

BILL ANALYSIS

H.B. 3183
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The use of jailhouse informant testimony in criminal proceedings leads to too many wrongful convictions, including at least 13 wrongful convictions in Texas. This is due to a lack of due diligence by courts to vet the claims of the informants and to jurors wrongly assuming that prosecutors have special knowledge that the informants are telling the truth. The fact that these informants do not need to be screened by judges like expert witnesses is also a contributing factor. H.B. 3183 seeks to address these issues by requiring that jailhouse informants be screened by judges before testifying and that any benefit in the form of an express or implied grant, promise, reduction in sentence, or other special treatment given to such an informant or other relevant information related to the informant be disclosed before they may testify in a case.

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

H.B. 3183 amends the Code of Criminal Procedure to establish that the testimony of an in-custody informant is not admissible against a defendant in a criminal trial of certain specified offenses, whether offered in the guilt or innocence phase or the punishment phase of the trial, unless the following conditions are met:

- on or before the 21st day before the date the trial begins, the state's attorney notifies the defendant of the state's intention to offer the testimony; and
- in a hearing conducted outside the presence of the jury, the judge makes certain findings by clear and convincing evidence relating to any benefit offered to the informant and the informant's reliability, credibility, and testimony.

H.B. 3183 sets out the factors that the court must consider at the admissibility hearing and prohibits the judge from informing the jury of the judge's ruling at the hearing. The bill grants the defendant in the criminal case the right to call the in-custody informant as a witness at the hearing. The bill requires the state's attorney to provide to the defendant and the defendant's attorney all information and records that the state intends to offer at the hearing, including information related to the factors the court must consider under the bill's provisions, not later than the 10th day before the date the hearing begins, unless an extension of time has been granted.

H.B. 3183 requires the court, for sufficient cause shown, to take the following actions:

- extend the time by which the state's attorney is required to provide notice of the state's intention to offer an in-custody informant's testimony or provide the information that the state intends to offer at the admissibility hearing; and
- continue an admissibility hearing or continue the defendant's trial in accordance with applicable state law relating to continuance upon sufficient cause shown if the defendant or the state's attorney needs additional time to prepare for the admissibility hearing.

Such an extension of time constitutes sufficient cause shown for continuing the admissibility hearing or the trial if the continuance is requested by the defendant.

H.B. 3183 requires the court, if the testimony of an in-custody informant is admitted at trial, to instruct the jury to disregard the informant's testimony unless the jury determines that any benefit granted, promised, or offered to the informant did not unduly influence the testimony and that the testimony is truthful. The bill defines "benefit" as any reduction in sentence, immunity from prosecution, or any other form of leniency or special treatment that is offered to or requested by an in-custody informant in exchange for testimony or that the informant could reasonably expect to receive in exchange for testimony.

H.B. 3183 applies to the prosecution of the following offenses:

- murder and capital murder;
- kidnapping and aggravated kidnapping;
- certain sexual offenses involving a child or disabled individual;
- certain sexual assault offenses;
- aggravated assault;
- injury to a child, elderly individual, or disabled individual;
- arson; and
- certain robbery and burglary offenses.

The bill's provisions apply to the admissibility of evidence in a criminal proceeding that commences on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.