

## **BILL ANALYSIS**

S.B. 354  
By: West  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

S.B. 354 amends the Code of Criminal Procedure to allow the delivery of court documents by secure electronic mail in every instance where the code currently requires that the documents be delivered by certified mail. The law currently also allows documents to be transferred by fax, certified mail, or hand delivery.

As proposed, S.B. 354 amends current law relating to permitting electronic delivery of certain documents in a criminal case.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **ANALYSIS**

SECTION 1. Amends Section 3(b), Article 11.07, Code of Criminal Procedure, to require the clerk of the court to forward a copy of a received application for writ of habeas corpus filed after final conviction in a felony case, other than a case in which the death penalty is imposed, by certified mail, return receipt requested, by secure electronic mail, or by personal service to the attorney representing the state in that court.

SECTION 2. Amends Section 6(c), Article 11.071, Code of Criminal Procedure, to require the clerk of the convicting court to, among other actions, send a copy of the application by certified mail, return receipt requested, or by secure electronic mail to the attorney representing the state in that court.

SECTION 3. Amends Section 7(b), Article 11.072, Code of Criminal Procedure, to require the clerk of the court to immediately, by certified mail, return receipt requested, or by secure electronic mail, send a copy of the order to the applicant and to the state.

SECTION 4. Amends Section 4, Article 38.41, Code of Criminal Procedure, as follows:

Sec. 4. Requires that a certificate of analysis, not later than the 20th day before the trial begins in a proceeding in which a certificate under this article is to be introduced, be filed with the clerk of the court and a copy be provided by fax, secure electronic mail, hand delivery, or certified mail, return receipt requested, to the opposing party. Provides that the certificate is not admissible under Section 1 (relating to providing that a certificate is admissible in evidence on behalf of the state or the defendant to establish certain results without the necessity of the analyst appearing in court) if, not later than the 10th day before the trial begins, the opposing party files a written objection to the use of the certificate with the clerk of the court and provides a copy of the objection by fax, secure electronic mail, hand delivery, or certified mail, return receipt requested, to the offering party.

SECTION 5. Amends Section 4, Article 38.42, Code of Criminal Procedure, as follows:

Sec. 4. Requires that a chain of custody affidavit, not later than the 20th day before the trial begins in a proceeding in which an affidavit under this article is to be introduced, be filed with the clerk of the court and a copy be provided by fax, secure electronic mail, hand delivery, or certified mail, return receipt requested, to the opposing party. Provides that the affidavit is not admissible under Section 1 (relating to providing that an affidavit is admissible in evidence on behalf of the state or the defendant to establish the chain of custody without the necessity of any person in the chain of custody appearing in court) if, not later than the 10th day before the trial begins, the opposing party files a written objection to the use of the affidavit with the clerk of the court and provides a copy of the objection by fax, secure electronic mail, hand delivery, or certified mail, return receipt requested, to the offering party.

SECTION 6. Makes application of this Act prospective.

**EFFECTIVE DATE**

Effective date: upon passage or September 1, 2013.