

SUBJECT: Creating a criminal offense for financial abuse of elderly individuals

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Collier, K. Bell, Cason, Cook, Crockett, Hinojosa, A. Johnson,
Murr, Vasut

0 nays

WITNESSES: For — Tim Morstad, AARP; Sherry Hubbard, TX Silver-Haired
Legislature; (*Registered, but did not testify*: Frederick Frazier, Dallas
Police Association/FOP716 State FOP Director; James Parnell, Dallas
Police Association; David Sinclair, Game Warden Peace Officers
Association; Ray Hunt, HPOU; Meredyth Fowler, Independent Bankers
Association of Texas; Kaden Norton, LeadingAge Texas; Robert Howden,
Texas Credit Union Association; Dallas Reed, Texas Municipal Police
Association; John Chancellor, Texas Police Chiefs Association; Ramon
Garza, This Is Texas Freedom Force; Julie Campbell; Vanessa
MacDougal; Thomas Parkinson)

Against — None

On — (*Registered, but did not testify*: Kevin Fretwell and Kyle Swihart,
Office of the Attorney General)

BACKGROUND: Concerns have been raised that elderly individuals are vulnerable to
financial abuse and exploitation, and it has been proposed that a criminal
offense for such actions would help protect them from being victims of
these crimes.

DIGEST: CSHB 1156 would make it a criminal offense to knowingly engage in the
financial abuse of an elderly individual, which would be someone 65
years old or older.

Financial abuse, exploitation. Financial abuse would be defined as 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 by any means, including by exerting undue influence. The term would include financial exploitation.

Financial exploitation would be defined as the wrongful taking, appropriation, obtaining, retention, or use of money or other property of another person by a person who had a relationship of confidence or trust with the other person. Financial exploitation could involve coercion, manipulation, threats, intimidation, misrepresentation, or the exerting of undue influence. The term would include:

- the breach of a fiduciary relationship, including the misuse of a durable power of attorney or the abuse of guardianship powers, that resulted in the unauthorized appropriation, sale, or transfer of another person's property;
- the unauthorized taking of personal assets;
- the misappropriation, misuse, or unauthorized transfer of another person's money from a personal or a joint account; and
- 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.

Persons would be considered to have a relationship of confidence or trust with another person if the person:

- was a parent, spouse, adult child, or other relative by blood or marriage;
- was a joint tenant or tenant in common with the other person;
- had a legal or fiduciary relationship with the other person;
- was a financial planner or investment professional who provided services to the other person; or
- was a paid or unpaid caregiver of the other person.

Penalties. Punishments for the offense would be based on the value of the property taken, appropriated, obtained, retained, or used. The offense would be a:

- class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) if the value was less than \$100;
- class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) if the value was \$100 or more, but less than \$750;
- state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) if the value was \$750 or more but less than \$2,500;
- third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if the value was \$2,500 or more but less than \$30,000;
- second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if the value was \$30,000 or more but less than \$150,000; and
- first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) if the value was \$150,000 or more.

Individuals subject to prosecution under both this section and another section of the Penal Code could be prosecuted under either section or both sections.

The bill would take effect September 1, 2021.