

BILL ANALYSIS

S.B. 109
By: West
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In 2017, the legislature enacted legislation that extended the statute of limitations for the offense of exploitation of a child, elderly individual, or disabled individual. Since then, reports indicate that many elderly individuals and individuals with disabilities are exploited each year with an average of approximately \$36 billion lost by these individuals across the country due to various forms of financial abuse. S.B. 109 seeks to further protect these vulnerable individuals by specifying that a person commits fraudulent securing of document execution if they cause another person or a public servant to take the applicable actions when securing document execution without that person's or the public servant's effective consent.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 109 amends the Penal Code to rename the offense of securing execution of document by deception as the offense of fraudulent securing of document execution and to revise the conduct constituting the offense by removing the specification that the conduct is committed by deception and specifying instead that the actor's causing another person or a public servant to sign, execute, file, or record the document, as applicable, is done without that person's or the public servant's effective consent. The bill establishes that "effective consent" includes consent by a person legally authorized to act for the owner and that consent is not effective under the following circumstances:

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

S.B. 109 amends the Civil Practice and Remedies Code, the Code of Criminal Procedure, and the Health and Safety Code to make conforming and nonsubstantive changes.

EFFECTIVE DATE

September 1, 2021.