

AN ACT

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.

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

SECTION 1. Subchapter C, Chapter 22, Government Code, is amended by adding Section 22.2081 to read as follows:

Sec. 22.2081. APPELLATE JUDICIAL SYSTEM. (a) The commissioners court of each county in the Seventh Court of Appeals District, by order entered in its minutes, shall establish an appellate judicial system to:

(1) 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

(2) defray costs and expenses incurred by the county under Section 22.208.

(b) To fund the system, the commissioners court shall 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) The court costs fee does not apply to a suit filed by the county or to a suit for delinquent taxes.

1 (d) The court costs fee shall be taxed, collected, and paid
2 as other court costs in a suit. The clerk of the court shall collect
3 the court costs fee set under this section and pay it to the county
4 officer who performs the county treasurer's functions. That
5 officer shall deposit the fee in a separate appellate judicial
6 system fund for the court of appeals district. The fund may not be
7 used for any other purpose. The chief justice of the court of
8 appeals has sole discretion as to the use of the fund.

9 (e) The commissioners court shall monthly order the funds
10 collected under this section to be forwarded to the court of appeals
11 for expenditures by the court of appeals for its appellate judicial
12 system.

13 (f) The commissioners court shall vest management of the
14 system in the chief justice of the court of appeals.

15 SECTION 2. (a) Subchapter A, Chapter 51, Government Code,
16 is amended by adding Sections 51.0045 and 51.0046 to read as
17 follows:

18 Sec. 51.0045. ELECTRONIC OR MICROFILM STORAGE. (a) In the
19 performance of the duties imposed by Section 51.004, the clerk of
20 the supreme court may maintain records and documents in an
21 electronic storage format or on microfilm. A record or document
22 stored electronically or on microfilm in accordance with this
23 section is considered an original record or document. If the clerk
24 stores records or documents electronically or on microfilm, the
25 clerk may destroy the originals or copies of the records or
26 documents according to the retention policy described by Subsection
27 (b).

1 (b) The clerk of the supreme court shall establish a records
2 retention policy. The retention policy shall provide a plan for the
3 storage and retention of records and documents and shall include a
4 retention period to preserve the records and documents in
5 accordance with applicable state law and rules of the supreme
6 court.

7 (c) For purposes of this section, "electronic storage" has
8 the meaning assigned by Section 51.105(c).

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

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

20 (c) For purposes of this section, "electronic storage" has
21 the meaning assigned by Section 51.105(c).

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

27 SECTION 3. Subchapter B, Chapter 51, Government Code, is

1 amended by adding Section 51.1045 to read as follows:

2 Sec. 51.1045. ELECTRONIC DOCUMENTS AND DIGITAL MULTIMEDIA
3 EVIDENCE. (a) In this section, "digital multimedia evidence" has
4 the meaning assigned by Article 2.21, Code of Criminal Procedure.

5 (b) The clerk of the court of criminal appeals may accept
6 electronic documents and digital multimedia evidence received from
7 a defendant, an applicant for a writ of habeas corpus, the clerk of
8 the convicting court, a court reporter, or an attorney representing
9 the state.

10 SECTION 4. Subsection (a), Section 51.105, Government Code,
11 is amended to read as follows:

12 (a) In the performance of the duties imposed by Section
13 51.104, the clerk of the court of criminal appeals may maintain
14 writs and other records and documents in an electronic storage
15 format or on microfilm. A record or document stored electronically
16 or on microfilm in accordance with this section is considered an
17 original record or document. If the clerk [~~electronically~~] stores
18 writs, records, or documents electronically or on microfilm, the
19 clerk may destroy the originals or copies of the writs, records, or
20 documents according to the retention policy described by Subsection
21 (b).

22 SECTION 5. Subchapter C, Chapter 51, Government Code, is
23 amended by adding Section 51.205 to read as follows:

24 Sec. 51.205. ELECTRONIC OR MICROFILM STORAGE. (a) In the
25 performance of the duties imposed by Section 51.204, the clerk of a
26 court of appeals may maintain records and documents in an
27 electronic storage format or on microfilm. A record or document

1 stored electronically or on microfilm in accordance with this
2 section is considered an original record or document. If a clerk
3 stores records or documents electronically or on microfilm, the
4 clerk may destroy the originals or copies of the records or
5 documents according to the retention policy described by Subsection
6 (b).

7 (b) The clerk of a court of appeals shall establish a
8 records retention policy. The retention policy shall provide a
9 plan for the storage and retention of records and documents and
10 shall include a retention period to preserve the records and
11 documents in accordance with Section 51.204 and other applicable
12 state law and rules of the court of appeals, the supreme court, or
13 the court of criminal appeals.

14 (c) For purposes of this section, "electronic storage" has
15 the meaning assigned by Section 51.105(c).

16 SECTION 6. Subchapter D, Chapter 101, Government Code, is
17 amended by adding Section 101.06115 to read as follows:

18 Sec. 101.06115. ADDITIONAL DISTRICT COURT FEES: GOVERNMENT
19 CODE. The clerk of a district court in the Seventh Court of Appeals
20 District shall collect an appellate judicial system filing fee of
21 \$5 under Section 22.2081.

22 SECTION 7. Subchapter E, Chapter 101, Government Code, is
23 amended by adding Section 101.08114 to read as follows:

24 Sec. 101.08114. ADDITIONAL STATUTORY COUNTY COURT FEES:
25 GOVERNMENT CODE. The clerk of a statutory county court in the
26 Seventh Court of Appeals District shall collect an appellate
27 judicial system filing fee of \$5 under Section 22.2081.

1 SECTION 8. Subchapter F, Chapter 101, Government Code, is
2 amended by adding Section 101.10114 to read as follows:

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

7 SECTION 9. Subchapter G, Chapter 101, Government Code, is
8 amended by adding Section 101.12123 to read as follows:

9 Sec. 101.12123. ADDITIONAL COUNTY COURT FEES: GOVERNMENT
10 CODE. The clerk of a county court in a county in the Seventh Court
11 of Appeals District shall collect an appellate judicial system
12 filing fee of \$5 under Section 22.2081.

13 SECTION 10. Article 2.21, Code of Criminal Procedure, is
14 amended by amending Subsection (a) and adding Subsection (k) to
15 read as follows:

16 (a) In a criminal proceeding, a clerk of the district or
17 county court shall:

- 18 (1) receive and file all papers;
- 19 (2) receive all exhibits at the conclusion of the
20 proceeding;
- 21 (3) issue all process; ~~and~~
- 22 (4) accept and file electronic documents received from
23 the defendant, if the clerk accepts electronic documents from an
24 attorney representing the state;
- 25 (5) accept and file digital multimedia evidence
26 received from the defendant, if the clerk accepts digital
27 multimedia evidence from an attorney representing the state; and

1 (6) perform all other duties imposed on the clerk by
2 law.

3 (k) In this article, "digital multimedia evidence" means
4 evidence stored or transmitted in a binary form and includes data
5 representing documents, audio, video metadata, and any other
6 information attached to a digital file.

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

14 SECTION 12. This Act takes effect immediately if it
15 receives a vote of two-thirds of all the members elected to each
16 house, as provided by Section 39, Article III, Texas Constitution.
17 If this Act does not receive the vote necessary for immediate
18 effect, this Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1259 passed the Senate on April 9, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 29, 2009, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1259 passed the House, with amendments, on May 12, 2009, by the following vote: Yeas 142, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor