

BILL ANALYSIS

Senate Research Center

S.B. 1116
By: West
State Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas judiciary has made use of technology to become more efficient and provide better service to court users. For example, over 93 percent of Texans now have access to electronic filing in Texas state courts, and those courts received almost 4 million documents electronically during 2014. Through the electronic filing system, courts and clerks now have the ability to provide electronic notices to individuals registered in the electronic filing system, saving taxpayers money and providing a more efficient way of distributing information to court users.

The Supreme Court of Texas has required that attorneys share notice of filed documents electronically and has authorized courts to provide notices in this same manner. The electronic filing system provides this notice for individuals who are registered in the system for these specific purposes and maintains an audit log of when the notice was sent, when it was successfully delivered, when the message was opened, and when the document or notice was opened. However, several existing statutes still mandate a paper-based approach to providing notices and information to court users, inhibiting courts and clerks from utilizing the more efficient technology resources.

To promote efficiency and better enable the use of technology in the judicial system, S.B. 1116 permits a court, justice, judge, magistrate, or clerk to send any notice through mail or electronic mail, unless an existing statute requires proof of delivery.

The bill also accounts for municipal clerks and courts who do not currently use the electronic filing system by allowing them to continue using their current processes.

S.B. 1116 amends current law relating to a notice or document sent by mail or electronic mail by a court, justice, judge, magistrate, or clerk of a judicial court.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle F, Title 2, Government Code, by adding Chapter 80, as follows:

CHAPTER 80. DELIVERY OF NOTICE AND DOCUMENTS

Sec. 80.001. DELIVERY OF NOTICE OR DOCUMENT. Authorizes a court, justice, judge, magistrate, or clerk to send any notice or document by a method authorized by Section 80.002.

Sec. 80.002. AUTHORIZED DELIVERY OF NOTICE OR DOCUMENT. Authorizes a court, justice, judge, magistrate, or clerk to send any notice or document using mail or electronic mail. Provides that this section applies to all civil and criminal statutes requiring delivery of a notice or document.

Sec. 80.003. ELECTRONIC MAIL ADDRESS. (a) Requires the court, justice, judge, magistrate, or clerk sending the notice or document to use the electronic mail address on file with the electronic filing system, if the court uses the electronic filing system, if electronic mail is used to send a notice or document and the person who will receive the notice or document is registered with the electronic filing system established under Section 72.031 (Electronic Filing System), as added by Chapter 1290 (H.B. 2302), Acts of the 83rd Legislature, Regular Session, 2013.

(b) Requires the court, justice, judge, magistrate, or clerk to use the electronic mail address provided by the person if electronic mail is used to send a notice or document and the person who will receive the notice or document is not registered with the electronic filing system established under Section 72.031, as added by Chapter 1290 (H.B. 2302), Acts of the 83rd Legislature, Regular Session, 2013, or the court does not use the electronic filing system.

Sec. 80.004. MAIL. (a) Provides that the definition of mail in this chapter includes:

- (1) first-class mail;
- (2) first-class United States mail;
- (3) ordinary or regular mail; and
- (4) international first-class mail.

(b) Provides that the definition of mail in this chapter does not include:

- (1) any form of mail that requires proof of delivery;
- (2) certified mail;
- (3) certified mail or a comparable mailing method that provides proof of delivery;
- (4) certified mail, restricted delivery;
- (5) certified mail, return receipt requested;
- (6) delivery by the United States Postal Service using a signature confirmation service;
- (7) documents delivered by common or contract carriers, including Federal Express or United Parcel Service;
- (8) express mail offered by the United States Postal Service;
- (9) first-class mail, return receipt requested;
- (10) freight mail;
- (11) interagency mail;
- (12) international registered mail, return receipt requested;
- (13) mail, return receipt requested;
- (14) personal service or hand delivery;
- (15) prepaid registered mail;

(16) registered mail;

(17) registered mail, return receipt requested; and

(18) certified or registered mail, restricted delivery, return receipt requested.

Sec. 80.005. ELECTRONIC MAIL. (a) Provides that authorized methods of delivering a notice or document by electronic mail include:

(1) electronic notice sent through the electronic filing system under Section 72.031, as added by Chapter 1290 (H.B. 2302), Acts of the 83rd Legislature, Regular Session, 2013;

(2) electronic notice;

(3) electronic mail messages;

(4) e-mail; and

(5) secure electronic mail.

(b) Provides that authorized methods of delivering a notice or document by electronic mail do not include:

(1) facsimiles;

(2) instant messaging;

(3) messages on a social network website, including Facebook and Twitter;

(4) telegraphs;

(5) telephone messages;

(6) text messages;

(7) videoconferencing;

(8) voice messages; or

(9) webcams.

SECTION 2. Effective date: September 1, 2015.