

BILL ANALYSIS

Senate Research Center

C.S.S.B. 894
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Jurisprudence
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Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently there are no rules or statutory procedures relating to filing documents and service of process for criminal cases.

C.S.S.B. 894 codifies procedures for filing documents and service of process in the Code of Criminal Procedure.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the courts in SECTION 1 (Article 1.32, Code of Criminal Procedure) of this bill to make rules consistent with rules adopted by the supreme court.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 1, Code of Criminal Procedure, by adding Articles 1.28 through 1.33, as follows:

Art. 1.28. COMPUTING TIME. Sets forth the method of computing a period that a rule of procedure, court order, or statute provides will begin to run after an act, event, or default occurs in a criminal case.

Art. 1.29. CLERK'S OFFICE CLOSED ON LAST DAY OF PERIOD. Provides for an extension of a period if the clerk's office where a document is to be filed is closed or inaccessible during regular business hours on the last day of a period for filing a document. Sets forth the manner in which the closing or inaccessibility of the office may be proved.

Art. 1.30. SIGNATURE REQUIREMENT. (a) Requires a document filed by a party represented by counsel to be signed by one or more of the party's attorneys and to contain certain information regarding the attorney.

(b) Requires a document filed by a party not represented by counsel to be signed by the party who filed the document and contain certain information regarding the party.

Art. 1.31. REQUIREMENTS FOR FILING DOCUMENTS. (a) Provides that a document is filed in a court by delivering the document to certain persons.

(b) Requires a judge or justice who accepts delivery of a document to write the time the document is filed on the document and promptly send the document to the clerk. Provides that the time of a document's filing, for purposes of this subsection, is the date and time of delivery of the document.

(c) Sets forth the requirements for a document to be considered timely filed if sent through the mail.

(d) Sets forth evidence considered conclusive proof of the date of mailing.

(e) Authorizes the court to consider other means of proof regarding the date of mailing of a document.

Art. 1.32. ELECTRONIC FILING. Authorizes a court, by rule, to permit documents to be filed, signed, or verified by electronic means that are consistent [with] rules regarding electronic filing adopted by the supreme court.

Art. 1.33. SERVICE OF PROCESS. (a) Requires the filing party to serve a copy on all other parties to the proceeding at or before the time of a document's filing. Provides that the clerk or court reporter is not required to serve a copy of the record.

(b) Requires service on a party represented by counsel to be made to the party's lead counsel.

(c) Sets forth the permitted methods of service. Defines when service is considered to be complete.

(d) Requires a document presented for filing to contain proof of service in one of certain forms. Authorizes proof of service to appear on or be affixed to the filed document. Authorizes a clerk to permit a document to be filed without proof of service, but requires the clerk to require the proof to be filed promptly.

(e) Requires the certificate of service to be signed by the person who made the service and state certain information.

SECTION 2. Effective date: September 1, 2005.