

BILL ANALYSIS

C.S.H.B. 1365
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that there are minimal statutory requirements relating to the transfer of court case records between clerks and counties. Furthermore, inconsistencies exist regarding the method by which the transferring clerk must send documents and the documents the receiving clerk must file mark or stamp to receive the case into the record. As such, interested parties have requested a standardized method for transferring cases using the electronic filing system and the creation of a standard transfer certificate that would be the only document the receiving clerk file marks or stamps in order to preserve the integrity of the original documents. C.S.H.B. 1365 seeks to standardize the court case transfer process between court clerks.

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

C.S.H.B. 1365 amends the Government Code to require the Office of Court Administration of the Texas Judicial System (OCA) to develop and make available a standardized transfer certificate and an index of transferred documents form to be used for the transfer of a case between a district court and a county court or of proceedings in a suit affecting the parent-child relationship as soon as practicable after the bill's effective date. The bill requires OCA, in developing forms to provide for the transfer of documents between courts, to consult with representatives of county and district clerks.

C.S.H.B. 1365 changes the authorization for the clerk of a district court and changes the requirement for the clerk of a county court, if a case is transferred to a county court or to a district court, to send certain documents to the respective clerk in electronic or paper form to a requirement for both clerks to send the following documents using the electronic filing system established by the Texas Supreme Court:

- a transfer certificate and index of transferred documents;
- a copy of the original papers filed in the transferring court;
- a copy of the order of transfer signed by the transferring court;
- a copy of each final order;
- a copy of the transfer certificate and index of transferred documents from each previous transfer; and
- a bill of any costs that have accrued in the transferring court.

C.S.H.B. 1365 requires the clerk of the applicable transferring court to use the standardized transfer certificate and index of transferred documents form created by OCA when transferring a case to the applicable court. The clerk of the applicable transferee court:

- must accept the transferred documents and docket the case;
- must physically or electronically mark or stamp the transfer certificate and index of transferred documents to evidence the date and time of acceptance; and
- may not physically or electronically mark or stamp any other transferred document.

The bill replaces the method by which the clerk of a county court of which civil or criminal jurisdiction is transferred to a district court must send a certificated copy of judgments that remain unsatisfied to the applicable district clerk with the electronic filing system. The bill establishes that statutory provisions authorizing a notice or document to be sent by mail or electronic mail do not apply to the transfer of a case between a district court and a county court.

C.S.H.B. 1365 amends the Family Code to change the requirement for the clerk of the court transferring a proceeding in a suit affecting the parent-child relationship to send certain documents to the proper court in the county to which transfer is being made as follows:

- to require the clerk to use the electronic filing system established by the supreme court;
- to require the clerk to send the following documents:
 - a transfer certificate and index of transferred documents;
 - a copy of each final order;
 - a copy of the order transfer signed by the transferring court;
 - a copy of the original papers filed in the transferring court;
 - a copy of the transfer certificate and index of transferred documents from each previous transfer; and
 - a bill of any costs that have accrued in the transferring court; and
- to require the clerk to use the standardized transfer certificate and index of transferred documents form created by OCA.

The clerk of the transferee court must accept such documents. The bill removes the requirement for the clerk to notify the judge of the transferee court and the requirement for the clerk of a transferring court that retains jurisdiction of another child who was the subject of the suit to keep the original pleadings and other requested documents but, as follows, the clerk:

- must notify all parties, the clerk of the transferring court, and, if appropriate, the transferring court's local registry that the suit has been docketed using the electronic filing system;
- must physically or electronically mark or stamp the transfer certificate and index of transferred documents to evidence the date and time of acceptance; and
- may not physically or electronically mark or stamp any other transferred document.

C.S.H.B. 1365 requires the clerk of the transferring court to send a certified copy of the order directing payments to the transferee court using the electronic filing system and to an employer affected by the order electronically or by first class mail. The bill clarifies that the clerks of both the transferee and transferring courts may each produce certified or uncertified copies of documents filed in a case transferred but that the clerks must include a copy of the transfer certificate and index of transferred documents with each document produced. The bill establishes that statutory provisions authorizing a notice or document to be sent by mail or electronic mail do not apply to the transfer of documents for a proceeding in a suit affecting the parent-child relationship.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1365 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include the requirement for OCA to adopt rules prescribing the documents to be transferred between courts.