

By: Nelson

S.B. No. 611

A BILL TO BE ENTITLED

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AN ACT

relating to the electronic creation, transmission, and use of certain documents related to the prosecution of a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Article 2.26, Code of Criminal Procedure, is amended to read as follows:

Art. 2.26. DIGITAL SIGNATURE AND ELECTRONIC DOCUMENTS.

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

(b) 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) 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. Chapter 21, Code of Criminal Procedure, is amended by adding Article 21.011 to read as follows:

Art. 21.011. FILING OF CHARGING INSTRUMENT OR RELATED DOCUMENT IN ELECTRONIC FORM. (a) An indictment, information, complaint, or other charging instrument or a related document in a criminal case may be filed in electronic form with a judge or clerk of the court authorized to receive the document.

1 (b) A judge or clerk of the court is authorized to receive
2 for filing purposes an information, indictment, complaint, or other
3 charging instrument or a related document in electronic form in
4 accordance with Subchapter I, Chapter 51, Government Code, if:

5 (1) the document complies with the requirements that
6 would apply if the document were filed in hard-copy form;

7 (2) the clerk of the court has the means to
8 electronically store the document for the statutory period of
9 record retention;

10 (3) the judge or clerk of the court is able to
11 reproduce the document in hard-copy form on demand; and

12 (4) the clerk of the court is able to display or
13 otherwise make the document available in electronic form to the
14 public at no charge.

15 (c) The person filing the document and the person receiving
16 the document must complete the electronic filing as provided by
17 Section 51.804, Government Code.

18 (d) Notwithstanding Section 51.806, Government Code, an
19 indictment, information, complaint, or other charging instrument
20 or a related document transmitted in electronic form is exempt from
21 a requirement under this code that the pleading be endorsed by a
22 natural person. The requirement of an oath under this code is
23 satisfied if:

24 (1) all or part of the document was sworn to; and

25 (2) the electronic form states which parts of the
26 document were sworn to and the name of the officer administering the
27 oath.

1 (e) An electronically filed document described by this
2 section may be amended or modified in compliance with Chapter 28 or
3 other applicable law. The amended or modified document must
4 reflect that the original document has been superseded.

5 (f) This section does not affect the application of Section
6 51.318, Government Code, Section 118.052(3), Local Government
7 Code, or any other law permitting the collection of fees for the
8 provision of services related to court documents.

9 SECTION 4. Chapter 23, Code of Criminal Procedure, is
10 amended by adding Article 23.031 to read as follows:

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

15 SECTION 5. Chapter 38, Code of Criminal Procedure, is
16 amended by adding Article 38.44 to read as follows:

17 Art. 38.44. ADMISSIBILITY OF ELECTRONICALLY PRESERVED
18 DOCUMENT. An electronically preserved document has the same legal
19 significance and admissibility as if the document had been
20 maintained in hard-copy form. If a party opposes admission of the
21 document on the grounds that the document has been materially
22 altered, the proponent of the document must disprove the allegation
23 by a preponderance of the evidence.

24 SECTION 6. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2005.