

2024 Regular Session

SENATE BILL NO. 75

BY SENATOR MORRIS (On Recommendation of the Louisiana State Law Institute)

COURTS. Provides for electronic filing and record retention. (8/1/24)

1 AN ACT

2 To amend and reenact Code of Civil Procedure Articles 253 and 2853, Code of Criminal
3 Procedure Article 14.1, and R.S. 44:116(D) and the introductory paragraph of R.S.
4 44:116(E)(1) and R.S. 44:116(E)(2), to enact Section 4 of Chapter 3 of Title I of
5 Book VI of the Code of Civil Procedure, to be comprised of Code of Civil Procedure
6 Article 2911, Code of Criminal Procedure Article 14.2, R.S. 9:2761 and 2762, and
7 R.S. 44:117, and to redesignate Code of Civil Procedure Article 258 and R.S. 44:117,
8 relative to electronic filing and record retention; to provide for the filing of
9 pleadings, documents, and exhibits in civil proceedings; to provide for the filing,
10 retention, and recordation of testaments; to provide for electronic and facsimile
11 filings in criminal proceedings; to provide for the effectiveness of electronic records;
12 to provide for the reproduction, maintenance, and destruction or return of original
13 records; to provide for the preservation of filings in the conveyance records; to
14 provide for redesignations; and to provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. Code of Civil Procedure Articles 253 and 2853 are hereby amended and
17 reenacted and Section 4 of Chapter 3 of Title I of Book VI of the Code of Civil Procedure,

1 to be comprised of Code of Civil Procedure Article 2911, is hereby enacted to read as
2 follows:

3 Art. 253. Pleadings, documents, and exhibits to be filed with clerk

4 A. All pleadings or documents to be filed in an action or proceeding instituted
5 or pending in a court, and all exhibits introduced in evidence, shall be delivered or
6 transmitted to the clerk of the court for ~~such~~ that purpose. The clerk of court shall
7 endorse thereon the fact and date of filing, and shall retain possession thereof for
8 inclusion in the record, or in the files of his the clerk's office, as required by law.
9 The endorsement of the fact and date of filing shall be made upon receipt of the
10 pleadings or documents by the clerk of court and shall be made without regard to
11 whether there are orders in connection therewith to be signed by the court.

12 B. The filings as provided in Paragraph A of this Article and all other
13 provisions of this Chapter may be transmitted electronically in accordance with a
14 system established by a the clerk of court ~~or by Louisiana Clerks' Remote Access~~
15 ~~Authority. When such a system is established, the~~ The clerk of court shall adopt ~~and~~
16 ~~implement procedures~~ a system for the electronic filing and storage of any pleading,
17 document, or exhibit, ~~and the official record shall be the electronic record~~ filed with
18 a pleading. A pleading or document filed electronically is deemed filed on the date
19 and time stated on the confirmation of electronic filing sent from the system, if the
20 clerk of court accepts the electronic filing. Public access to electronically filed
21 pleadings and documents shall be in accordance with the rules governing access to
22 paper filings. ~~The clerk of court may convert into an electronic record any pleading,~~
23 ~~document, or exhibit as set forth in R.S. 44:116. The originals of conveyances shall~~
24 ~~be preserved by the clerk of court.~~

25 C. The clerk of court may convert into an electronic record any pleading,
26 document, or exhibit that is filed in paper form. If requested by the filing party,
27 the clerk of court shall return to the filing party the original of any document
28 or exhibit that has been converted into an electronic record.

29 D. The official record shall be the electronic record. The original of any

1 filed document or exhibit shall be maintained by the filing party during the
2 pendency of the proceeding and until the judgment becomes final and definitive,
3 unless otherwise provided by law or order of the court. Upon request and
4 reasonable notice, the original document shall be produced to the court. Upon
5 reasonable notice, the original document shall be made available to the opposing
6 party for inspection.

7 E. Unless otherwise directed by the court, the original of all documents
8 and exhibits introduced or proffered into evidence, submitted with a petition for
9 executory process, or filed in a summary judgment proceeding shall be retained
10 by the clerk of court until the order or judgment becomes final and definitive.

11 ~~E. F.~~ A judge or justice presiding over a court in this state may sign a court
12 order, notice, official court document, and other writings required to be executed in
13 connection with court proceedings by use of an electronic signature as defined by
14 R.S. 9:2602.

15 ~~D. Any pleading or document in a traffic or criminal action may be filed with~~
16 ~~the court by facsimile transmission in compliance with the provision of the Code of~~
17 ~~Criminal Procedure Article 14.1.~~

18 ~~E. The clerk shall not refuse to accept for filing any pleading or other~~
19 ~~document signed by electronic signature, as defined by R.S. 9:2602, and executed~~
20 ~~in connection with court proceedings, or which complies with the procedures for~~
21 ~~electronic filing implemented pursuant to this Article, if any applicable fees for filing~~
22 ~~and transmission are paid, solely on the ground that it was signed by electronic~~
23 ~~signature.~~

24 F. G. If the filing party fails to comply with any requirement of the
25 requirements of Paragraph A or B of this Article, the electronic filing shall have
26 no force or effect. ~~The district courts~~ A court may provide by court rule for other
27 matters related to filings by electronic transmission.

28 G. H. The clerk of court may procure equipment, services, and supplies
29 necessary to accommodate electronic filings out of the clerk's salary fund.

1 electronic record. A pleading or document filed electronically is deemed filed
2 on the date and time stated on the confirmation of electronic filing sent from the
3 system, if the clerk of court accepts the electronic filing. Public access to
4 electronically filed pleadings and documents shall be in accordance with the
5 rules governing access to written filings.

6 Art. 14.2. Facsimile filings

7 A. Any document in a traffic or criminal action may be filed with the clerk
8 of court by facsimile transmission if ~~permitted by~~ **pursuant to** the policy of the clerk
9 of court. Filing shall be deemed complete at the time the facsimile transmission is
10 received by the clerk of court. No later than on the first business day after receiving
11 a facsimile filing, the clerk of court shall transmit to the filing party via facsimile a
12 confirmation of receipt and include a statement of the fees for the facsimile filing
13 and filing of the original document. The facsimile filing fee and transmission fee are
14 incurred upon receipt of the facsimile filing by the clerk of court and payable as
15 provided in Paragraph B of this Article. The facsimile filing shall have the same
16 force and effect as filing the original document, if the party complies with Paragraph
17 B of this Article.

18 B. Within seven days, exclusive of legal holidays, after the clerk of court
19 receives the facsimile filing, all of the following shall be delivered to the clerk of
20 court:

21 (1) The original document identical to the facsimile filing in number of pages
22 and in content of each page including any attachments, exhibits, and orders. A
23 document not identical to the facsimile filing or ~~which~~ **that** includes pages not
24 included in the facsimile filing shall not be considered the original document.

25 (2) The fees for the facsimile filing and filing of the original document stated
26 on the confirmation of receipt, if any.

27 (3) A transmission fee of five dollars, if the defendant had not been declared
28 indigent by the court.

29 C. If the filing party fails to comply with any of the requirements of

1 Paragraph B of this Article, the facsimile filing shall have no force or effect.

2 D. ~~Any~~ A court ~~district~~ may provide by court rule for any additional
3 requirement or provisions for filings by facsimile transmission.

4 E. In keeping with the clerk's policy, each clerk of court shall make available
5 the necessary equipment and supplies to accommodate facsimile filing in criminal
6 actions. Purchases for equipment and supplies necessary to accommodate facsimile
7 filings may be funded from any expense fund of the office of the clerk of court as the
8 clerks deem appropriate.

9 ~~F. The filings as provided in this article and all other provisions of this code
10 may be transmitted electronically in accordance with a system established by a clerk
11 of court or by the Louisiana clerks' remote access authority. When such a system is
12 established, the clerk of court shall adopt and implement procedures for the
13 electronic filing and storage of any pleading, document, or exhibit. Furthermore, in
14 a parish that accepts electronic filings covered under this paragraph, the official
15 record shall be the electronic record. A pleading or document filed electronically is
16 deemed filed on the date and time stated on the confirmation of electronic filing sent
17 from the system, if the clerk of court accepts the electronic filing. Public access to
18 electronically filed pleadings and documents shall be in accordance with the rules
19 governing access to written filings.~~

20 Section 3. R.S. 9:2761 and 2762 are hereby enacted to read as follows:

21 **§2761. Effectiveness of electronic record**

22 **An electronic record filed in accordance with R.S. 44:119 shall have**
23 **effect as to third persons in the same manner as if an original written**
24 **instrument had been filed.**

25 **§2762. Recordation of testaments; indexing; effectiveness**

26 **If a testament is recorded in the conveyance records, the clerk of court**
27 **shall index the testament only in the name of the testator. The recordation of the**
28 **testament shall not itself have any effect on the rights of the heirs, legatees, and**
29 **creditors of the succession and shall not make the provisions of the testament**

1 **effective against third persons.**

2 Section 4. R.S. 44:116(D) and the introductory paragraph of R.S. 44:116(E)(1) and
3 R.S. 44:116(E)(2) are hereby amended and reenacted, and R.S. 44:117 is hereby enacted, to
4 read as follows:

5 §116. Photostatic, photographic, microfilm, or other photographic or electronic
6 copies of records; indexes of conveyance and mortgage records;
7 disposition; evidentiary status; preservation

8 * * *

9 D. Notwithstanding the provisions of Subsection B of this Section or any
10 other provision of law to the contrary, for any record filed on or after January 1,
11 2005, with the exception of **instruments filed in the conveyance records and**
12 records of a graphic nature, including but not limited to plats, maps, and photographs
13 as related to the work of a Professional Land Surveyor engaged in the "Practice of
14 Land Surveying", as defined in R.S. 37:682, a clerk of court may reproduce the
15 record as provided in this Section and may thereafter return the original record to the
16 person presenting it.

17 E.(1) Notwithstanding the provisions of Subsection B of this Section or any
18 other provision of law to the contrary, **with the exception of instruments filed in**
19 **the conveyance records,** a clerk of court shall not be required to maintain an
20 original record filed on or prior to December 31, 2004, provided that:

21 * * *

22 (2) ~~A~~ **With the exception of instruments filed in the conveyance records,**
23 **a** clerk of court may destroy any record provided for in this Subsection or return it
24 to the person who presented it for recordation after the clerk **of court** receives
25 certification from the state archivist that the records are not subject to R.S. 44:406
26 or R.S. ~~44:427~~ **411** and after the clerk **of court** has preserved the record as provided
27 for in this Section. No cause of action for any claim shall exist against a clerk of
28 court for any damage or loss resulting from the return or destruction of an original
29 record **in accordance with this Paragraph** after receipt of the certification and

1 proper preservation of the record.

2 * * *

3 **§117. Preservation of filings in the conveyance records**

4 **A. The clerk of court shall preserve in perpetuity the original of each**
5 **instrument filed in the conveyance records. This Section shall prevail over any**
6 **other law to the contrary.**

7 **B. For purposes of this Part, the conveyance records include all records,**
8 **however denominated, that are required by law to be indexed in the index of**
9 **conveyances maintained by the clerk of court.**

10 Section 5. The Louisiana State Law Institute is hereby directed to redesignate
11 existing R.S. 44:117, entitled "Electronic copies of records; Lafayette Parish", as R.S. 44:118
12 and to redesignate Code of Civil Procedure Article 258 as R.S. 44:119

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Thomas L. Tyler.

DIGEST

SB 75 Original 2024 Regular Session Morris

Present law (C.C.P. Art. 253) provides with respect to the filing of pleadings, documents, and exhibits with the clerk of court, including electronic transmission, electronic conversion, and use of electronic signatures.

Proposed law retains present law and requires the original of any filed document or exhibit to be maintained by the filer during the pendency of the proceeding and to be made available for inspection or production to the court.

Proposed law further requires the original of all documents and exhibits introduced or proffered into evidence, submitted with a petition for executory process, or filed in a summary judgment proceeding to be retained by the clerk of court during the pendency of the proceeding.

Present law (C.C.P. Art. 2853) requires the filing of purported testaments in the record of the succession proceeding.

Proposed law retains present law and makes technical corrections.

Proposed law (C.C.P. Art. 2911) requires permanent retention by the clerks of court of testaments that have been probated or ordered to be filed and executed and provides for the retention of other filed testaments.

Present law (C.Cr.P. Art. 14.1) provides for the filing of pleadings and documents by facsimile or electronic transmission.

Proposed law provides for the electronic transmission of documents in traffic or criminal actions pursuant to the policy of the clerk of court.

Proposed law (C.Cr.P. Art. 14.2) provides for the facsimile transmission of documents in traffic or criminal actions pursuant to the policy of the clerk of court.

Proposed law (R.S. 9:2761) provides for the effectiveness of electronic records as to third persons.

Proposed law (R.S. 9:2762) provides for the recordation of testaments in the conveyance records, including indexing requirements and effectiveness against third persons.

Present law (R.S. 44:116) provides for the reproduction, maintenance, and destruction or return of original records.

Proposed law retains present law and adds exceptions for instruments filed in the conveyance records.

Proposed law (R.S. 44:117) requires the preservation of originals of instruments filed in the conveyance records, including records that are required to be indexed by the clerk of court.

Present law (R.S. 44:117) provides for the electronic recordation of filings, documents, pleadings, and other written instruments in Lafayette Parish.

Proposed law redesignates certain provisions in present law.

Present law (C.C.P. Art. 258) provides for the electronic filing and recording of written instruments.

Proposed law redesignates certain provisions in present law.

Effective August 21, 2024.

(Amends C.C.P. Arts. 253 and 2853, C.Cr.P. Art. 14.1, and R.S. 44:116(D) and (E)(1)(intro. par.) and (2); adds C.C.P. Art. 2911, C.Cr.P. Art. 14.2, R.S. 9:2761 and 2762, and R.S. 44:117; redesignates C.C.P. Art. 258 and R.S. 44:117)