

BILL ANALYSIS

H.B. 3937
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Sentencing data is largely inaccessible to the public and there is no statewide depository for this information. While the Office of Court Administration of the Texas Judicial System (OCA) is already in the process of developing a case-level data collection system, the state would benefit if that system allowed policy makers and the public to utilize the data more readily. Greater transparency in sentencing data would help the state analyze and confront questions about sentencing disparities, including those which may relate to race, geography, or other characteristics. Several other states across the country, including Florida, Ohio, and Connecticut, have undertaken initiatives to create centralized sentencing databases. Texas should join in this effort and be a leader in sentencing data transparency. H.B. 3937 seeks to increase sentencing transparency by requiring OCA to establish a statewide electronic database of sentencing information that is free of charge and accessible to the public. Each court clerk will be required to submit the necessary information to this database in regular intervals and the available data, searchable by each data element, will include demographics, sentencing specifics, and the context in which a sentence is handed down, without including personal identification information.

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

H.B. 3937 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 create and maintain a criminal justice system sentencing database to collect, compile, and analyze data regarding the sentencing of each defendant who has been convicted of a Class B misdemeanor or any higher category of offense. The bill establishes that information maintained in the database is not required to be removed from the database following an order of expunction issued with respect to that information. The bill requires the clerk of the sentencing court, on final disposition of a defendant's case, to submit to OCA, within the period prescribed by OCA, a written record of the required data with respect to the defendant's case. A court is not required to submit such information regarding any sentencing that occurred before January 1, 2024.

H.B. 3937 requires OCA to compile data for the database related to the following for each applicable defendant:

- the defendant's age and home zip code;

- the defendant's indigence status;
- the defendant's race, ethnicity, and gender;
- with respect to the offenses for which the defendant was sentenced:
 - each offense and category of the offense;
 - the provision of law under which the defendant was sentenced; and
 - the dates on which the offense and related sentencing occurred;
- the length of confinement or imprisonment, including any probation or community supervision;
- whether any multiple sentences were ordered to be served consecutively or concurrently;
- the amount of each court fee and fine assessed and any restitution ordered;
- charges brought against the defendant;
- any penalty enhancements applied;
- the amount and type of any bail;
- any credit for time served;
- any requirement to attend a pretrial diversion or treatment program;
- the defendant's plea;
- any approved or rejected plea agreement;
- any jury-assessed punishment and recommended sentence;
- whether the defendant was convicted by bench or jury trial, if applicable;
- the defendant's legal representation;
- the category of facility at which the defendant will serve any applicable term of confinement or imprisonment; and
- if convicted of a drug offense, information about the applicable substance.

H.B. 3937 requires OCA, not later than April 1, 2024, to publish deidentified sentencing data from the information in the database on the OCA 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 this information on a monthly basis. The bill requires the data to be searchable by each data element required by the bill and by the county and circuit in which a court is located but prohibits the published data from disclosing the name or identifying information of a defendant or any other individual involved in the defendant's sentencing.

H.B. 3937 requires OCA, not later than September 1 of each even-numbered year, to submit a report to the governor and the legislature regarding the data compiled in the database. The bill authorizes OCA to adopt rules as necessary to implement the bill's provisions.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.