

SUBJECT: Electronic storage of court records by the clerks of appellate courts

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 10 ayes — Hunter, Hughes, Alonzo, Branch, Hartnett, Jackson, Leibowitz, Lewis, Madden, Martinez

0 nays

1 absent — Woolley

SENATE VOTE: On final passage, April 9 — 31-0, on Local and Uncontested Calendar

WITNESSES: None

BACKGROUND: Under current law, the clerk of the Court of Criminal Appeals has the authority to archive court documents in an electronic storage format and to destroy the originals or copies if they are electronically stored. The clerk of the Supreme Court of Texas and the clerks of the 14 courts of appeals also may electronically store court documents, but they do not have the authority to destroy the originals or paper copies of those documents.

“Electronic storage format” means the maintenance of data in the form of digital electronic signals on a computer hard disk, magnetic tape, optical disk, or similar machine-readable medium.

DIGEST: SB 1259 would amend the Government Code to authorize the clerk of the Supreme Court of Texas and the clerk of a court of appeals to destroy the originals or copies of court documents that were electronically stored or on microfilm. Documents electronically stored or on microfilm would be considered original documents. A clerk would have to establish a records retention policy for the storage and retention of court documents, including a retention period to preserve documents in accordance with applicable state law and rules of the Supreme Court, court of appeals, or the Court of Criminal Appeals.

The bill would take immediate effect if finally passed by a two-thirds

record vote of the membership of each house. Otherwise, it would take effect September 1, 2009. The changes in the bill would apply to records or documents maintained by the clerk of the Supreme Court or courts of appeals regardless of whether they were received before, on, or after the effective date of the bill.

**SUPPORTERS
SAY:**

SB 1259 would correct an unintentional oversight in the law and grant the Texas Supreme Court and the 14 courts of appeals the same authority as the Court of Criminal Appeals to destroy redundant paper versions of documents that have been archived electronically or on microfilm. Electronic storage gives courts and other government agencies a convenient and cost-effective way to maintain information while reducing the costs of redundant paper usage and freeing up space previously used for physical storage. However, the courts cannot realize these benefits unless they have the authority to destroy the original paper versions of these documents. The bill would grant all of the Texas appellate courts the same authority and flexibility in storing and maintaining their records.

**OPPONENTS
SAY:**

No apparent opposition

NOTES:

SB 1259 was laid out in lieu of the House companion bill, HB 1833 by Hughes, on May 5, then postponed until today.