

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 ENROLLED ACT No. 249

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

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

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

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

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

(1) "Person in a position of trust" means a person who has or had:

(A) the care of:

(i) an endangered adult; or

(ii) a dependent;

whether assumed voluntarily or because of a legal obligation; or

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(B) a professional relationship with:

- (i) an endangered adult; or**
- (ii) a dependent;**

that may permit the person to exert undue influence over the endangered adult or dependent.

(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.

(a) (b) Except as provided in subsection (b); A person who recklessly knowingly; or intentionally uses or exerts control ~~unauthorized use of~~ over the personal services or the property of:

- (1) an endangered adult; or**
- (2) a dependent; ~~eighteen (18) years of age or older;~~**

for the person's own profit or advantage or for the profit or advantage of another person, but not for the profit or advantage of a person described in subdivision (1) or (2), commits exploitation of a dependent or an endangered adult, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated conviction under this section.

(c) A person in a position of trust who recklessly engages in self-dealing with the property of:

- (1) an endangered adult; or**
- (2) a dependent;**

commits exploitation of a dependent or an endangered adult, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated conviction under this section.

(b) The offense described in subsection (a) is a Level 6 felony if:

- (1) the fair market value of the personal services or property is more than ten thousand dollars (\$10,000); or**
- (2) the endangered adult or dependent is at least sixty (60) years of age.**

(c) Except as provided in subsection (d); a person who recklessly; knowingly; or intentionally deprives an endangered adult or a dependent of the proceeds of the endangered adult's or the dependent's benefits under the Social Security Act or other retirement program that the division of family resources has budgeted for the endangered adult's or dependent's health care commits financial exploitation of an endangered adult or a dependent; a Class A misdemeanor:

(d) The offense described in subsection (c) is a Level 6 felony if:

- (1) the amount of the proceeds is more than ten thousand dollars (\$10,000); or**



(2) the endangered adult or dependent is at least sixty (60) years of age.

(e) It is not a defense to an offense committed under subsection (b)(2) or (d)(2) that the accused person reasonably believed that the endangered adult or dependent was less than sixty (60) years of age at the time of the offense.

(f) ~~(d)~~ It is a defense to an offense committed under ~~subsection (a); (b); or (c)~~ **this section** if the accused person:

(1) has been granted a durable power of attorney or has been appointed a legal guardian to manage the affairs of an endangered adult or a dependent; and

(2) was acting within the scope of the accused person's fiduciary responsibility.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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