

1-1 By: Nelson S.B. No. 611
1-2 (In the Senate - Filed February 21, 2005; March 1, 2005,
1-3 read first time and referred to Committee on Jurisprudence;
1-4 April 11, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 11, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 611 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the electronic creation, transmission, and use of
1-11 certain documents related to the prosecution of a criminal offense.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. The heading to Article 2.26, Code of Criminal
1-14 Procedure, is amended to read as follows:

1-15 Art. 2.26. DIGITAL SIGNATURE AND ELECTRONIC DOCUMENTS.

1-16 SECTION 2. Article 2.26, Code of Criminal Procedure, is
1-17 amended by amending Subsection (b) and adding Subsection (b-1) to
1-18 read as follows:

1-19 (b) An electronically transmitted document issued or
1-20 received by a court or a clerk of the court in a criminal matter is
1-21 considered signed if a digital signature is transmitted with the
1-22 document.

1-23 (b-1) An electronically transmitted document is a written
1-24 document for all purposes and exempt from any additional writing
1-25 requirement under this code or any other law of this state.

1-26 SECTION 3. Chapter 21, Code of Criminal Procedure, is
1-27 amended by adding Article 21.011 to read as follows:

1-28 Art. 21.011. FILING OF CHARGING INSTRUMENT OR RELATED
1-29 DOCUMENT IN ELECTRONIC FORM. (a) An indictment, information,
1-30 complaint, or other charging instrument or a related document in a
1-31 criminal case may be filed in electronic form with a judge or clerk
1-32 of the court authorized to receive the document.

1-33 (b) A judge or clerk of the court is authorized to receive
1-34 for filing purposes an information, indictment, complaint, or other
1-35 charging instrument or a related document in electronic form in
1-36 accordance with Subchapter I, Chapter 51, Government Code, if:

1-37 (1) the document complies with the requirements that
1-38 would apply if the document were filed in hard-copy form;

1-39 (2) the clerk of the court has the means to
1-40 electronically store the document for the statutory period of
1-41 record retention;

1-42 (3) the judge or clerk of the court is able to
1-43 reproduce the document in hard-copy form on demand; and

1-44 (4) the clerk of the court is able to display or
1-45 otherwise make the document available in electronic form to the
1-46 public at no charge.

1-47 (c) The person filing the document and the person receiving
1-48 the document must complete the electronic filing as provided by
1-49 Section 51.804, Government Code.

1-50 (d) Notwithstanding Section 51.806, Government Code, an
1-51 indictment, information, complaint, or other charging instrument
1-52 or a related document transmitted in electronic form is exempt from
1-53 a requirement under this code that the pleading be endorsed by a
1-54 natural person. The requirement of an oath under this code is
1-55 satisfied if:

1-56 (1) all or part of the document was sworn to; and

1-57 (2) the electronic form states which parts of the
1-58 document were sworn to and the name of the officer administering the
1-59 oath.

1-60 (e) An electronically filed document described by this
1-61 section may be amended or modified in compliance with Chapter 28 or
1-62 other applicable law. The amended or modified document must
1-63 reflect that the original document has been superseded.

2-1 (f) This section does not affect the application of Section
2-2 51.318, Government Code, Section 118.052(3), Local Government
2-3 Code, or any other law permitting the collection of fees for the
2-4 provision of services related to court documents.

2-5 SECTION 4. Chapter 23, Code of Criminal Procedure, is
2-6 amended by adding Article 23.031 to read as follows:

2-7 Art. 23.031. ISSUANCE OF CAPIAS IN ELECTRONIC FORM. A
2-8 district clerk, county clerk, or court may issue in electronic form
2-9 a capias for the failure of a person to appear before a court, pay a
2-10 fine, or comply with a court order.

2-11 SECTION 5. Chapter 38, Code of Criminal Procedure, is
2-12 amended by adding Article 38.44 to read as follows:

2-13 Art. 38.44. ADMISSIBILITY OF ELECTRONICALLY PRESERVED
2-14 DOCUMENT. An electronically preserved document has the same legal
2-15 significance and admissibility as if the document had been
2-16 maintained in hard-copy form. If a party opposes admission of the
2-17 document on the grounds that the document has been materially
2-18 altered, the proponent of the document must disprove the allegation
2-19 by a preponderance of the evidence.

2-20 SECTION 6. This Act takes effect immediately if it receives
2-21 a vote of two-thirds of all the members elected to each house, as
2-22 provided by Section 39, Article III, Texas Constitution. If this
2-23 Act does not receive the vote necessary for immediate effect, this
2-24 Act takes effect September 1, 2005.

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