

BILL ANALYSIS

Senate Research Center
82R11705 YDB-F

S.B. 1228
By: Hegar
Jurisprudence
3/25/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1259, 81st Legislature, Regular Session, 2009, addresses the storage and retention of the records of Texas Supreme Court and courts of appeals. This bill required county and district clerks who accept electronic filings from the attorney representing the state to also accept electronic filings from the defendant. At the time of the bill's passage and after its effective date, a number of urban counties had already entered into procurement agreements to purchase court administration systems or had already established systems capable of accepting electronic filings by the attorney representing the state. Those systems do not include an option to accept electronic filings from a defendant. The Act had the unintended consequence of leaving counties with two undesirable options. A county clerk or district clerk can either refuse to use the electronic filing component of their court administration system even though it was fully compliant with the law at the time it was procured, or spend thousands of dollars updating their system to accept filings from defense counsel as well.

S.B. 1228 resolves this problem by grandfathering those court administration systems that have the capability to accept electronic filings from the attorney representing the state if the system existed or was procured before the effective date of S.B. 1259, 81st Legislature, Regular Session, 2009, until a new system is purchased or the existing system is substantially upgraded.

As proposed, S.B. 1228 amends current law relating to the duties of district clerks regarding certain electronic filing systems.

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 Article 2.21, Code of Criminal Procedure, by adding Subsection (a-1), as follows:

(a-1) Provides that a district clerk is exempt from the requirements of Subsections (a)(4) (requiring a clerk of the district or county court, in a criminal proceeding, if the clerk accepts electronic documents from an attorney representing the state, to accept and file electronic documents received from the defendant) and (5) (requiring a clerk of the district or county court, in a criminal proceeding, if the clerk accepts digital multimedia evidence from an attorney representing the state, to accept and file digital multimedia evidence received from the defendant) if the electronic filing system used by the clerk for accepting electronic documents or electronic digital media from an attorney representing the state does not have the capability of accepting electronic filings from a defendant and the system was established or procured before June 1, 2009. Provides that if the electronic filing system described by this subsection is substantially upgraded or is replaced with a new system, the exemption provided by this subsection is no longer applicable.

SECTION 2. Effective date: upon passage or September 1, 2011.