

BILL ANALYSIS

Senate Research Center
85R553 JRR-D

S.B. 47
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Class C misdemeanor offenses are the lowest classification of criminal offense and include such relatively minor violations as public intoxication, check bouncing, petty theft, and other offenses typically punishable only by fine. Although these offenses may be considered minor, they can derail college and career plans when they appear in criminal history reports, which employers and universities frequently require when making employment and admissions decisions. What's more, the public availability of these records may limit housing and other opportunities if a prospective landlord discovers a record in a criminal background check.

Under current law, variations in the way different counties handle records relating to Class C misdemeanors may create a cruel and capricious patchwork of law, wherein the likelihood that a person will be haunted by a prior indiscretion is in part a function of where that indiscretion occurred. As a first step toward addressing that problem, S.B. 47 would require the Office of Court Administration to conduct a study of Class C misdemeanor records-retention practices by counties in this state and submit a report of its findings to the legislature.

As proposed, S.B. 47 amends current law relating to a study on the availability of information regarding convictions and deferred dispositions for certain misdemeanors punishable by fine only.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. (a) Requires the Office of Court Administration of the Texas Judicial System (OCA) to conduct a study on how records regarding misdemeanors punishable by fine only, other than traffic offenses, are held in different Texas counties.

(b) Requires the study to address, with respect to each county:

- (1) the public availability of conviction records for misdemeanors punishable by fine only;
- (2) the public availability of records relating to suspension of sentence and deferral of final disposition under Article 45.051 (Suspension of Sentence and Deferral of Final Disposition), Code of Criminal Procedure, for misdemeanors punishable by fine only;
- (3) the public availability of records described by Subdivisions (1) or (2) of this subsection that are related to a child younger than 18 years of age;
- (4) whether public access to and availability of records described by Subdivisions (1) through (3) have been expanded or restricted by the county over time;

(5) whether local agencies holding records described by Subdivisions (1) through (3) destroy those records;

(6) the reasons and criteria for any destruction of records described by Subdivisions (1) through (3); and

(7) the retention schedule of each local agency holding records described by Subdivisions (1) through (3), if the agency routinely destroys those records.

(c) Requires OCA, not later than January 1, 2019, to issue a report on the study required under this section to the lieutenant governor of Texas, the speaker of the house of representatives of Texas, and the appropriate standing committees of the house of representatives and senate.

(d) Provides that this section expires September 1, 2019.

SECTION 2. Effective date: upon passage or September 1, 2017.