

BILL ANALYSIS

Senate Research Center
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S.B. 611
By: Nelson
Jurisprudence
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

There are certain district attorneys' offices that are moving towards transferring all of their criminal casework into an electronic environment and eliminating the need for developing or maintaining any paper files. To completely move to a paperless system, there needs to be statutory authority to allow the use of electronic charging instruments such as indictments, information, complaints, or other related documents.

As proposed, S.B. 611 grants that statutory authority to utilize electronic charging instruments and also authorizes a district clerk, county clerk, or court to issue in electronic form a capias for the failure of a person to appear before a court, pay a fine, or comply with a court order.

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. Amends the heading to Article 2.26, Code of Criminal Procedure, to read as follows:

Art. 2.26. DIGITAL SIGNATURE AND ELECTRONIC DOCUMENTS.

SECTION 2. Amends Article 2.26, Code of Criminal Procedure, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Provides that an electronically transmitted document issued or received by a court or a clerk of the court in a criminal matter is considered signed if a digital signature is transmitted with the document.

(b-1) Provides that an electronically transmitted document is a written document for all purposes and exempt from any additional writing requirement under this code or any other law of this state.

SECTION 3. Amends Chapter 21, Code of Criminal Procedure, by adding Article 21.011, as follows:

Art. 21.011. FILING OF CHARGING INSTRUMENT OR RELATED DOCUMENT IN ELECTRONIC FORM. (a) Authorizes, notwithstanding Subchapter I, Chapter 51, Government Code, or any other law, a criminal prosecution to be commenced by filing the indictment, information, complaint, or other charging instrument or a related document in electronic form with a judge or clerk of the court authorized to receive the document.

(b) Provides that a judge or clerk of the court is authorized to receive for filing purposes an information, indictment, complaint, or other charging instrument or a related document in electronic form if certain conditions are met.

(c) Requires the person filing the document and the person receiving the document to complete the electronic filing as provided by Section 51.804 (Completion of Electronic Filing), Government Code.

(d) Provides that, notwithstanding Section 51.806 (Signature on Original), Government Code, an indictment, information, complaint, or other charging instrument or a related document transmitted in electronic form is exempt from a requirement under this code that the pleading be endorsed by a natural person. Sets forth the conditions under which the requirement of an oath under this code is satisfied.

(e) Authorizes an electronically filed document described by this section to be amended or modified in compliance with Chapter 28 or other applicable law. Requires the amended or modified document to contain a file name that reflects that the original document has been superseded.

SECTION 4. Amends Chapter 23, Code of Criminal Procedure, by adding Article 23.031, as follows:

Art. 23.031. ISSUANCE OF CAPIAS IN ELECTRONIC FORM. Authorizes a district clerk, county clerk, or court to issue in electronic form a capias for the failure of a person to appear before a court, pay a fine, or comply with a court order.

SECTION 5. Amends Chapter 38, Code of Criminal Procedure, by adding Article 38.43, as follows:

Art. 38.43. ADMISSIBILITY OF ELECTRONICALLY PRESERVED DOCUMENT. Provides that an electronically preserved document has the same legal significance and admissibility as if the document had been maintained in hard-copy form. Requires the proponent of the document, if a party opposes the admission of the document on the grounds that the document has been materially altered, to disprove the allegation by a preponderance of the evidence.

SECTION 6. Repealers: Articles 15.08 (Warrant may be telegraphed), 15.09 (Complaint by telegraph), 15.10 (Copy to be deposited), 15.11 (Duty of telegraph manager), 15.12 (Warrant or complaint must be under seal), and 15.13 (Telegram prepaid), Code of Criminal Procedure.

SECTION 7. Effective date: upon passage or September 1, 2005.