

BILL ANALYSIS

C.S.H.B. 2043
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Although Texas criminal justice stakeholders collect data in different ways, holistic information about the entire pretrial system, which acts as the entryway to the criminal justice system, is the least collected and least studied. Pretrial system data is either nonexistent, disorganized, piecemeal, or not easily shared with the public and policymakers. In recent years, the Texas Legislature has considered several policies intended to strengthen the state's pretrial system, but has done so without robust data to inform those policies. In the absence of data, it is very difficult to make informed decisions about exactly where the system requires improvement. C.S.H.B. 2043 seeks to address this issue by expanding pretrial data collection and reporting efforts to improve knowledge of the pretrial system and inform evidence-based legislative reforms. This legislation will standardize current data collection and reporting efforts to include basic, yet important information, which will in turn provide insight for legislators into the potential systemic problems, stress points, and solutions in the pretrial system at the local and state levels.

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 rulemaking authority is expressly granted to the Office of Court Administration of the Texas Judicial System in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2043 amends the Government Code to require the Office of Court Administration of the Texas Judicial System (OCA), as soon as practicable after the bill's effective date, to establish and maintain a database to collect, compile, and analyze pretrial and sentencing information for each defendant arrested for an offense in Texas. The bill requires OCA to include in the database the following information for each defendant, as applicable:

- the case's cause number;
- the court in which the case is pending;
- the defendant's date of birth, race, ethnicity, sex, and primary language, and the zip code and county of residence provided at arrest;
- the offense for which the defendant was arrested, including the date the offense was committed and the punishment classification level;
- the date and county of arrest;
- the date and time the person was taken to jail after arrest;
- whether the defendant was determined to be indigent for purposes of the appointment of counsel;

- information regarding bail in the case, including whether the defendant was denied bail and whether the defendant remained in jail after bail was set, the date bail was set and the date the defendant was released on bail, the name and position of the person setting bail, any conditions of release on bail, the type of bail and, for a monetary bail bond, the amount of bail, and whether the defendant filed an affidavit relating to the inability to give bail in the amount required;
- the length of pretrial confinement;
- any modification of the conditions of release on bail after the defendant's release;
- whether the defendant failed to appear for a scheduled court appearance;
- whether the defendant's release on bail was revoked due to a violation of a condition of release;
- whether the defendant was arrested for committing an offense while released on bail or community supervision in the same county as the previous offense;
- the disposition of the case, including the sentence imposed;
- the date the defendant's sentence commenced; and
- any credit for time served.

The bill establishes that information in the database is public information and subject to state public information law.

C.S.H.B. 2043 requires each law enforcement agency in Texas to collect such information and, not later than the fifth day of each month, submit the information to the clerk of the court in which the applicable case is pending. The bill requires the clerk of each court in Texas with criminal jurisdiction, not later than the 10th day of each month, to submit to OCA, on a form prescribed by OCA, the database information with respect to defendants arrested for offenses in the preceding month. In submitting the information, the law enforcement agency and clerk are required to include any updated or additional information with respect to each defendant for whom information has already been reported. The bill establishes that a law enforcement agency or court is not required to submit information with respect to any defendant arrested before the bill's effective date.

C.S.H.B. 2043 requires OCA to publish deidentified pretrial and sentencing data from the database on OCA's website in a modern, open, electronic format that is machine-readable and readily accessible by the public free of charge and requires OCA to update that information on an annual basis. The bill requires the published data to be searchable by each item of information described by the bill's provisions. The bill prohibits the data on OCA's website from disclosing the name or identifying information of a defendant and OCA from publishing data at the offense level for any offense for which there are fewer than five arrests during a year. The bill requires OCA to begin publishing pretrial and sentencing data not later than January 1, 2024. The bill authorizes OCA to adopt rules as necessary to implement the bill's provisions.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2043 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises the provisions in the introduced relating to the information for a defendant that must be included in the database, as follows:

- changes the zip code and county of residence of the defendant that must be included from that of their primary residence, as in the introduced, to that of the residence they provided at arrest;

- whereas the introduced required inclusion of information as to whether the defendant was denied bail or was unable to give bail in the amount set by the court, the substitute requires the inclusion of information as to whether the defend was denied bail and whether the defendant remained in jail after bail was set;
- omits from the information that must be included if known, the reason for the failure of the defendant to appear for a scheduled court appearance, which was included in the introduced;
- whereas the introduced required inclusion of information as to whether the defendant violated a release of condition and a description of the applicable violation, the substitute requires inclusion of information as to whether the defendant's release on bail was revoked due to a violation of a condition of release but does not specifically require inclusion of a description of any such violation; and
- specifies that the information that must be included regarding whether the defendant was arrested for committing an offense while released on bail or community supervision is with respect to such an offense committed in the same county as the previous offense, whereas the introduced did not include this specification.

While both the introduced and the substitute require the applicable court clerks to submit this information to OCA, the substitute includes a precursory requirement that was not included in the introduced for each law enforcement agency to collect and submit that information to the clerk of the court in which the applicable case is pending. The substitute changes the deadline by which the clerk must submit the information to OCA from not later than the fifth day of each month, as in the introduced, to not later than the 10th day of each month. While both the introduced and the substitute include provisions requiring the clerk to include any updated or additional information for each defendant for whom information has already been reported and establishing that the clerk is not required to submit information with respect to any defendant arrested before the bill's effective date, the substitute makes these same two provisions also applicable to a law enforcement agency.