

BILL ANALYSIS

H.B. 1728
By: Ashby
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that as a result of recent changes in law, county clerks are seeing an increase in the number of documents filed without notaries that potentially place fraudulent liens on properties and that there is a need to update current law regarding the use of unsworn declarations to prevent such fraud. These parties further contend that, in order to increase efficiency, clerks should be able to dispose of criminal exhibits more expediently than the law currently provides under certain circumstances and to impress seals and affix signatures on documents using electronic means. H.B. 1728 seeks to address such issues by clarifying and updating current law with respect to certain procedures affecting court and county clerks.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1728 amends the Civil Practice and Remedies Code to make statutory provisions regarding the use of unsworn declarations inapplicable to a lien or instrument concerning real or personal property that is required to be filed with a county clerk.

H.B. 1728 amends the Code of Criminal Procedure to authorize an exhibit held by the clerk of a district or county court that is not a firearm or contraband, has not been ordered by the court to be returned to its owner, and is not an exhibit in another pending criminal action to be disposed of on or after the first anniversary of the date of the acquittal or death of a defendant.

H.B. 1728 amends the Government Code to authorize the seal of a constitutional county court to be created on all process other than subpoenas or the signature of the county clerk to be affixed on an original document using electronic means if the means does not allow for changes, additions, or deletions to be made to the document. The bill authorizes a seal impressed or a signature affixed by electronic means to be delivered or transmitted electronically.

H.B. 1728 amends the Local Government Code to authorize a county clerk to affix the county court seal on an original document by stamp, electronic means, facsimile, or other means that legibly reproduces all of the required elements of the seal for the purposes of reproduction.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.