

BILL ANALYSIS

C.S.H.B. 2431
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Parties to an appeal are required to request that the county or district clerk prepare a record to be sent before an appeal is able to proceed. The appellant must pay the clerk for the record and the clerk has the sole responsibility for filing the record, with deadlines for filing running from the date the record is filed. As a result of statewide mandatory e-filing, all parties already have all of the file-stamped documents that have been filed in their possession in PDF format. Notwithstanding these changes in Texas law requiring e-filing, some Texas court clerks continue to charge a fee to send documents that the parties already possess. As a result, appeals in cases involving summary-judgment motions with numerous exhibits or jury trials involving numerous pre-trial and post-trial filings can cost thousands of dollars. C.S.H.B. 2431 seeks to reduce the cost of appeals and expedite the ability of the court of appeals to hear cases by authorizing a party in a civil suit to inform the court of their intention to file an appendix that replaces the clerk's record for the appeal.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

C.S.H.B. 2431 amends the Civil Practice and Remedies Code to authorize a party in a civil suit, not later than the 10th day after the date the party files a notice of appeal, to notify the trial court and the court of appeals that the party will file an appendix with the appellate brief that replaces the clerk's record for the appeal. The bill requires the party, except in an expedited proceeding or by order of the court, to file the brief and appendix not later than the 30th day after the later of the following:

- the date that the party provided such notice; or
- the date that a reporter's record, if any, is filed with the court of appeals.

The appendix must contain a file-stamped copy of each document required by the Texas Rules of Appellate Procedure for a civil suit and any other item the party intends to reference in the party's brief. The bill prohibits the appendix from containing a document not filed with the trial court except by agreement of the parties to the appeal.

C.S.H.B. 2431 makes a properly filed appendix in a civil appeal part of the appellate record. The bill prohibits the court clerk from preparing or filing a clerk's record or assessing a fee for preparing a clerk's record if such an appendix is filed in accordance with the bill's provisions.

The bill's provisions apply only to a party that files a notice of appeal on or after January 1, 2024.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2431 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced authorized a party in a civil or criminal suit to notify the court of appeals that the party will file an appendix that replaces the clerk's record for the appeal, the substitute authorizes only a party in a civil suit to provide that notification but specifies that the party must provide the notification to both the court of appeals and the trial court.