

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 576
By: Menéndez
Health & Human Services
3/30/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under a current rule from the Health and Human Services Commission (HHSC), it is extremely difficult to prove exploitation of elderly persons and persons with disabilities in certain instances because the caregiver simply needs to proclaim that the money the client had given them was a loan. This is most difficult in the events of cognitive decline because all the caregiver has to say at the time is that before the client lost capacity to consent, they allowed the loan. There is no way to prove or disprove in these instances and the agencies see these situations often and have to invalidate cases.

The following list outlines changes made in the committee substitute:

Amends Section 1 to clarify that investigations of reported abuse, neglect, or exploitation under this bill must be handled by a caseworker of the Department of Family and Protective Services (DFPS), or other state agency as applicable.

Includes a requirement that caseworkers or supervisors of caseworkers immediately notify law enforcement and provide them a copy of the investigation report if they have cause to believe the victim was abused, neglected, or exploited in a manner that constitutes a criminal offense, including under Section 32.55, Penal Code.

Adds Section 2 to require DFPS to immediately notify an appropriate law enforcement agency of a report of alleged abuse or exploitation under Section 32.55, Penal Code.

Adds Section 3 to clarify that loans or use of an elderly individual's money constitutes a violation if the actor knew or should have known that the elderly individual had been diagnosed with a neurodegenerative disease such as Alzheimer's disease, or a related disorder.

Adds Section 4 to clarify that this bill only applies to reports received by DFPS on or after the effective date of the bill.

Adds Section 5 to clarify that this bill only applies to offenses committed on or after the effective date of this bill.

C.S.S.B. 576 requires that HHSC add into the definition of exploitation instances where a person takes money from an elderly individual and claims that it was a loan. This will help address situations where family members attempt to exploit these individuals, protecting these vulnerable communities.

C.S.S.B. 576 amends current law relating to the reporting, investigation, and prosecution of the criminal offense of financial abuse of an elderly individual.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 48.1522(a), Human Resources Code, as follows:

(a) Requires a caseworker of the Department of Family and Protective Services (DFPS) or other state agency, as applicable, or the caseworker's supervisor, except as provided by Subsection (b) (relating to requiring a caseworker who believes certain offenses have been committed to immediately notify certain entities and promptly provide them with a copy of the DFPS's investigation report), if during the course of DFPS's or another state agency's investigation of reported abuse, neglect, or exploitation, including those under Subchapter F (Investigations of Abuse, Neglect, or Exploitation of Individuals Receiving Services from Certain Providers), the caseworker or the caseworker's supervisor has cause to believe that the elderly person or person with a disability has been abused, neglected, or exploited by another person in a manner that constitutes a criminal offense under any law, including Section 32.55 (Financial Abuse of Elderly Individual), Penal Code, to take certain actions.

SECTION 2. Amends Subchapter F, Chapter 48, Human Resources Code, by adding Section 48.2535, as follows:

Sec. 48.2535. FORWARDING CERTAIN REPORTS OF CRIMINAL CONDUCT TO LAW ENFORCEMENT. Requires DFPS, on receipt by DFPS of a report of alleged abuse or exploitation under this subchapter that DFPS believes constitutes an offense under Section 32.55, Penal Code, to immediately notify an appropriate law enforcement agency, regardless of whether the report alleges conduct that constitutes abuse or exploitation for purposes of this subchapter.

SECTION 3. Amends Section 32.55, Penal Code, by adding Subsection (f), as follows:

(f) Provides that 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) (relating to providing that a person has a relationship of confidence or trust with another person if the person is a paid or unpaid caregiver of the other person) constitutes conduct in violation of this section 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.

SECTION 4. Makes application of Section 48.2535, Human Resources Code, as added by this Act, prospective.

SECTION 5. Makes application of Section 32.55(f), Penal Code, as added by this Act, prospective.

SECTION 6. Effective date: September 1, 2023.