

SENATE BILL No. 249

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5-2; IC 35-46-1-12.

Synopsis: Exploitation of dependents and endangered adults. Defines "person in a position of trust" and "self-dealing". Provides that a: (1) person commits exploitation of a dependent or an endangered adult if the person recklessly uses or exerts control over the personal services or property of an endangered adult or dependent; and (2) person in a position of trust commits exploitation of a dependent or an endangered adult if the person recklessly engages in self-dealing with the property of the dependent or endangered adult. Increases the penalty if the person has a prior unrelated conviction. Removes: (1) provisions relating to the Social Security Act; (2) a sentencing enhancement that applies if the victim is at least 60 years of age; and (3) a sentencing enhancement based on the value of the property.

Effective: July 1, 2020.

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January 9, 2020, read first time and referred to Committee on Corrections and Criminal Law.



Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

SENATE BILL No. 249

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-31.5-2-235.2 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2020]: **Sec. 235.2. "Person in a position of**
4 **trust", for purposes of IC 35-46-1-12, has the meaning set forth in**
5 **IC 35-46-1-12.**

6 SECTION 2. IC 35-31.5-2-290.5 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2020]: **Sec. 290.5. "Self-dealing", for**
9 **purposes of IC 35-46-1-12, has the meaning set forth in**
10 **IC 35-46-1-12.**

11 SECTION 3. IC 35-46-1-12, AS AMENDED BY P.L.158-2013,
12 SECTION 556, IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2020]: **Sec. 12. (a) The following definitions**
14 **apply throughout this section:**

- 15 (1) "Person in a position of trust" means a person who has or
16 had:
 - 17 (A) the care of:



- 1 (i) an endangered adult; or
 2 (ii) a dependent;
 3 whether assumed voluntarily or because of a legal
 4 obligation; or
 5 (B) a professional relationship with:
 6 (i) an endangered adult; or
 7 (ii) a dependent;
 8 that may permit the person to exert undue influence over
 9 the endangered adult or dependent.
 10 (2) "Self-dealing" means a person using the property of
 11 another person to gain an undue benefit, even if the other
 12 person also benefits.
 13 (a) (b) Except as provided in subsection (b); A person who
 14 recklessly knowingly, or intentionally uses or exerts control
 15 unauthorized use of over the personal services or the property of:
 16 (1) an endangered adult; or
 17 (2) a dependent; eighteen (18) years of age or older;
 18 for the person's own profit or advantage or for the profit or advantage
 19 of another person, but not for the profit or advantage of a person
 20 described in subdivision (1) or (2), commits exploitation of a
 21 dependent or an endangered adult, a Class A misdemeanor. However,
 22 the offense is a Level 6 felony if the person has a prior unrelated
 23 conviction under this section.
 24 (c) A person in a position of trust who recklessly engages in
 25 self-dealing with the property of:
 26 (1) an endangered adult; or
 27 (2) a dependent;
 28 commits exploitation of a dependent or an endangered adult, a
 29 Class A misdemeanor. However, the offense is a Level 6 felony if
 30 the person has a prior unrelated conviction under this section.
 31 (b) The offense described in subsection (a) is a Level 6 felony if:
 32 (1) the fair market value of the personal services or property is
 33 more than ten thousand dollars (\$10,000); or
 34 (2) the endangered adult or dependent is at least sixty (60) years
 35 of age.
 36 (c) Except as provided in subsection (d); a person who recklessly,
 37 knowingly, or intentionally deprives an endangered adult or a
 38 dependent of the proceeds of the endangered adult's or the dependent's
 39 benefits under the Social Security Act or other retirement program that
 40 the division of family resources has budgeted for the endangered adult's
 41 or dependent's health care commits financial exploitation of an
 42 endangered adult or a dependent; a Class A misdemeanor.



- 1 (d) The offense described in subsection (c) is a Level 6 felony if:
2 (1) the amount of the proceeds is more than ten thousand dollars
3 (\$10,000); or
4 (2) the endangered adult or dependent is at least sixty (60) years
5 of age.
6 (e) It is not a defense to an offense committed under subsection
7 (b)(2) or (d)(2) that the accused person reasonably believed that the
8 endangered adult or dependent was less than sixty (60) years of age at
9 the time of the offense.
10 ~~(f)~~ (d) It is a defense to an offense committed under subsection (a);
11 ~~(b)~~; or (e) **this section** if the accused person:
12 (1) has been granted a durable power of attorney or has been
13 appointed a legal guardian to manage the affairs of an endangered
14 adult or a dependent; and
15 (2) was acting within the scope of the accused person's fiduciary
16 responsibility.

