

Tex. Pen. Code § 32.55

Section 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.

(f) There is a rebuttable presumption that any transfer, appropriation, or use of an elderly individual's money or other property by a person described by Subsection (b)(5) is wrongful for purposes of Subsection (a)(2) or (3) if it is shown on the trial of the offense that the actor knew or should have known that, at the time of the offense, the elderly individual had been diagnosed with dementia, Alzheimer's disease, or a related disorder.

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Amended by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. 1076,Sec. 3, eff. 9/1/2023.

Added by Acts 2021, Texas Acts of the 87th Leg. - Regular Session, ch. 456,Sec. 1, eff. 9/1/2021.