

**SUBJECT:** Limiting free trial transcripts for indigents

**COMMITTEE:** Civil Practices — favorable, without amendment

**VOTE:** 7 ayes — Gray, Alvarado, Bosse, Dutton, Nixon, Roman, Zbranek  
0 nays  
2 absent— Hilbert, Goodman

**WITNESSES:** For — Cecilia Adair, County & District Clerks Association  
Against — None

**BACKGROUND :** Current law requires court reporters to provide a free statement of facts for an appeals court only under certain circumstances: the party is indigent and has filed the required affidavit and the trial judge finds that the appeal is not frivolous and that the statement of facts is needed to decide the issue on appeal.

A statement of facts is the record of the testimony prepared by the court reporter; the clerk's transcript is the bound volume of all relevant documents in the file, including the statement of facts.

**DIGEST:** HB 1193 would apply the provisions on supplying free court documents to transcripts prepared by a clerk of the court.

The bill would take effect September 1, 1997.

**SUPPORTERS SAY:** HB 1193 would apply the same protections to court clerks that now are given to court reporters. Frivolous lawsuits are filed all too often by indigent parties such as prison inmates. Although these lawsuits generally are dismissed, a court clerk may not refuse the time-consuming and expensive process of preparing the transcripts that are necessary to pursue an appeal. Court clerks, like court reporters, need some defenses to avoid wasting their time and effort. Great progress was made last session to address the problem of frivolous lawsuits from inmates, but for those who serve life sentences, there is little disincentive to stop this wasteful practice.

HB 1193  
House Research Organization  
page 2

**OPPONENTS SAY:** HB 1193 is an overreaction to a problem that has already been addressed. Last session the Legislature enacted HB 1343 by Hightower, which will help staunch the flow of frivolous lawsuits by penalizing inmates with loss of good time for filing frivolous suits and in some circumstances making them pay court costs and fees. Furthermore, there are other remedies to deal with the few who persist in filing such suits, including court rules against filing successive writs of habeas corpus.

**NOTES:** During the 74th Legislature, a similar bill, HB 1391 by Place, was reported favorably as amended from the Civil Practices Committee.

Rep. Rhodes plans to offer a floor amendment that would allow trial judges to order court clerks to prepare a transcript or any part of it in order that a determination may be made on appeal about the frivolity of a case.