

1-1 By: Williams S.B. No. 1281
1-2 (In the Senate - Filed March 3, 2009; March 17, 2009, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 8, 2009, reported favorably by the following vote: Yeas 6,
1-5 Nays 0; April 8, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the fraudulent obtaining of a controlled substance from
1-9 a practitioner; providing a penalty.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 481.129, Health and Safety Code, is
1-12 amended by adding Subsections (a-1) and (d-1) to read as follows:

1-13 (a-1) A person commits an offense if the person, with the
1-14 intent to obtain a controlled substance or combination of
1-15 controlled substances that is not medically necessary for the
1-16 person or an amount of a controlled substance or substances that is
1-17 not medically necessary for the person, obtains or attempts to
1-18 obtain from a practitioner a controlled substance or a prescription
1-19 for a controlled substance by misrepresentation, fraud, forgery,
1-20 deception, subterfuge, or concealment of a material fact. For
1-21 purposes of this subsection, a material fact includes whether the
1-22 person has an existing prescription for a controlled substance
1-23 issued for the same period of time by another practitioner.

1-24 (d-1) An offense under Subsection (a-1) is:

1-25 (1) a felony of the second degree if any controlled
1-26 substance that is the subject of the offense is listed in Schedule I
1-27 or II;

1-28 (2) a felony of the third degree if any controlled
1-29 substance that is the subject of the offense is listed in Schedule
1-30 III or IV; and

1-31 (3) a Class A misdemeanor if any controlled substance
1-32 that is the subject of the offense is listed in Schedule V.

1-33 SECTION 2. The change in law made by this Act applies only
1-34 to an offense committed on or after the effective date of this Act.
1-35 An offense committed before the effective date of this Act is
1-36 covered by the law in effect when the offense was committed, and the
1-37 former law is continued in effect for that purpose. For purposes of
1-38 this section, an offense was committed before the effective date of
1-39 this Act if any element of the offense was committed before that
1-40 date.

1-41 SECTION 3. This Act takes effect September 1, 2009.

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