or a similar sex offense
26 against five or more victims;

27 (D) continuous sexual abuse of young child or

1 children under Section 21.02, Penal Code;

2 (E) indecency with a child under Section 21.11,
3 Penal Code;

4 (F) an offense involving leaving the scene of an
5 accident under Section 550.021, Transportation Code, if the
6 accident resulted in the death of a person;

7 (G) trafficking of persons under Section
8 20A.02(a)(7) or (8), Penal Code;

9 (H) continuous trafficking of persons under
10 Section 20A.03, Penal Code; or

11 (I) compelling prostitution under Section
12 43.05(a)(2), Penal Code;

13 (2) ten years from the date of the commission of the
14 offense:

15 (A) theft of any estate, real, personal or mixed,
16 by an executor, administrator, guardian or trustee, with intent to
17 defraud any creditor, heir, legatee, ward, distributee,
18 beneficiary or settlor of a trust interested in such estate;

19 (B) theft by a public servant of government
20 property over which the public servant exercises control in the
21 public servant's official capacity;

22 (C) forgery or the uttering, using or passing of
23 forged instruments;

24 (D) injury to an elderly or disabled individual
25 punishable as a felony of the first degree under Section 22.04,
26 Penal Code;

27 (E) sexual assault, except as provided by

1 Subdivision (1) or (7);
2 (F) arson;
3 (G) trafficking of persons under Section
4 20A.02(a)(1), (2), (3), or (4), Penal Code; or
5 (H) compelling prostitution under Section
6 43.05(a)(1), Penal Code;
7 (3) seven years from the date of the commission of the
8 offense:
9 (A) misapplication of fiduciary property or
10 property of a financial institution;
11 (B) fraudulent securing of document execution
12 [~~of document by deception~~];
13 (C) a felony violation under Chapter 162, Tax
14 Code;
15 (D) false statement to obtain property or credit
16 under Section 32.32, Penal Code;
17 (E) money laundering;
18 (F) credit card or debit card abuse under Section
19 32.31, Penal Code;
20 (G) fraudulent use or possession of identifying
21 information under Section 32.51, Penal Code;
22 (H) exploitation of a child, elderly individual,
23 or disabled individual under Section 32.53, Penal Code;
24 (I) health care fraud under Section 35A.02, Penal
25 Code; or
26 (J) bigamy under Section 25.01, Penal Code,
27 except as provided by Subdivision (6);

1 (4) five years from the date of the commission of the
2 offense:

3 (A) theft or robbery;

4 (B) except as provided by Subdivision (5),
5 kidnapping or burglary;

6 (C) injury to an elderly or disabled individual
7 that is not punishable as a felony of the first degree under Section
8 [22.04](#), Penal Code;

9 (D) abandoning or endangering a child; or

10 (E) insurance fraud;

11 (5) if the investigation of the offense shows that the
12 victim is younger than 17 years of age at the time the offense is
13 committed, 20 years from the 18th birthday of the victim of one of
14 the following offenses:

15 (A) sexual performance by a child under Section
16 [43.25](#), Penal Code;

17 (B) aggravated kidnapping under Section
18 [20.04\(a\)\(4\)](#), Penal Code, if the defendant committed the offense
19 with the intent to violate or abuse the victim sexually; or

20 (C) burglary under Section [30.02](#), Penal Code, if
21 the offense is punishable under Subsection (d) of that section and
22 the defendant committed the offense with the intent to commit an
23 offense described by Subdivision (1)(B) or (D) of this article or
24 Paragraph (B) of this subdivision;

25 (6) ten years from the 18th birthday of the victim of
26 the offense:

27 (A) trafficking of persons under Section

1 20A.02(a)(5) or (6), Penal Code;

2 (B) injury to a child under Section 22.04, Penal
3 Code; or

4 (C) bigamy under Section 25.01, Penal Code, if
5 the investigation of the offense shows that the person, other than
6 the legal spouse of the defendant, whom the defendant marries or
7 purports to marry or with whom the defendant lives under the
8 appearance of being married is younger than 18 years of age at the
9 time the offense is committed;

10 (7) two years from the date the offense was
11 discovered: sexual assault punishable as a state jail felony under
12 Section 22.011(f)(2), Penal Code; or

13 (8) three years from the date of the commission of the
14 offense: all other felonies.

15 SECTION 7. Section 250.006(b), Health and Safety Code, is
16 amended to read as follows:

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

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

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

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

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

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

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

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

14 SECTION 8. The change in law made by this Act applies only
15 to an offense committed on or after the effective date of this Act.
16 An offense committed before the effective date of this Act is
17 governed by the law in effect on the date the offense was committed,
18 and the former law is continued in effect for that purpose. For
19 purposes of this section, an offense was committed before the
20 effective date of this Act if any element of the offense was
21 committed before that date.

22 SECTION 9. This Act takes effect September 1, 2021.