



Reprinted
February 7, 2017

SENATE BILL No. 345

DIGEST OF SB 345 (Updated February 6, 2017 2:01 pm - DI 106)

Citations Affected: IC 23-19; IC 28-1; IC 34-30; IC 35-46; noncode.

Synopsis: Financial crimes against the elderly. Permits a financial institution to release certain financial records to a law enforcement agency or adult protective services unit if the financial institution reasonably suspects illegal activity in connection with an endangered adult customer's account, and provides immunity to a financial institution that releases, or does not release, this information. Permits a court to order a person convicted of exploitation of an endangered adult or a dependent to disgorge all or some of any property the person received as the result of the death of the endangered adult or dependent. Removes an individual at least 65 years of age (having no mental illness or intellectual disability) from the definition of "financially endangered adult" for purposes of laws concerning financial exploitation of financially endangered adults. Urges the general assembly to assign the topic of adult protective services to a study committee during the 2017 legislative interim.

Effective: July 1, 2017.

**Young M, Lanane, Zakas,
Randolph Lonnie M, Hershman**

January 9, 2017, read first time and referred to Committee on Judiciary.
January 18, 2017, reported favorably — Do Pass.
February 6, 2017, read second time, amended, ordered engrossed.

SB 345—LS 6636/DI 128



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First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE BILL No. 345

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 23-19-4.1-2, AS ADDED BY P.L.39-2016,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 2. As used in this chapter, "financially endangered
4 adult" means an individual to whom one ~~(1)~~ or more of the following
5 apply: **who is:**
6 ~~(1)~~ The individual is at least sixty-five (65) years of age;
7 ~~(2)~~ The individual is:
8 ~~(A)~~ (1) at least eighteen (18) years of age; and
9 ~~(B)~~ (2) incapable, by reason of:
10 (i) mental illness;
11 (ii) intellectual disability;
12 (iii) dementia; or
13 (iv) other physical or mental incapacity;
14 of managing or directing the management of the individual's
15 property.
16 SECTION 2. IC 28-1-2-30.6 IS ADDED TO THE INDIANA CODE
17 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

SB 345—LS 6636/DI 128



1, 2017]: **Sec. 30.6. (a) The following definitions apply throughout this section:**

(1) "Adult protective services unit" has the meaning set forth in IC 12-10-3-1.

(2) "Endangered adult customer" means an individual who:

(A) is at least eighteen (18) years of age;

(B) in the good faith belief of a financial institution, is incapable by reason of mental illness, intellectual disability, dementia, or other physical or mental incapacity of managing or directing the management of the individual's property; and

(C) uses any service of a financial institution or for whom the financial institution acts as a fiduciary.

(3) "Law enforcement agency" has the meaning set forth in IC 35-47-15-2.

(b) A financial institution may, in accordance with IC 12-10-3, release the personal or financial records relating to an endangered adult customer's account to an adult protective services unit or a law enforcement agency, or both, if:

(1) the endangered adult customer has an ownership interest or a beneficial interest in the account, in whole or in part; and

(2) the financial institution reasonably suspects that illegal activity has taken place, or is or will be taking place, in connection with the account.

(c) A financial institution and the director, officer, manager, employee, or agent of a financial institution who, in good faith, releases or does not release the personal or financial records of an endangered adult customer in accordance with this section is immune from civil liability under Indiana law for the release or failure to release a record described in this section. However, this subsection does not relieve a person described in this subsection from the obligation to comply with the laws and regulations of the United States, of another state, or of a political subdivision of another state.

SECTION 3. IC 34-30-2-119.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 119.9. IC 28-1-2-30.6 (Concerning the release of or failure to release financial records of an endangered adult customer of a financial institution).**

SECTION 4. IC 35-46-1-12, AS AMENDED BY P.L.158-2013, SECTION 556, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 12. (a) Except as provided in**



1 subsection (b), a person who recklessly, knowingly, or intentionally
2 exerts unauthorized use of the personal services or the property of:

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

5 for the person's own profit or advantage or for the profit or advantage
6 of another person commits exploitation of a dependent or an
7 endangered adult, a Class A misdemeanor.

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

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

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

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

- 21 (1) the amount of the proceeds is more than ten thousand dollars
22 (\$10,000); or
23 (2) the endangered adult or dependent is at least sixty (60) years
24 of age.

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

29 (f) It is a defense to an offense committed under subsection (a), (b),
30 or (c) if the accused person:

- 31 (1) has been granted a durable power of attorney or has been
32 appointed a legal guardian to manage the affairs of an endangered
33 adult or a dependent; and
34 (2) was acting within the scope of the accused person's fiduciary
35 responsibility.

36 **(g) In addition to any penalty imposed under IC 35-50-2,**
37 **including an order of restitution, the court may order a person**
38 **convicted of an offense under this section that is committed against**
39 **an endangered adult or dependent to disgorge all or some of the**
40 **property received from the endangered adult or dependent as a**
41 **result of the endangered adult's or dependent's death, regardless**
42 **of whether the property was received as a direct or indirect result**



1 of the offense. The court may order the property distributed to the
2 surviving beneficiaries:
3 (1) subject to the terms of any will, trust, or other instrument
4 transferring the property;
5 (2) on a pro rata basis; or
6 (3) in another equitable manner that serves the interest of
7 justice.
8 SECTION 5. [EFFECTIVE JULY 1, 2017] (a) The general
9 assembly urges the legislative council to assign to an appropriate
10 study committee for study during the 2017 legislative interim the
11 topic of adult protective services, including the appropriate
12 funding for adult protective services.
13 (b) This SECTION expires November 1, 2017.



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 345, 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 345 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 7, Nays 1

 SENATE MOTION

Madam President: I move that Senate Bill 345 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 23-19-4.1-2, AS ADDED BY P.L.39-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. As used in this chapter, "financially endangered adult" means an individual to whom one (1) or more of the following apply: who is:

(1) The individual is at least sixty-five (65) years of age;

(2) The individual is:

(A) (1) at least eighteen (18) years of age; and

(B) (2) incapable, by reason of:

(i) mental illness;

(ii) intellectual disability;

(iii) dementia; or

(iv) other physical or mental incapacity;

of managing or directing the management of the individual's property."

Renumber all SECTIONS consecutively.

(Reference is to SB 345 as printed January 19, 2017.)

YOUNG M

