

By: Nelson

S.B. No. 611

A BILL TO BE ENTITLED

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) Notwithstanding Subchapter I, Chapter 51, Government Code, or any other law, a criminal prosecution may be commenced by filing the indictment, information, complaint, or other charging instrument or a related document in

1 electronic form with a judge or clerk of the court authorized to
2 receive the document.

3 (b) A judge or clerk of the court is authorized to receive
4 for filing purposes an information, indictment, complaint, or other
5 charging instrument or a related document in electronic form if:

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

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

11 (3) the judge or clerk of the court has the ability to
12 reproduce the document in hard-copy form on demand and payment of
13 any costs involved.

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

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

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

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

27 (e) An electronically filed document described by this

1 section may be amended or modified in compliance with Chapter 28 or
2 other applicable law. The amended or modified document must
3 contain a file name that reflects that the original document has
4 been superseded.

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

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

11 SECTION 5. Chapter 38, Code of Criminal Procedure, is
12 amended by adding Article 38.43 to read as follows:

13 Art. 38.43. ADMISSIBILITY OF ELECTRONICALLY PRESERVED
14 DOCUMENT. An electronically preserved document has the same legal
15 significance and admissibility as if the document had been
16 maintained in hard-copy form. If a party opposes admission of the
17 document on the grounds that the document has been materially
18 altered, the proponent of the document must disprove the allegation
19 by a preponderance of the evidence.

20 SECTION 6. Articles 15.08, 15.09, 15.10, 15.11, 15.12, and
21 15.13, Code of Criminal Procedure, are repealed.

22 SECTION 7. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2005.