Senate Research Center

S.B. 1259
By: Hegar
Jurisprudence
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Court of Criminal Appeals has the authority to digitize files. However, the Supreme Court of Texas and fourteen intermediate Courts of Appeal do not. The Supreme Court of Texas and Courts of Appeal need this technology to not only improve efficiency and reduce administrative costs but also allow them to implement a wide-ranging electronic filing system, the Texas Appeals Management and E-Filing System (TAMES).

TAMES, which will be overseen by the Office of Court Administration, has been funded and is scheduled to be implemented by all Texas appellate courts in 2010. Pilot implementation of TAMES is scheduled for October 2009, in the Supreme Court and the fourteen Courts of Appeal. Currently, however, the courts cannot implement TAMES because the courts do not have the authority to electronically store their records.

S.B. 1259 amends current law relating to the management of certain courts, including the storage of records by the clerks of the supreme court and the courts of appeals and the creation of an appellate judicial system for the Seventh Court of Appeals District.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the supreme court in SECTION 2 (Section 51.0046, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 22, Government Code, by adding Section 22.2081, as follows:

Sec. 22.2081. APPELLATE JUDICIAL SYSTEM. (a) Requires the commissioners court of each county in the Seventh Court of Appeals District, by order entered in its minutes, to establish an appellate judicial system to assist the court of appeals for the county in the disposition of appeals filed with the court of appeals from the county courts, statutory county courts, probate courts, and district courts and defray costs and expenses incurred by the county under Section 22.208 (Seventh Court of Appeals).

(b) Requires the commissioners court, to fund the system, to set a court costs fee of $5 for each civil suit filed in a county court, statutory county court, probate court, or district court in the county.

(c) Provides that the court costs fee does not apply to a suit filed by the county or to a suit for delinquent taxes.

(d) Requires that the court costs fee be taxed, collected, and paid as other court costs in a suit. Requires the clerk of the court to collect the court costs fee set under this section and pay it to the county officer who performs the county treasurer's functions. Requires that officer to deposit the fee in a separate appellate judicial system fund for the court of appeals district. Prohibits the fund from being used for any other purpose. Provides that the chief justice of the court of appeals has sole discretion as to the use of the fund.

(e) Requires the commissioners court to monthly order the funds collected under this section to be forwarded to the court of appeals for expenditures by the court of appeals for its appellate judicial system.

(f) Requires the commissioners court to vest management of the system in the chief justice of the court of appeals.

SECTION 2. (a) Amends Subchapter A, Chapter 51, Government Code, by adding Sections 51.0045 and 51.0046, as follows:

Sec. 51.0045. ELECTRONIC OR MICROFILM STORAGE. (a) Authorizes the clerk of the supreme court, in the performance of the duties imposed by Section 51.004 (Duties), to maintain records and documents in an electronic storage format or on microfilm. Provides that a record or document stored electronically or on microfilm in accordance with this section is considered an original record or document. Authorizes the clerk, if the clerk stores records or documents electronically or on microfilm, to destroy the originals or copies of the records or documents according to the retention policy described by Subsection (b).

(b) Requires the clerk of the supreme court to establish a records retention policy. Requires that the retention policy provide a plan for the storage and retention of records and documents and include a retention period to preserve the records and documents in accordance with applicable state law and rules of the supreme court.

(c) Defines "electronic storage."

Sec. 51.0046. PRIVACY OF CERTAIN RECORDS AND DOCUMENTS; LIABILITY. (a) Requires the supreme court to adopt rules establishing procedures for protecting personal information contained in records and documents stored by the clerk of an appellate court in an electronic storage format and for accessing those records and documents. Requires the supreme court to by rule define "personal information" for purposes of this section.

(b) Provides that a person who complies with the rules adopted by the supreme court under this section is not liable for damages arising from the disclosure of personal information that is included in records or documents stored in an electronic storage format.

(c) Defines "electronic storage."

(d) Provides that notwithstanding any other provision of this Act, Section 51.0046, Government Code, as added by this section, applies to a record or document maintained by a clerk of an appellate court that is received by the clerk after the effective date of the rules adopted in accordance with Section 51.0046, Government Code.

SECTION 3. Amends Subchapter B, Chapter 51, Government Code, by adding Section 51.1045, as follows:

Sec. 51.1045. ELECTRONIC DOCUMENTS AND DIGITAL MULTIMEDIA EVIDENCE. (a) Defines "digital multimedia evidence."

(b) Authorizes the clerk of the court of criminal appeals to accept electronic documents and digital multimedia evidence received from a defendant, an applicant for a writ of habeas corpus, the clerk of the convicting court, a court reporter, or an attorney representing the state.

SECTION 4. Amends Section 51.105(a), Government Code, as follows:

(a) Authorizes the clerk of the court of criminal appeals, in the performance of the duties imposed by Section 51.104, to maintain writs and other records and documents in an

electronic storage format or on microfilm. Provides that a record or document stored electronically or on microfilm in accordance with this section is considered an original record or document. Authorizes the clerk, if the clerk stores, rather than electronically stores, writs, records, or documents electronically or on microfilm, to destroy the originals or copies of the writs, records, or documents according to the retention policy described by Subsection (b).

SECTION 5. Amends Subchapter C, Chapter 51, Government Code, by adding Section 51.205, as follows:

Sec. 51.205. ELECTRONIC OR MICROFILM STORAGE. (a) Authorizes the clerk of a court of appeals, in the performance of the duties imposed by Section 51.204 (Records of Court), to maintain records and documents in an electronic storage format or on microfilm. Provides that a record or document stored electronically or on microfilm in accordance with this section is considered an original record or document. Authorizes the clerk, if the clerk stores records or documents electronically or on microfilm, to destroy the originals or copies of the records or documents according to the retention policy described by Subsection (b).

(b) Requires the clerk of a court of appeals to establish a records retention policy. Requires that the retention policy provide a plan for the storage and retention of records and documents and include a retention period to preserve the records and documents in accordance with Section 51.204 and other applicable state law and rules of the court of appeals, the supreme court, or the court of criminal appeals.

(c) Defines "electronic storage."

SECTION 6. Amends Subchapter D, Chapter 101, Government Code, by adding Section 101.06115, as follows:

Sec. 101.06115. ADDITIONAL DISTRICT COURT FEES: GOVERNMENT CODE. Requires the clerk of a district court in the Seventh Court of Appeals District to collect an appellate judicial system filing fee of $5 under Section 22.2081.

SECTION 7. Amends Subchapter E, Chapter 101, Government Code, by adding Section 101.08114, as follows:

Sec. 101.08114. ADDITIONAL STATUTORY COUNTY COURT FEES: GOVERNMENT CODE. Requires the clerk of a statutory county court in the Seventh Court of Appeals District to collect an appellate judicial system filing fee of $5 under Section 22.2081.

SECTION 8. Amends Subchapter F, Chapter 101, Government Code, by adding Section 101.10114, as follows:

Sec. 101.10114. ADDITIONAL STATUTORY PROBATE COURT FEES: GOVERNMENT CODE. Requires the clerk of a statutory probate court in the Seventh Court of Appeals District to collect an appellate judicial system filing fee of $5 under Section 22.2081.

SECTION 9. Amends Subchapter G, Chapter 101, Government Code, by adding Section 101.12123, as follows:

Sec. 101.12123. ADDITIONAL COUNTY COURT FEES: GOVERNMENT CODE. Requires the clerk of a county court in a county in the Seventh Court of Appeals District to collect an appellate judicial system filing fee of $5 under Section 22.2081.

SECTION 10. Amends Article 2.21, Code of Criminal Procedure, by amending Subsection (a) and adding Subsection (k), as follows:

(a) Requires a clerk of the district or county court, in a criminal proceeding, to accept and file electronic documents received from the defendant, if the clerk accepts electronic documents from an attorney representing the state; accept and file digital multimedia evidence received from the defendant, if the clerk accepts digital multimedia evidence from an attorney representing the state; and perform all other duties imposed on the clerk by law. Makes nonsubstantive changes.

(k) Defines "digital multimedia evidence."

SECTION 11. Provides that Sections 51.0045 and 51.205, Government Code, as added by this Act, and Section 51.105, Government Code, as amended by this act, apply to a record or document maintained by the clerk of the Texas Supreme Court, the clerk of the Texas Court of Criminal Appeals, or the clerk of a court of appeals, as applicable, regardless of whether the record or document was received by the clerk before, on, or after the effective date of this Act.

SECTION 12. Effective date: upon passage or September 1, 2009.