

## **HB 741 – Controlled Substances (Identical SB 464)**

**The following is taken from the 2014 Senate Criminal Justice Committee staff analysis (CS/SB 328) with additions from the current bill:**

SB 464 authorizes a court to grant a defendant motion to depart from a 3-year mandatory minimum term and mandatory fine for trafficking in a specified quantity of cocaine, certain opiates or opioids, phencyclidine, amphetamine, methamphetamine, flunitrazepam, phenethylamines, or lysergic acid diethylamine (LSD) if the court finds all of the following criteria are met:

- The defendant has not previously moved for a departure.
- The offense involves simple possession.
- The trafficking violation does not involve exploitation of a minor or violence.
- The defendant does not have a previous conviction, adjudication of delinquency, or withhold or adjudication of guilt for drug trafficking or for selling, manufacturing, or delivering, or possessing with intent to sell, manufacture or deliver, a controlled substance.
- The defendant does not have a previous conviction, adjudication of delinquency, or withhold or adjudication of guilt for committing, or attempting, soliciting, or conspiring to commit, specific sex offenses.
- The defendant is amenable to substance abuse treatment if the court determines that he or she is in need of such treatment.

The state attorney may object to the motion to depart.

The court's decision on how to dispose of the motion is completely discretionary. Therefore, the bill does not compel the court to grant the motion to depart even if the court finds that all of the criteria are met.

**The number of defendants who would meet the criteria set out in the bill is unknown. In addition, since the court's decision to depart is discretionary, it is not possible to determine the impact that this bill would have on prison beds.**

**CONFERENCE ADOPTED ESTIMATE: Negative Indeterminate**

**Requested by: House & Senate**