

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL NO. 646

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Forehand” and substitute “Forehand, Ferguson, Green, Haines, Jacobs, Jimeno, Mitchell, and Sfikas”.

AMENDMENT NO. 2

On page 1, in line 4, strike “or use, or endeavor to obtain or use,”; in lines 5 and 6, strike “temporarily or permanently”; in line 7, strike “which depend on the value of the property taken”; and in line 15, after “adult;” insert “providing for the construction of this Act;”.

AMENDMENT NO. 3

On page 2, in line 9, after “3-603(a)(9)” insert “, 7-101(b), (c), (f), and (h), and 7-103(a)”.

AMENDMENT NO. 4

On page 3, after line 16, insert:

“7-101.

(b) (1) “Deception” means knowingly to:

(i) create or confirm in another a false impression that the offender does not believe to be true;

(ii) fail to correct a false impression that the offender previously has created or confirmed;

(iii) prevent another from acquiring information pertinent to the disposition of the property involved;

(Over)

(iv) sell or otherwise transfer or encumber property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, regardless of whether the impediment is of value or a matter of official record;

(v) insert or deposit a slug in a vending machine;

(vi) remove or alter a label or price tag;

(vii) promise performance that the offender does not intend to perform or knows will not be performed; or

(viii) misrepresent the value of a motor vehicle offered for sale by tampering or interfering with its odometer, or by disconnecting, resetting, or altering its odometer with the intent to change the mileage indicated.

(2) “Deception” does not include puffing or false statements of immaterial facts and exaggerated representations that are unlikely to deceive an ordinary individual.

(c) “Deprive” means to withhold property of another:

(1) permanently;

(2) for a period that results in the appropriation of a part of the property’s value;

(3) with the purpose to restore it only on payment of a reward or other compensation; or

(4) to dispose of the property or use or deal with the property in a manner that makes it unlikely that the owner will recover it.

(f) “Obtain” means:

(1) in relation to property, to bring about a transfer of interest in or possession of the property; and

(2) in relation to a service, to secure the performance of the service.

- (h) (1) “Property” means anything of value.
- (2) “Property” includes:
- (i) real estate;
 - (ii) money;
 - (iii) a commercial instrument;
 - (iv) an admission or transportation ticket;
 - (v) a written instrument representing or embodying rights concerning anything of value, or services, or anything otherwise of value to the owner;
 - (vi) a thing growing on or affixed to, or found on land, or part of or affixed to any building;
 - (vii) electricity, gas, and water;
 - (viii) a bird, animal, or fish that ordinarily is kept in a state of confinement;
 - (ix) food or drink;
 - (x) a sample, culture, microorganism, or specimen;
 - (xi) a record, recording, document, blueprint, drawing, map, or a whole or partial copy, description, photograph, prototype, or model of any of them;
 - (xii) an article, material, device, substance, or a whole or partial copy, description, photograph, prototype, or model of any of them that represents evidence of, reflects, or records a secret;

1. scientific, technical, merchandising, production, or management information; or

2. designed process, procedure, formula, invention, trade secret, or improvement;

(xiii) a financial instrument; and

(xiv) information, electronically produced data, and a computer software or program in a form readable by machine or individual.

7-103.

(a) In this section, “value” means:

(1) the market value of the property or service at the time and place of the crime;

or

(2) if the market value cannot satisfactorily be ascertained, the cost of the replacement of the property or service within a reasonable time after the crime.”.

On pages 3 and 4, strike in their entirety the lines beginning with line 21 on page 3 through line 3 on page 4, inclusive, and substitute:

“(2) “DECEPTION” HAS THE MEANING STATED IN § 7-101 OF THIS ARTICLE.

“(3) “DEPRIVE” HAS THE MEANING STATED IN § 7-101 OF THIS ARTICLE.

“(4) “OBTAIN” HAS THE MEANING STATED IN § 7-101 OF THIS ARTICLE.

“(5) “PROPERTY” HAS THE MEANING STATED IN § 7-101 OF THIS ARTICLE.

(6) “VALUE” HAS THE MEANING STATED IN § 7-103 OF THIS ARTICLE.”.

On page 4, in line 4, strike “(3)” and substitute:

“(7) (I) “UNDUE INFLUENCE” MEANS DOMINATION AND INFLUENCE AMOUNTING TO FORCE AND COERCION EXERCISED BY ANOTHER PERSON TO SUCH AN EXTENT THAT A VULNERABLE ADULT WAS PREVENTED FROM EXERCISING FREE JUDGMENT AND CHOICE.

(II);

and in line 6, strike “(4)” and substitute “(8)”.

AMENDMENT NO. 5

On page 4, strike in their entirety lines 8 through 10, inclusive.

AMENDMENT NO. 6

On page 4, strike in their entirety lines 11 through 18, inclusive, and substitute:

“(B) A PERSON MAY NOT KNOWINGLY AND WILLFULLY OBTAIN BY DECEPTION, INTIMIDATION, OR UNDUE INFLUENCE THE PROPERTY OF AN INDIVIDUAL THAT THE PERSON KNOWS OR REASONABLY SHOULD KNOW IS A VULNERABLE ADULT WITH INTENT TO DEPRIVE THE VULNERABLE ADULT OF THE VULNERABLE ADULT’S PROPERTY.”;

and in lines 19, 33, and 36, strike “(D)”, “(E)”, and “(F)”, respectively, and substitute “(C)”, “(D)”, and “(E)”, respectively.

AMENDMENT NO. 7

On pages 4 and 5, strike beginning with “ASSETS,” in line 38 on page 4 down through

(Over)

“VALUE” in line 1 on page 5 and substitute “OR PROPERTY”.

AMENDMENT NO. 8

On page 5, after line 5, insert:

“(F) THIS SECTION MAY NOT BE CONSTRUED TO IMPOSE CRIMINAL LIABILITY ON A PERSON WHO, AT THE REQUEST OF THE VULNERABLE ADULT, THE VULNERABLE ADULT’S FAMILY, OR THE COURT APPOINTED GUARDIAN OF THE VULNERABLE ADULT, HAS MADE A GOOD FAITH EFFORT TO ASSIST THE VULNERABLE ADULT IN THE MANAGEMENT OF OR TRANSFER OF THE VULNERABLE ADULT’S PROPERTY.”.