

## **SB 84 – Controlled Substances (Identical HB 327)**

**The following is taken from the 2015 Senate Criminal Justice Committee staff analysis (SB 84):**

SB 84 authorizes a court to grant a defendant's motion to depart from a 3-year mandatory minimum term and mandatory fine for trafficking in cocaine, hydrocodone, oxycodone, 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 benefited by a departure from the mandatory minimum term and mandatory fine.
- The offense would be subject to a 3-year mandatory minimum term and mandatory fine absent a departure.
- The offense only involves possession of any of the noted controlled substances (or a mixture containing the substance) in a specified quantity.
- The offense does not involve use of a minor, a firearm, a deadly weapon, or use or the threat to use physical force against another person.
- The defendant does not have a previous conviction or withhold of adjudication for a drug trafficking violation, and does not have a previous conviction, adjudication of delinquency, or withhold of adjudication for a non-trafficking controlled substance violation, a specified sexual offense, or any other specified offense.
- 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: Senate and House**