

BILL ANALYSIS

C.S.H.B. 1778
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Tarrant County District Attorney's Office is in the process of fundamentally changing their work practices by moving all of their criminal casework into an electronic environment and eliminating the need for developing or maintaining any paper files. The office is well into the third year of implementing this two million dollar change and has taken several major steps along this developmental path.

Despite the fact that technology has now established the necessary safeguards to make Internet communication secure, the Texas Criminal Justice System has yet to truly avail itself of the Internet's increased efficiencies. There are still phases of the Criminal Justice Process that require actual pieces of paper and non-electronic signatures. C.S.H.B. 1778 encourages the implementation of a system that would allow the office to save time, man hours, and storage costs by going to a completely paperless system.

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. 1778 creates an additional high-tech option that utilizes newer, more efficient technology. It allows an indictment, information, complaint, or other charging instrument in a criminal case to be filed in electronic form with the court. Electronic submission is allowed only if the document complies with preexisting requirements for hard-copy submissions, the clerk has the means to store the document, it can be reproduced on demand, and is able to be displayed or made available to the public at no charge.

C.S.H.B. 1778 also allows a district clerk, county clerk, or court to issue a capias in electronic form for the failure of a person to appear before a court, pay a fine, or comply with a court order.

EFFECTIVE DATE

C.S.H.B. 1778 takes effect immediately, if it receives 2/3 vote from the house; otherwise, this Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original bill by removing a provision contained in the original which stated that a criminal prosecution may be commenced by filing the indictment, information, complaint, or other charging instrument or document in electronic form with a judge or clerk of a court. Furthermore, the substitute makes clear that this electronic option is only available if the clerk makes free public access terminals available for accused persons or the public to review all filed documents.

The original bill repealed a section of the Code of Criminal Procedure that made reference to the telegraph because it was believed that this section was no longer being used. The deletion of this section caused concern for some rural prosecutors because some have interpreted and used these sections to authorize the ability to fax certain information. For this reason the substitute withdraws the repealing language, which is acceptable all parties involved.

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