

SUBJECT: Creating a statewide court document electronic database

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Murr,  
Neave, Schofield

1 nay — Rinaldi

WITNESSES: For — Sharena Gilliland, Teresa Kiel, and Sheri Woodfin, County and District Clerks Association of Texas; Chris Daniel and Tracy Hopper, Harris County District Clerk; Christie Moreno, Idocket.com; (*Registered, but did not testify*: Travis Banks, Bexar County District Clerk's Office; Gina Ferguson, Brazoria County Clerk; James Oakley, Burnet County; Celeste Bichsel, Carter Casteel, Sherry Dowd, Marc Hamlin, Laura Hinojosa, Joyce Hudman, Jennifer Lindenzweig, Angelia Orr, Cary Roberts, Kara Sands, Joshua Tackett, Caroline Woodburn, County and District Clerks Association of Texas; Jim Allison, County Judges and Commissioners Association of Texas; Melissa Shannon, County of Bexar Commissioners Court; Charles Reed, Dallas County Commissioners Court; Ed Johnson, Harris County Clerk's Office; Robert Nolen, Harris County District Clerk; Bill Gravell, Bobby Gutierrez, Carlos Lopez, Wayne Mack, Jama Pantel, Margaret Sawyer, and Andrea Schiele, Justice of the Peace and Constables Association of Texas; AJ Louderback, Sheriffs' Association of Texas; Mark Mendez, Tarrant County; Nanette Forbes, Texas Association of Counties; Donald Lee, Texas Conference of Urban Counties; Deece Eckstein, Travis County Commissioners Court; and five individuals)

Against — Madison Venza, Courthouse News Service; Lisa Hobbs; (*Registered, but did not testify*: Kelley Shannon, Freedom of Information Foundation of Texas; Katherine Davidson)

On — Rebecca Simmons, Judicial Committee on Information Technology; David Slayton, Office of Court Administration; Aaron Day, Texas Land Title Association

**DIGEST:** CSHB 1258 would allow the Supreme Court to authorize the Office of Court Administration (OCA) to establish, operate, and maintain a state court document database and would make the database accessible to the public if certain conditions were met.

The database could only include court documents filed with a court no sooner than 60 days following the date when OCA certified that the database was operational and in compliance with the bill's provisions and any other documents authorized by the court clerk to be maintained in the database.

OCA would be required to collect a fee, set by the Supreme Court after consultation with court clerks, for each page electronically accessed by the public. The fee would be delivered to the clerk of the court in which the document was originally filed for deposit in the county general fund.

A person who administered the state court document database for the Supreme Court could allow the public to access a document filed in the court's database only if the database maintained each document in a manner that complied with state and federal laws and any court orders relating to confidentiality and nondisclosure, and if each copy of a page stored in the database was clearly labeled as an unofficial copy of a court document. The administrator also would be required to comply with laws, rules and court orders related to sensitive data and confidential documents that governed court documents in the custody of a court clerk.

Court clerks would not be responsible for the management or removal of documents from the database, and would not be liable for damages resulting from the release of court documents if the clerks performed their duties in good faith by exhibiting conduct in the manner of a reasonably prudent clerk under similar circumstances.

The bill would require the Department of Public Safety to send all relevant criminal record information contained in an order of nondisclosure to OCA and would require a court clerk to send a certified

copy of a final order of expunction of criminal records to OCA.

The Supreme Court would be required to adopt rules, fees and orders related to the bill's provisions by December 1, 2017.

This 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, 2017.

**SUPPORTERS  
SAY:**

CSHB 1258 would allow the public to quickly acquire documents online instead of having to physically visit a courthouse, increasing transparency and access. Currently, if an attorney or member of the public needs court documents, they must go to the courthouse of each relevant court to acquire them. The database would enable lawyers and the public to do a broad search for cases across the state without having to travel.

The bill would include provisions to protect sensitive data and confidential records, ensuring that information was not published online until after it had been redacted or marked. Clerks would remain an important safeguard, as they would still be required to review and accept documents filed with them. Documents would not enter the database until they had been processed by the clerk.

The bill could increase revenue for courthouses because more individuals would be able to access documents and subsequently pay the associated fees.

**OPPONENTS  
SAY:**

CSHB 1258 could put people at risk of having their confidential information released on the internet. Once confidential information is posted online, it can become widely accessible and difficult to remove, which can have serious negative consequences for the individual whose information was released.

The bill also would cost counties money to pay for the software used by the Supreme Court's database without providing any funding to defray this expense.