OHIO LEGISLATIVE SERVICE COMMISSION

Sub. Bill Comparative Synopsis   Jeff Hobday

Sub. H.B. 439
132nd General Assembly
(H. Criminal Justice)

This table summarizes how the latest substitute version of H.B. 439 differs from the As Introduced version of the bill. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Topic	Previous Version (As Introduced)	Sub. Version (L_132_0645-9)
Monitoring bail setting practices	Authorizes the Criminal Sentencing Commission (hereafter, "Commission") to do all of the following *(R.C. 181.27(A))*: • Monitor the policies and procedures of courts in setting bail and using pretrial supervision services; • Collect certain specified information monthly from the common pleas court of each county; • Report the information gathered to the General Assembly; • Maintain a centralized database of sentence disposition information based on information gathered from the courts.	Transfers responsibility to the Ohio Supreme Court, or any board, commission, or other state government entity it designates, to do the following *(R.C. 2937.47(A))*: • Collect information from the courts, as described under "**Information to be collected by courts**," and maintain a centralized database of that information; • Report a summary of the policies and procedures of courts in setting bail and using pretrial services, including a summary of the information collected from the courts.

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Criminal justice agency designation	Designates the Commission as a criminal justice agency in the maintenance of the centralized database and authorizes the Commission to apply for access to certain computerized databases of criminal justice information *(R.C. 181.27(B))*.	Designates any board, commission, or other state government entity assigned to monitor bail setting practices as a criminal justice agency authorized to access computerized and other databases of criminal justice information *(R.C. 2937.47(B))*. Allows the Supreme Court to apply for access to criminal justice databases for the limited purpose of monitoring bail setting practices *(R.C. 2937.47(B))*.
Information to be collected by courts	Requires every court that sets bail to collect data on all of the following *(R.C. 2937.231(A))*: • The rate at which defendants released on bail or under pretrial supervision cause physical harm to persons or property. • The rate at which defendants released on bail or pretrial supervision fail to appear before the court as required. • The rate at which the court accepts the recommendation of a pretrial service agency in setting bail. Additionally requires every court to collect the following information about each criminal case handled by the court *(R.C. 2937.231(B))*: • The dates of the defendant's arrest and final release. • The case number and name of the court, judge, and offender. • The city, county, and state of the offender's residence. • All of the following for any offense that	Requires every court, other than a juvenile court, to collect all of the following information about each criminal case handled by the court *(R.C. 2937.231(A))*: • Whether the defendant caused physical harm to persons or property while released on bail or under pretrial supervision. • Whether the defendant failed to appear before the court as required after being released on bail or under pretrial supervision. • Whether the court accepted the recommendation of a pretrial service agency in setting bail. Modifies the information courts are to collect regarding each criminal case handled by the court in the following ways *(R.C. 2937.231(B))*: • The date of the final release is needed only if the defendant was found not guilty, the case was dismissed, or the sentence was suspended at the time of sentencing.

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	the offender is charged with committing: ○ The name of the offense, R.C. section that specifies the offense, and degree of offense. ○ The validated risk assessment tool used to set bail, the risk score assigned to the offender, and the release recommendations. ○ Monetary bail amount set and whether a bail schedule was used.	• Information regarding the offender's residence is not required. Requires the courts to collect any other information the Supreme Court requests for the purpose of monitoring bail-setting policies and practices and to make that information available to the Court or other entity designated by the Court *(R.C. 2937.231(B)(8) and (C)).*
Model judgment entry	No provision.	Requests that the Supreme Court include in the Rules of Superintendence a model judgment entry that includes entries for the findings of fact required for data collection under the bill *(Section 3(A)(1)).*
Selection of validated risk assessment tools	Within 90 days of the bill's effective date, requires the Commission to create a list of validated risk assessment tools that courts may use for setting bail *(R.C. 181.27(A)(1)).* Defines a "validated risk assessment tool" as a risk assessment tool included in the Commission's list of validated risk assessment tools *(R.C. 2907.41(D)(2), 2919.251(D)(3), 2937.222(E)(2), and 2937.23(C)(2)).* No provision.	Requires the Supreme Court, or any board, commission, or other state government entity designated by the Supreme Court, to create the list of validated risk assessment tools that courts may use within one year of the bill's effective date *(R.C. 2937.47(A)(1)).* Redefines "validated risk assessment tool" as a risk assessment tool that has been included in a list of validated risk assessment tools by the Supreme Court, or any board, commission, or other state government entity designated by the Supreme Court to create the list *(R.C 2907.41(D)(2), 2919.251(D)(3), 2937.222(F)(2), and 2937.23(C)(2)).* Requests that the Supreme Court work with a

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		representative of the surety bail bond agents of this state and other interested parties to select the validated risk assessment tools *(Section 3(A)(4))*.
Use of validated risk assessment tool	Requires courts to use the results of a validated risk assessment tool in setting bail *(R.C. 2903.212(A), 2907.41(B), 2919.251(B), and 2937.23(A))*. Provides that a judge, in determining a person's eligibility for bail, must use the results of a validated risk assessment tool to consider factors listed in current law *(R.C. 2937.222(C))*.	Clarifies that a person may be released on bail after considering the results of a validated risk assessment tool and all of the other factors in existing law *(R.C. 2907.41(C)(2), 2919.251(C)(2), and 2937.23(A))*. Clarifies that the results of a validated risk assessment tool are to be considered as one factor alongside the existing factors in determining a person's eligibility for bail *(R.C. 2937.222(C)(1))*. Also requires the court to consider the likelihood that the accused would appear when required by the court if released *(R.C. 2937.222(C)(6))*.
Juvenile courts	No provision.	Provides that a juvenile court may, but is not required to consider the results of a validated risk assessment tool in setting bail or determining eligibility for bail. All other courts are required to consider such results. *(R.C. 2907.41(C)(2), 2919.251(C)(2), 2937.222(E), and 2937.23(A)(3).)* Exempts juvenile courts from the data collection requirements described above *(R.C. 2937.231(A) and (B) and 2937.47(A)(2))*.

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Conditions for bail	Allows the court to set as bail any condition that the judge or magistrate determines is appropriate to ensure public safety and to ensure that the accused appears in court as required and does not depart without leave *(R.C. 2937.22(A)(1))*. Prohibits a judge, magistrate, or clerk from requiring monetary security as bail if the amount of the security is designed to keep the accused detained *(R.C. 2937.23(A)(4))*.	Same, except that the judge or magistrate needs only to determine that the conditions will *reasonably* ensure public safety and ensure the accused appears when required *(R.C. 2937.22(A)(1))*. Eliminates the prohibition described in the column to the left, but requires a judge, magistrate, or clerk who sets bail to first consider setting conditions for bail *(R.C. 2937.23(A)(4))*.
Pretrial supervision services	No provision.	Allows a trial court to contract with DRC for pretrial supervision services if there is no other pretrial services agency available within the court's territorial jurisdiction *(R.C. 2937.223)*.
Rules of Superintendence and Rules of Criminal Procedure	Requests that the Supreme Court update the Rules of Criminal Procedure to conform the rules to the bill's changes to the Revised Code regarding bail and pretrial supervision *(Section 3)*. No provision.	Additionally requests that the Court promulgate a Rule of Superintendence regarding the procedure for setting bail when a judge, magistrate, or clerk of the court is not readily available within a 72-hour period *(Section 3(A)(3))*. Requires the courts to be compliant with the changes to bail setting practices made by the bill and any resulting changes to the Rules of Superintendence and Rules of Criminal Procedure no later than January 1, 2021 *(Section 3(B))*.