

2023 Regular Session

SENATE RESOLUTION NO. 43

BY SENATOR MORRIS

CLERKS OF COURT. Requests the Louisiana State Law Institute to study and make recommendations on legislation relative to electronic filing and records retention.

1 A RESOLUTION

2 To urge and request the Louisiana State Law Institute to study and make recommendations
3 on legislation relative to electronic filing and records retention.

4 WHEREAS, pursuant to Senate Resolution No. 202 of the 2021 Regular Session of
5 the Louisiana Legislature, the legislature created the Task Force on Statewide Standards for
6 Clerks of Court Electronic Filing and Records Retention; and

7 WHEREAS, the Task Force on Statewide Standards for Clerks of Court Electronic
8 Filing and Records Retention was created to develop statewide standardized electronic filing
9 and records retention procedures, including studying the costs and benefits of such
10 standardized procedures and studying existing procedures for the management and disposal
11 of paper records, documents, and filings; and

12 WHEREAS, Senate Resolution No. 202 of the 2021 Regular Session of the Louisiana
13 Legislature set forth that the task force study the feasibility and propriety of the electronic
14 filing of legal documents, the electronic filing of documents in the conveyance and mortgage
15 records, the retention, maintenance, preservation, and disposition of original paper
16 documents once converted to electronic record, public access to all public records, including
17 ease of functionality and viewing, and maintaining the integrity of public records, including
18 original documents, and propose recommendations, together with specific proposals for

1 legislation, by written report to the legislature no later than February 15, 2022; and

2 WHEREAS, Senate Resolution No. 27 of the 2022 Regular Session of the Louisiana
3 Legislature extended the deadline by which the task force was to submit its report to the
4 legislature to no later than October 31, 2022; and

5 WHEREAS, the task force submitted its report to the legislature on October 31,
6 2022, and recommends that the legislature direct the Louisiana State Law Institute to study
7 and propose amendments to laws addressing the following issues:

- 8 1. The interplay between electronic records as converted originals and evidence
9 that must be filed, presented to the court, and preserved in its original paper
10 form;
- 11 2. Whether persons seeking probate of a will or codicil should be required to
12 deliver to the clerk of court the will or codicil in original paper form and
13 whether Clerks of Court should be required to retain and preserve such
14 documents in original paper form as evidence;
- 15 3. Other instances where paper documents with evidentiary significance should
16 be manually filed and retained; and
- 17 4. Retention periods for preservation of such instruments in original paper
18 format, considering periods of prescription and peremption of actions that
19 might be brought to invalidate or annul a testament or codicil, to nullify an
20 order of probate, for recognition of a right of inheritance, and for any other
21 relief dependent upon the validity of such instruments; and

22 WHEREAS, the task force also recommends that the Louisiana State Law Institute
23 consider Code of Civil Procedure Art. 258 and any similar provision within the Code of
24 Civil Procedure relating to recordation and preservation of instruments recorded in
25 conveyance and mortgage records and whether such should be removed from the Code of
26 Civil Procedure and placed in the Revised Statutes; and

27 WHEREAS, the task force recommends that the Louisiana State Law Institute
28 consider and make recommendations regarding the preservation and maintenance of the
29 original form of evidence and exhibits introduced in criminal proceedings until a period after
30 the termination of the sentence imposed upon the defendant, or for some other period of

