

SB 257 B STAFF MEASURE SUMMARY

Carrier: Rep. Stark

House Committee On Judiciary

Action Date: 05/31/17

Action: Do pass with amendments to the A-Eng bill. (Printed B-Eng.)

Vote: 9-1-1-0

Yeas: 9 - Barker, Gorsek, Lininger, Olson, Sanchez, Sprenger, Stark, Vial, Williamson

Nays: 1 - Post

Exc: 1 - Greenlick

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 if the public servant is acting as a supervisory employee and the violation places vulnerable person at risk of physical injury, commission of a sex crime or the withholding of necessary and adequate food, physical care or medical attention. Defines supervisory employee.

ISSUES DISCUSSED:

- Class A misdemeanor subjects a person to a maximum sentence of one year incarceration and a \$6,250 fine
- Concern over impact on social workers
- Elements of the offense and examples of applicable conduct

EFFECT OF AMENDMENT:

Makes offense applicable to supervisory employees. Defines supervisory employee. Makes technical changes.

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-B 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 acting as a supervisory employee and is aware of and consciously disregards that the violation creates a risk of physical injury or commission of a sex crime to a vulnerable person, 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 and supervisory employee.