

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 25, 2011

TO: Honorable David Dewhurst, Lieutenant Governor, Senate

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: SB158 by Williams (Relating to the fraudulent obtaining of a controlled substance from a practitioner; providing a penalty.), **As Passed 2nd House**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Health and Safety Code and Penal Code as they relate to the fraudulent obtaining of a controlled substance from a practitioner. The bill would amend the Health and Safety Code by making it a criminal offense to obtain or attempt to obtain from a practitioner a controlled substance or a prescription for a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge, or concealment of a material fact. Under the provisions of the bill, an offense involving a controlled substance listed in Schedule V would be punishable as a class A misdemeanor, a substance listed in Schedule III or IV would be punishable as a third degree felony, and a substance listed in Schedule I or II would be punishable as a second degree felony. Under the provisions of the bill, converting to a person's own use or benefit a controlled substance to which the person has access by virtue of the person's profession or employment a state jail felony. The bill would also make diverting to the unlawful use or benefit of another person a controlled substance to which the person has access by virtue of the person's employment a third degree felony. The bill would amend the Penal Code to add causing the unlawful delivery, dispensation, or distribution of a controlled substance or dangerous drug in violation of Subtitle B, Title 3, Occupations Code, to the list of offense considered engaging in organized criminal activity. The bill would also amend the Penal Code making the criminally negligent sale, delivery or causing the sale or delivery of an extract of salvia divinorum, Salvinorin A, or a product containing an extract of salvia divinorum or Salvinorin A to another person a Class B Misdemeanor.

The bill would take effect September 1, 2011 and apply only to an offense committed on or after the effective date.

For this analysis it is assumed the number of offenders convicted under this statute would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, LM, ESi, GG, ADM