

BILL ANALYSIS

Senate Research Center
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S.B. 158
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The abuse of prescription drugs is a serious public health issue and the increasing diversion of prescription drugs is a cause for concern. One of the causes of diversion is doctor shopping. Doctor shopping is typically defined as a patient actively seeking doctors who will prescribe certain types of medications, usually opiates, depressants, and stimulants. Fifteen other states currently have legislation that specifically addresses the problem.

S.B. 158 creates criminal penalties for patients who visit multiple practitioners and do not disclose that they are already receiving controlled substances. In other words, a person commits an offense if they have intent to obtain controlled substances that are not medically necessary for the person using misrepresentation, fraud, forgery, deception, subterfuge, or concealment of a material fact.

As proposed, S.B. 158 amends current law relating to the fraudulent obtaining of a controlled substance from a practitioner and provides a penalty.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 481.129, Health and Safety Code, by adding Subsections (a-1) and (d-1), as follows:

(a-1) Provides that a person commits an offense if the person, with intent to obtain a controlled substance or combination of controlled substances that is not medically necessary for the person or an amount of a controlled substance or substances that is not medically necessary for the person, obtains or attempts 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. Provides that for the purposes of this subsection, a material fact includes whether the person has an existing prescription for a controlled substance issued for the same period of time by another practitioner.

(d-1) Provides that an offense under Subsection (a-1) is:

- (1) a felony of the second degree if any controlled substance that is the subject of the offense is listed in Schedule I or II;
- (2) a felony of the third degree if any controlled substance that is the subject of the offense is listed in Schedule III or IV; and
- (3) a Class A misdemeanor if any controlled substance that is the subject of the offense is listed in Schedule V.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2011.