

- SUBJECT:** Revising criminal offense of fraudulent securing of document execution
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 6 ayes — Collier, K. Bell, Cook, Crockett, Hinojosa, Vasut
1 nay — Cason
2 absent — A. Johnson, Murr
- SENATE VOTE:** On final passage, April 20 — 31 - 0
- WITNESSES:** No public hearing.
- BACKGROUND:** Penal Code sec. 32.46 makes securing execution of documents by deception a crime. It is an offense for a person, with the intent to defraud or harm another, by deception to:
- cause another to sign or execute any document affecting property or service or the pecuniary interest of any person; or
 - cause or induce a public servant to file or record any purported judgment or document purporting to memorialize or evidence an act, an order, a directive, or process of a purported court or judicial entity not established under the Texas or U.S. constitutions or laws or of a purported judicial officer of a purported court or purported judicial entity.
- Punishments range in severity based on the value of the property, service, or pecuniary interest involved.
- Concerns have been raised that the financial exploitation of elderly individuals and individuals with disabilities is increasing, and some have suggested that revising the offense of securing execution of documents by deception could help protect these Texans.
- DIGEST:** SB 109 would revise the offense of securing execution of document by

deception. The current requirement that the crime be committed "by deception" would be eliminated, and the bill would establish a new requirement that the offense be committed without the effective consent of the person who signed or executed the document or of a public servant.

The bill would define effective consent to include consent by a person legally authorized to act for the owner. Consent would not be effective if:

- induced by deception or coercion;
- given by a person who by reason of youth, mental disease or defect, or intoxication was known by the individual committing the offense to be unable to make reasonable property dispositions; or
- given by a person who by reason of advanced age is known by the individual to have a diminished capacity to make informed and rational decisions about the reasonable disposition of property.

The offense would be renamed "fraudulent securing of document execution."

The bill would take effect September 1, 2021, and would apply to an offense committed on or after that date.