
SENATE BILL No. 95

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-44-1-2.

Synopsis: Official misconduct. Specifies that a public servant commits official misconduct if the public servant commits an offense while misusing a power possessed by virtue of state law, or if the public servant commits an offense while appearing to be exercising authority granted by state law that the public servant does not possess. Provides that a law enforcement officer who, knowing that the entry is unlawful, enters the residence of another person without having a reasonable belief that the unlawful entry is necessary to prevent injury or death commits unlawful entry by law enforcement, a Class D felony, and increases the penalty to a Class C felony if it results in serious bodily injury to another person. (The introduced version of this bill was prepared by the Legislative Council Barnes v. State Subcommittee.)

Effective: July 1, 2012.

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January 4, 2012, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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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 2011 Regular Session of the General Assembly.

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SENATE BILL No. 95



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 35-44-1-2, AS AMENDED BY P.L.102-2011,
 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2012]: Sec. 2. (a) A public servant who knowingly or
 4 intentionally:
 5 (1) commits an offense in the performance of the public servant's
 6 official duties, **including an offense committed while the public**
 7 **servant:**
 8 (A) **is misusing a power possessed by virtue of state law; or**
 9 (B) **appears to be exercising authority granted by state law**
 10 **that the public servant does not possess;**
 11 (2) solicits, accepts, or agrees to accept from an appointee or
 12 employee any property other than what the public servant is
 13 authorized by law to accept as a condition of continued
 14 employment;
 15 (3) acquires or divests himself or herself of a pecuniary interest in
 16 any property, transaction, or enterprise or aids another person to
 17 do so based on information obtained by virtue of the public



1 servant's office that official action that has not been made public
2 is contemplated; or
3 (4) fails to deliver public records and property in the public
4 servant's custody to the public servant's successor in office when
5 that successor qualifies;
6 commits official misconduct, a Class D felony.
7 **(b) A law enforcement officer who, knowing that the entry is**
8 **unlawful, enters the residence of another person without having a**
9 **reasonable belief that the unlawful entry is necessary to prevent**
10 **injury or death commits unlawful entry by law enforcement, a**
11 **Class D felony. However, the offense is a Class C felony if it results**
12 **in serious bodily injury to another person.**

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