

BILL ANALYSIS

S.B. 1235
By: Whitmire
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

There are concerns, particularly among law enforcement and certain county officials, that the laws governing the operation of pain management clinics are too narrow and make it difficult to prosecute and adequately punish individuals associated with clinics operating as illegal pill mills, which act as suppliers of prescription substances to be sold as street drugs. Interested parties assert the need to expand the applicability of certain provisions to include individuals who are medical directors or physicians who are affiliated or associated with a pain management clinic in any capacity, as the named owners or operators of a clinic often distance themselves from the clinic by using other individuals to actually distribute the controlled substances. The parties further assert the need to ensure that individuals who violate statutory provisions regulating these clinics are subject to the same criminal penalty as a person who practices medicine in violation of the Medical Practice Act, which is a third degree felony. S.B. 1235 seeks to address these issues.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1235 amends the Occupations Code to define "operator," for purposes of statutory provisions regulating pain management clinics, as an owner, medical director, or physician affiliated or associated with the pain management clinic in any capacity and to specify that each such individual is considered to be operating at the pain management clinic. The bill specifies that a provision establishing that a person who owns or operates a pain management clinic is engaged in the practice of medicine includes, but is not limited to, all supervision and delegation activities related to the pain management clinic. The bill specifies that a violation of statutory provisions regulating pain management clinics is subject to criminal prosecution in the same manner as a violation of the Medical Practice Act that involves the practice of medicine.

EFFECTIVE DATE

September 1, 2015.