

## **BILL ANALYSIS**

S.B. 159  
By: Williams  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

A great deal of diversion of controlled substances is committed by persons who have access to those substances by the nature of their profession or employment. This legislation is designed to address those persons, who by the nature of their profession or employment, divert controlled substances for personal use or the use of another person. Furthermore, this legislation will aid in the prevention of stolen controlled substances being sold on the black market by holding those with trusted access to the controlled substances more accountable.

S.B. 159 creates an offense if a person by nature of the person's profession or employment diverts controlled substances for personal use or the use of another.

As proposed, S.B. 159 amends current law relating to the diversion of a controlled substance by certain persons who have access to the substance by virtue of the persons' profession or employment and provides penalties.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **ANALYSIS**

SECTION 1. Amends Subchapter D, Chapter 481, Health and Safety Code, by adding Section 481.1285, as follows:

Sec. 481.1285. OFFENSE: DIVERSION OF CONTROLLED SUBSTANCE BY REGISTRANTS, DISPENSERS, AND CERTAIN OTHER PERSONS. (a) Provides that this section applies only to a registrant, a dispenser, or a person who, pursuant to Section 481.062(a)(1) (relating to persons not required to register under this chapter including an agent or employee of a registered manufacturer, distributor, analyzer, or dispenser of the controlled substance acting in the usual course of business or employment) or (2) (relating to persons not required to register under this chapter including a common or contract carrier, a warehouseman, or an employee of a carrier or warehouseman whose possession of the controlled substance is in the usual course of business or employment), is not required to register under this subchapter.

(b) Provides that person commits an offense if the person knowingly:

- (1) converts to the person's own use or benefit a controlled substance to which the person has access by virtue of the person's profession or employment; or
- (2) diverts to the unlawful use or benefit of another person a controlled substance to which the person has access by virtue of the person's profession or employment.

(c) Provides that an offense under Subsection (b)(1) is a state jail felony. Provides that an offense under Subsection (b)(2) is a felony of the third degree.

(d) Authorizes, if conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor to be prosecuted under this section, the other law, or both.

**EFFECTIVE DATE**

September 1, 2011.