

Counterfeit Currency; Assault and Battery of a Law Enforcement Officer; Mistreatment of a Dependent Adult or Elder Person; THC Possession; Escape from Custody; Expanded SB 123 Program Eligibility; HB 2458

HB 2458 amends law related to counterfeit currency, assault and battery of a law enforcement officer, mistreatment of a dependent adult, mistreatment of an elder person, possession of tetrahydrocannabinol (THC), escape from custody, and expanded eligibility for SB 123 program.

Counterfeiting Currency

The bill creates the crime of counterfeiting currency, which is defined as doing any of the following with the intent to defraud:

- Making, forging, or altering any note, obligation, or security of the United States, as a severity level 7 nonperson felony if the total face value is \$25,000 or more and a severity level 8 nonperson felony if the total face value is less than \$25,000;
- Distributing, or possessing with the intent to distribute, any obligation or security of the United States knowing the obligation or security has been so made, forged, or altered, with the same penalties as above; or
- Possessing any paper, ink, printer, press, currency plate, or other item with the intent to produce any counterfeit note, currency, obligation, or security of the United States, as a severity level 9 nonperson felony.

Assault and Battery of a Law Enforcement Officer

The bill amends the definition of a law enforcement officer for purposes of the crimes of assault and battery of a law enforcement officer by including uniformed or properly identified federal law enforcement officers while such officers are engaged in the performance of their duty. "Federal law enforcement officer" is defined as a law enforcement officer employed by the U.S. federal government who, as part of such officer's duties, is permitted to make arrests and to be armed.

Mistreatment of a Dependent Adult and an Elder Person

The bill amends law related to the crimes of mistreatment of a dependent adult and mistreatment of an elder person.

The bill merges the two crimes into a single crime of mistreatment of a dependent adult or an elder person. Under previous law, the two crimes included the same list of acts against their victims, with the exception of the act of committing mistreatment of a dependent adult by infliction of physical injury, unreasonable confinement, or unreasonable punishment of the adult. Thus, under the bill, this act also becomes a crime when committed against an elder person.

The bill also adds an additional act applicable to all victims: taking the personal property or financial resources of a victim for the benefit of the defendant or another person by taking control, title, use, or management of the personal property or financial resources of a victim through a violation of the Act for Obtaining a Guardian or Conservator.

The bill amends the penalty provisions of the crime where the penalty level depends on the monetary value of the personal property or financial resources to increase the ceiling for a misdemeanor from less than \$1,000 to less than \$1,500. The corresponding floor for the lowest felony penalty (severity level 7) and ceiling for an exception for multiple previous offenses is changed to \$1,500.

The definition of “elder person” for purposes of the crime is changed from 70 years of age or older to 60 years of age or older.

In the first degree murder statute, the bill adds the crime to the list of inherently dangerous felonies for purposes of the felony murder rule. (Under the felony murder rule, first degree murder includes the killing of a human being committed in the commission of, attempt to commit, or flight from any inherently dangerous felony.)

Possession of THC

The bill amends penalties for possession of THC so that a first offense is a class B nonperson misdemeanor, a second offense would be a class A nonperson misdemeanor, and a third or subsequent offense is a drug severity level 5 felony.

Escape from Custody

The bill amends the definition of “escape” to include failure to return to custody following temporary leave lawfully granted by a custodial official authorized to grant such leave.

Expanded Eligibility for SB 123 Program

The bill expands eligibility for the nonprison sanction of placement in a certified drug abuse treatment program for certain offenders convicted of unlawful possession of a controlled substance (a program established by 2003 SB 123). Eligibility is expanded from offenders convicted of a drug severity level 5 possession offense who have not been convicted of certain other crimes, to include offenders convicted of a severity level 4 possession offense with a criminal history of E or lower who have not been convicted of certain other crimes.

Under continuing law, an offender is classified as criminal history level E if the offender has at least three nonperson felonies but no person felonies.