

BILL ANALYSIS

Senate Research Center
76R8030 BDH-E

C.S.S.B. 1021
By: Ellis
Jurisprudence
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Committee Report (Substituted)

DIGEST

Currently, a county clerk handling a probate or guardianship proceeding must keep records of the proceeding. Many clerks have eliminated the use of individual record books such as the fee book, docket book, and claim book. In place of individual record books, clerks computerize an index and place all probate records in a case folder. These clerks may provide better access to paper records because they are capable of copying a predisposed case file for a public document request or court requirement. In addition, the computerize records provide security from their digitized optical imaging. C.S.S.B. 1021 would authorize a clerk to maintain records in other formats in addition to paper records for a probate and guardianship proceeding.

PURPOSE

As proposed, C.S.S.B. 1021 authorizes a clerk to maintain certain computerized records, other than paper records, for a probate or guardianship proceeding.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter I, Texas Probate Code, by amending Sections 15, 17, and 18 and adding Section 17A, as follows:

Sec. 15. New heading: CASE FILES. Requires the county clerk to maintain a case file for each decedent's estate with a probate proceeding, rather than keep a record book styled "Probate Minutes," and enter certain other probate filings with the court. Deletes the requirement that the clerk enter decrees into the case file. Makes conforming changes.

Sec. 17. MAINTAINING RECORDS IN LIEU OF RECORD BOOKS. Authorizes the county clerk to maintain the information relating to a person's or estate's probate proceedings on microfilm, as a digitized optical image, or in another similar form of data compilation.

Sec. 17A. INDEX. Provides that the county clerk shall, rather than may, properly index the records and keep the index open for public inspection, and may, rather than shall, release the index from the clerk's custody. Makes conforming and nonsubstantive changes.

Sec. 18. USE OF RECORDS AS EVIDENCE. Requires the record books, case files, or reproductions of records, including a computer file, to be evidence in any court of the state. Makes conforming and nonsubstantive changes.

SECTION 2. Amends Part 2C, Chapter XIII, Texas Probate Code, by amending Sections 625, 627, and 628 and adding Section 627A, as follows:

Sec. 625. New heading: CASE FILES. Requires the county clerk to maintain a case file for each person's filed guardianship proceedings. Requires the file to contain all orders, judgments, proceedings of the court, and certain guardianship proceedings filed with the court, rather than maintain a record book styled "Guardianship Minutes." Makes conforming changes.

Sec. 627. MAINTAINING RECORDS. Authorizes the county clerk who keeps certain record

books to use an individual case file in lieu of the books.

Sec. 627A. INDEX. Authorizes a county clerk to properly index the records and keep the index open for public inspection, but may not release the index from the clerk's custody. Makes conforming changes.

Sec. 628. USE OF RECORDS AS EVIDENCE. Makes conforming changes.

SECTION 3. Effective date: September 1, 1999.

SECTION 4. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Chapter 1, Texas Probate Code, to amend the heading to Section 15 to read "CASE FILES," and to amend Section 15, to require the county clerk to maintain certain case files. Deletes the requirement that the clerk enter decrees into the case file. Makes conforming changes.

Amends Section 17B, Texas Probate Code, to strike added Section 17B, regarding court records.

Amends Section 18, Texas Probate Code, by adding computer files to the list of records that shall be evidence in a court. Makes a nonsubstantive change.

SECTION 2.

Amends Part 2C, Chapter XIII, Texas Probate Code, by amending Section 625, to require electronic copies of case files.

Amends Section 627, Texas Probate Code, to amend the heading and authorize the county clerk to maintain the information relating to a person's guardianship proceeding maintained in those record books on certain electronic formats.

Amends 627A, Texas Probate Code, to delete proposed Subsection (b) regarding a requirement for the county clerk to maintain certain electronic files and to make conforming changes.

Deletes Section 627B, Texas Probate Code.

Amends 628, Texas Probate Code, to require the record books to be evidence, rather than provide that the record books are evidence.