

West's Ann.Cal.Welf. &amp; Inst.Code § 15610.70

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Effective: January 01, 2014

West's Annotated California Codes Currentness

Welfare and Institutions Code (Refs &amp; Annos)

Division 9. Public Social Services (Refs &amp; Annos)

Part 3. Aid and Medical Assistance (Refs &amp; Annos)

Chapter 11. Elder Abuse and Dependent Adult Civil Protection Act (Refs &amp; Annos)

Article 2. Definitions (Refs &amp; Annos)

## → § 15610.70. Undue influence

(a) "Undue influence" means excessive persuasion that causes another person to act or refrain from acting by overcoming that person's free will and results in inequity. In determining whether a result was produced by undue influence, all of the following shall be considered:

X (1) The vulnerability of the victim. Evidence of vulnerability may include, but is not limited to, incapacity, illness, disability, injury, age, education, impaired cognitive function, emotional distress, isolation, or dependency, and whether the influencer knew or should have known of the alleged victim's vulnerability.

X (2) The influencer's apparent authority. Evidence of apparent authority may include, but is not limited to, status as a fiduciary, family member, care provider, health care professional, legal professional, spiritual adviser, expert, or other qualification.

(3) The actions or tactics used by the influencer. Evidence of actions or tactics used may include, but is not limited to, all of the following:

(A) Controlling necessities of life, medication, the victim's interactions with others, access to information, or sleep

(B) Use of affection, intimidation, or coercion.

(C) Initiation of changes in personal or property rights, use of haste or secrecy in effecting those changes, effecting changes at inappropriate times and places, and claims of expertise in effecting changes.

(4) The equity of the result. Evidence of the equity of the result may include, but is not limited to, the economic consequences to the victim, any divergence from the victim's prior intent or course of conduct or dealing, the relationship of the value conveyed to the value of any services or consideration received, or the appropriateness of the change in light of the length and nature of the relationship.

(b) Evidence of an inequitable result, without more, is not sufficient to prove undue influence.

CREDIT(S)

(Added by Stats.2013, c. 668 (A.B.140), § 3.)