



February 21, 2020

ENGROSSED SENATE BILL No. 249

DIGEST OF SB 249 (Updated February 19, 2020 1:49 pm - DI 135)

Citations Affected: IC 35-31.5; IC 35-46.

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.

**Young M, Koch, Ford J.D.,
Randolph Lonnie M, Becker, Leising,
Crane**

(HOUSE SPONSORS — MCNAMARA, LEHMAN, SPEEDY)

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

January 16, 2020, reported favorably — Do Pass.

January 23, 2020, read second time, amended, ordered engrossed.

January 24, 2020, engrossed.

January 27, 2020, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 10, 2020, read first time and referred to Committee on Courts and Criminal Code.

February 20, 2020, reported — Do Pass.

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February 21, 2020

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.

ENGROSSED 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:**

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- 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 a benefit that is grossly
 12 disproportionate to the goods or services provided to the
 13 other person. The term does not include an incidental benefit.
- 14 (a) ~~(b)~~ Except as provided in subsection ~~(b)~~; A person who
 15 recklessly ~~knowingly~~; or intentionally uses or exerts control
 16 ~~unauthorized use of~~ over the personal services or the property of:
 17 (1) an endangered adult; or
 18 (2) a dependent; ~~eighteen (18) years of age or older~~;
 19 for the person's own profit or advantage or for the profit or advantage
 20 of another person, **but not for the profit or advantage of a person**
 21 **described in subdivision (1) or (2)**, commits exploitation of a
 22 dependent or an endangered adult, a Class A misdemeanor. **However,**
 23 **the offense is a Level 6 felony if the person has a prior unrelated**
 24 **conviction under this section.**
- 25 (c) A person in a position of trust who recklessly engages in
 26 self-dealing with the property of:
 27 (1) an endangered adult; or
 28 (2) a dependent;
 29 commits exploitation of a dependent or an endangered adult, a
 30 Class A misdemeanor. **However, the offense is a Level 6 felony if**
 31 **the person has a prior unrelated conviction under this section.**
- 32 (b) The offense described in subsection (a) is a Level 6 felony if:
 33 (1) the fair market value of the personal services or property is
 34 more than ten thousand dollars (\$10,000); or
 35 (2) the endangered adult or dependent is at least sixty (60) years
 36 of age.
- 37 (c) Except as provided in subsection (d), a person who recklessly;
 38 knowingly; or intentionally deprives an endangered adult or a
 39 dependent of the proceeds of the endangered adult's or the dependent's
 40 benefits under the Social Security Act or other retirement program that
 41 the division of family resources has budgeted for the endangered adult's
 42 or dependent's health care commits financial exploitation of an



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



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 249, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 249 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 8, Nays 0

SENATE MOTION

Madam President: I move that Senate Bill 249 be amended to read as follows:

Page 2, delete lines 10 through 12, begin a new line block indented and insert:

"(2) "Self-dealing" means a person using the property of another person to gain a benefit that is grossly disproportionate to the goods or services provided to the other person. The term does not include an incidental benefit."

(Reference is to SB 249 as printed January 17, 2020.)

TALLIAN

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 249, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 249 as reprinted January 24, 2020.)

MCNAMARA

Committee Vote: Yeas 11, Nays 0

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