

1-1 By: Hegar S.B. No. 1259
1-2 (In the Senate - Filed March 3, 2009; March 17, 2009, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 March 30, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; March 30, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1259 By: Wentworth

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

1-10 relating to the storage of records by the clerks of the supreme
1-11 court and the courts of appeals.

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

1-13 SECTION 1. Subchapter A, Chapter 51, Government Code, is
1-14 amended by adding Section 51.0045 to read as follows:

1-15 Sec. 51.0045. ELECTRONIC OR MICROFILM STORAGE. (a) In the
1-16 performance of the duties imposed by Section 51.004, the clerk of
1-17 the supreme court may maintain records and documents in an
1-18 electronic storage format or on microfilm. A record or document
1-19 stored electronically or on microfilm in accordance with this
1-20 section is considered an original record or document. If the clerk
1-21 stores records or documents electronically or on microfilm, the
1-22 clerk may destroy the originals or copies of the records or
1-23 documents according to the retention policy described by Subsection
1-24 (b).

1-25 (b) The clerk of the supreme court shall establish a records
1-26 retention policy. The retention policy shall provide a plan for the
1-27 storage and retention of records and documents and shall include a
1-28 retention period to preserve the records and documents in
1-29 accordance with applicable state law and rules of the supreme
1-30 court.

1-31 (c) For purposes of this section, "electronic storage" has
1-32 the meaning assigned by Section 51.105(c).

1-33 SECTION 2. Subchapter C, Chapter 51, Government Code, is
1-34 amended by adding Section 51.205 to read as follows:

1-35 Sec. 51.205. ELECTRONIC OR MICROFILM STORAGE. (a) In the
1-36 performance of the duties imposed by Section 51.204, the clerk of a
1-37 court of appeals may maintain records and documents in an
1-38 electronic storage format or on microfilm. A record or document
1-39 stored electronically or on microfilm in accordance with this
1-40 section is considered an original record or document. If a clerk
1-41 stores records or documents electronically or on microfilm, the
1-42 clerk may destroy the originals or copies of the records or
1-43 documents according to the retention policy described by Subsection
1-44 (b).

1-45 (b) The clerk of a court of appeals shall establish a
1-46 records retention policy. The retention policy shall provide a
1-47 plan for the storage and retention of records and documents and
1-48 shall include a retention period to preserve the records and
1-49 documents in accordance with Section 51.204 and other applicable
1-50 state law and rules of the court of appeals, the supreme court, or
1-51 the court of criminal appeals.

1-52 (c) For purposes of this section, "electronic storage" has
1-53 the meaning assigned by Section 51.105(c).

1-54 SECTION 3. The changes in law made by this Act apply to a
1-55 record or document maintained by the clerk of the Texas Supreme
1-56 Court or the clerk of a court of appeals, as applicable, regardless
1-57 of whether the record or document was received by the clerk before,
1-58 on, or after the effective date of this Act.

1-59 SECTION 4. This Act takes effect immediately if it receives
1-60 a vote of two-thirds of all the members elected to each house, as
1-61 provided by Section 39, Article III, Texas Constitution. If this
1-62 Act does not receive the vote necessary for immediate effect, this
1-63 Act takes effect September 1, 2009.

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