

SB 257 A STAFF MEASURE SUMMARY

Carrier: Sen. Gelser

Senate Committee On Judiciary

Action Date: 04/03/17

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 4-1-0-0

Yeas: 4 - Dembrow, Manning Jr, Prozanski, Thatcher

Nays: 1 - Linthicum

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Whitney Perez, Counsel

WHAT THE MEASURE DOES:

Expands crime of Official Misconduct in the First Degree to include committing Official Misconduct in the Second Degree when the violation places vulnerable person in danger of physical injury or a sex crime, or that the violation will cause the withholding from a vulnerable person of necessary and adequate food, physical care or medical attention.

ISSUES DISCUSSED:

- Need for a further amendment
- Impetus for this provision
- What conduct would be prohibited by this provision

EFFECT OF AMENDMENT:

Makes offense applicable to violations when the public servant is aware of and consciously disregards a risk that the violation will place a vulnerable person in danger of physical injury or a sex crime, or that the violation will cause the withholding from a vulnerable person of necessary and adequate food, physical care or medical attention.

BACKGROUND:

Official Misconduct in the Second Degree occurs when a public servant knowingly violates any statute relating to the office of that public servant. It is a Class C misdemeanor. Official Misconduct in the First Degree occurs when a public servant, with the intent to obtain a benefit or harm another, knowingly fails to perform a duty imposed by law or inherent in the nature of the office or knowingly performs an act constituting an unauthorized exercise in official duties. This is a Class A misdemeanor. A public servant is defined as a public official; a person nominated, elected or appointed to become a public servant even though the person is not yet in that position; jurors; and a person serving as an advisor, consultant or assistant at the request of the state, a political subdivision or any governmental instrumentality within the state.

Senate Bill 257-A expands the crime of Official Misconduct in the First Degree to include acts that constitute Official Misconduct in the Second Degree when the public servant is aware of and consciously disregards a risk that the violation places a vulnerable person in danger of physical injury or a sex crime, or that the violation will cause the withholding from a vulnerable person of necessary and adequate food, physical care or medical attention. It also defines vulnerable person.