

SENATE BILL No. 299

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-43-4-2.

Synopsis: Theft by public employees. Provides that the court shall order, in addition to any criminal penalty imposed, that a public servant be imprisoned for at least 30 days if the public servant is convicted of the offense of theft of public funds from the public servant's employer having a value of at least \$10,000. Provides that the mandatory term of imprisonment imposed on the public servant convicted of the offense of theft of public funds having a value of at least \$10,000: (1) may not be suspended; and (2) does not count towards earned good time credit.

Effective: July 1, 2021.

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January 11, 2021, read first time and referred to Committee on Corrections and Criminal Law.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE BILL No. 299

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 35-43-4-2, AS AMENDED BY P.L.276-2019,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 2. (a) A person who knowingly or intentionally
4 exerts unauthorized control over property of another person, with intent
5 to deprive the other person of any part of its value or use, commits
6 theft, a Class A misdemeanor. However, the offense is:
7 (1) a Level 6 felony if:
8 (A) the value of the property is at least seven hundred fifty
9 dollars (\$750) and less than fifty thousand dollars (\$50,000);
10 (B) the property is a:
11 (i) firearm;
12 (ii) motor vehicle (as defined in IC 9-13-2-105(a)); or
13 (iii) component part (as defined in IC 9-13-2-34) of a motor
14 vehicle; or
15 (C) the person has a prior unrelated conviction for
16 (i) theft under this section; or
17 (ii) criminal conversion under section 3 of this chapter; and



(2) a Level 5 felony if:

(A) the value of the property is at least fifty thousand dollars (\$50,000);

(B) the property that is the subject of the theft is a valuable metal (as defined in IC 25-37.5-1-1) and:

(i) relates to transportation safety;

(ii) relates to public safety; or

(iii) is taken from a hospital or other health care facility, telecommunications provider, public utility (as defined in IC 32-24-1-5.9(a)), or critical infrastructure facility;

and the absence of the property creates a substantial risk of bodily injury to a person; or

(C) the property is a:

(i) motor vehicle (as defined in IC 9-13-2-105(a)); or

(ii) component part (as defined in IC 9-13-2-34) of a motor vehicle; and

the person has a prior unrelated conviction for theft of a motor vehicle (as defined in IC 9-13-2-105(a)) or theft of a component part (as defined in IC 9-13-2-34).

(b) For purposes of this section, "the value of property" means:

(1) the fair market value of the property at the time and place the offense was committed; or

(2) if the fair market value of the property cannot be satisfactorily determined, the cost to replace the property within a reasonable time after the offense was committed.

A price tag or price marking on property displayed or offered for sale constitutes prima facie evidence of the value of the property.

(c) If the offense described in subsection (a) is committed by a public servant who exerted unauthorized control over public funds (as defined by IC 5-22-2-23) from the public servant's employer:

(1) the employer may be reimbursed in accordance with IC 2-3.5-4-11, IC 2-3.5-5-9, IC 5-10-5.5-19, IC 5-10.3-8-9, IC 5-10.4-5-14, IC 10-12-2-10, IC 33-38-6-19.5, IC 33-39-7-10.5, IC 36-8-6-14, IC 36-8-7-22, IC 36-8-7.5-19, or IC 36-8-8-17; and

(2) the court shall order, in addition to any criminal penalty imposed for an offense under this section, that the public servant be imprisoned for at least thirty (30) days if the value of the public funds is at least ten thousand dollars (\$10,000).

(d) Notwithstanding IC 35-50-2-2.2 and IC 35-50-3-1, a sentence imposed under subsection (c)(2) may not be suspended. The court may require that the public servant serve the term of imprisonment in an appropriate facility at whatever time or



1 intervals (consecutive or intermittent) determined appropriate by
2 the court. However:
3 (1) at least forty-eight (48) hours of the sentence must be
4 served consecutively; and
5 (2) the entire sentence must be served within six (6) months
6 after the date of sentencing.
7 (e) Notwithstanding IC 35-50-6, a person does not earn good
8 time credit (as defined in IC 35-50-6-0.5) while serving a sentence
9 imposed under subsection (c)(2).

