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SB 421 Engrossed

DIGEST
2026 Regular Session

Miller

Present law (R.S. 44:40) provides that the several clerks of court and ex officio recorders and registers of conveyances and recorders of mortgages throughout the state are authorized at their option to make additional copies, by any means authorized by present law (R.S. 44:116), of every nature and kind in their custody by virtue of their various official capacities as such clerks of court and ex officio recorders and registers of conveyances and recorders of mortgages, filed or recorded in their offices prior, and subsequent, to July 29, 1964.

Proposed law provides that the district clerks of court and ex officio recorders are authorized to make additional copies, by any means authorized by present law (R.S. 44:116), of every nature and kind in their custody by virtue of their various official capacities as such clerks of court and ex officio recorders, filed or recorded in their offices prior, and subsequent, to July 29, 1964.

Present law provides that the clerks of court and ex officio recorders and registers are authorized to purchase the necessary equipment for photorecording, photocopying, microfilming, or electronic imaging, to lease such equipment or to contract with competent independent contractors, or both, according to the discretion of the clerks of court and ex officio recorders and registers, to cause the records described in present law to be copied and reproduced.

Proposed law provides that district clerks of court and ex officio recorders are authorized to purchase the necessary equipment, software and services for converting records into an electronic record, photorecording, photocopying, microfilming, or electronic imaging, to lease such equipment and software or to contract with competent independent contractors, or both, according to the discretion of the clerks of court and ex officio recorders, to cause the records described in present law to be copied or converted and reproduced.

Present law provides that each such clerk of court and ex officio recorder and register is authorized to defray the cost of copying, reproducing, and retrieving the records out of any funds available in the clerk's salary fund.

Proposed law provides that each clerk of court and ex officio recorder is authorized to defray the cost of equipment, software or services for converting, copying, reproducing, digitizing, storing, and retrieving the records out of any funds available in the clerk's salary fund.

Present law provides that notwithstanding the provisions of present law, prior to destroying the original criminal records and any other records of every nature and kind that are deemed permanent under a record retention and disposal schedule adopted by the secretary of state and the clerks of court in accordance with present law (R.S. 44:410 and 411), the destruction of which is authorized

by present law (R.S. 13:917), the several clerks of court, including the clerks of Orleans Parish the Criminal or Civil District Courts, shall make and retain in their custody a copy of such records electronically on nonrewritable magnetic, optical, or laser-type storage media, including but not limited to CD-ROM.

Proposed law provides that notwithstanding the provisions of present law, prior to destroying the original criminal records and any other records of every nature and kind that are deemed permanent under a record retention and disposal schedule adopted by the secretary of state and the clerks of court in accordance with present law (R.S. 44:410 and 411), the destruction of which is authorized by present law (R.S. 13:917), the several district clerks of court, including the clerks of Orleans Parish the Criminal or Civil District Courts, shall make and retain in their custody a copy of such records electronically.

Present law provides that no cause of action for any claim shall exist against a clerk of court for any damage or loss resulting from the destruction of an original record after proper preservation of the record. Further provides that all records in suits affecting records relating to immovable property, or adoption, interdiction, successions, trusts, or emancipation created prior to 1922 shall be retained in their original form. Proposed law retains present law.

Present law (R.S. 44:116) provides that in all cases where the clerks of court and recorders of the various parishes throughout the state, Orleans Parish excepted, are required by law to make records of filings, documents, pleadings, and all other written instruments, including indexes, and registers of the same, such records may be made by any method of photorecording, photocopying, microfilming, or other photographic method of reproduction or electronically on nonrewritable magnetic, optical, or laser-type storage media, including but not limited to CD-ROM.

Present law provides that the film stock used in making photographic or microphotographic copies and the processing of the copies shall comply with the standards of the American National Standards Institute for permanent record photographic microcopying film and the electronic media used shall comply with the standards of the International Standards Organization for electronic storage of records.

Proposed law provides that in all cases where the district clerks of court and ex officio recorders are required by law to make records of filings, documents, pleadings, and all other written instruments, including indexes, and registers of the same, such records may be reproduced or converted using any photographic, microphotographic, or electronic digitizing process capable of producing an unalterable and accessible representation of the original source record provided the usage of these processes is not otherwise prohibited by law.

Present law provides that whenever recordation by means of photorecording, photocopying, microfilming, or other photographic method of reproduction is used or when electronic recordation on nonrewritable magnetic, optical, or laser-type storage media is used, any requirement expressed or implied in law for the above-mentioned records, including indexes and registers of the same, to be maintained in a book or bound volume shall be satisfied by the appropriate storage unit of microfilm or other photographic method employed, or tape or disk. Further provides that, if a clerk of court elects to record by means of microfilming or other photographic method of reproduction,

or electronically, he shall have copies of the films, tapes, or disks available for inspection, examination, and copying under the provisions of present law (R.S. 44:31 et seq.). Proposed law repeals present law.

Present law provides that notwithstanding the provisions of present law, clerks of court and recorders may make indexes of conveyance and mortgage records by any method of photorecording, photocopying, microfilming, or other photographic method of reproduction or electronically on nonrewritable magnetic, optical, or laser type storage media, including but not limited to CD-ROM; however, the standards described in present law shall apply. Proposed law repeals present law.

Present law provides that notwithstanding the provisions of present law, for any record filed on or after January 1, 2005, with the exception of records of a graphic nature, including but not limited to plats, maps, and photographs as related to the work of a Professional Land Surveyor engaged in the "Practice of Land Surveying", as defined in present law (R.S. 37:682), a clerk of court may reproduce the record as provided in present law and shall return the original record to the indicated person and to the address shown on the first page of the record, or if no such person and address is indicated, to any vendee or other transferee whose name and address are stated in the instrument. Further provides that the clerk of court shall verify that the copy of the record is complete and legible prior to the return or disposal of the original record. Proposed law retains present law.

Present law provides that notwithstanding the provisions of present law, with the exception of instruments filed in the conveyance records, a clerk of court shall not be required to maintain an original record filed on or prior to December 31, 2004, provided that:

- (1) The record has been preserved using one of the methods contained in present law.
- (2) The original of the record has been transferred to the state archivist pursuant to the provisions of present law (R.S. 44:406 or R.S. 44:427).
- (3) The original of the record is not of a graphic nature including but not limited to plats, maps and photographs as related to the work of a Professional Land Surveyor engaged in the "Practice of Land Surveying", as defined in present law (R.S. 37:682).

Proposed law retains present law but clarifies that the provision of present law (R.S. 44:427) is not applicable.

Present law provides that with the exception of instruments filed in the conveyance records on or prior to December 31, 2004, a clerk of court may destroy any record provided for in present law or return it to the person who is indicated and to the address shown on the first page of the record, or if no such person and address is indicated, to the person who presented the record after the clerk of court has done all of the following:

- (1) Received certification from the state archivist that the records are not subject to present law (R.S. 44:406 or 411).

- (2) Preserved the record as provided in present law.
- (3) Verified that the copy of the record is complete and legible.

Present law provides that no cause of action for any claim shall exist against a clerk of court for any damage or loss resulting from the return or destruction of an original record in accordance with present law after receipt of the certification and proper preservation of the record.

Proposed law provides that no cause of action for any claim shall exist against a clerk of court for any damage or loss resulting from the return or destruction of an original record in accordance with present law after receipt of written approval from the state archivist to dispose of the record and proper preservation of the record in accordance with present law and proposed law.

Present law provides that when a clerk of court certifies that a copy of a record preserved by him using a method provided for in present law is true and correct, the certified copy of the record shall be received in evidence, if relevant, by any court or administrative agency as prima facie proof of its contents. Proposed law retains present law.

Present law provides that all rules adopted by the Department of State relative to retention and storage of records of public bodies shall apply to all records provided for in present law. Further provides that each clerk of court shall maintain a locally available backup copy of any record destroyed pursuant to present law.

Proposed law provides that all rules adopted by the Department of State relative to retention and storage of records of public bodies shall apply to all records provided for in present law and proposed law.

Present law provides that for purposes of present law the term "clerk of court" shall mean any parish clerk of court, and the register of conveyances, recorder of mortgages, and custodian of notarial records in Orleans Parish.

Proposed law redefines "clerk of court" as any district clerk of court and ex officio recorder.

Proposed law defines "convert" as the capture of all information contained in the source records, including all pages or parts from the source records to be preserved in a manner which protects against unauthorized deletions, additions, or alternations and is accessible for the retention period applicable to the record.

Proposed law defines "electronic digitizing process" as the process of scanning and capturing paper or other media formats into a digital format that is of sufficient authenticity, reliability, usability, and integrity to serve in place of the original source record.

Present law (R.S. 44:118) provides that subject to the provisions of present law (R.S. 44:116), in addition to the methods authorized for recording filings, documents, pleadings, and all other written instruments and for indexing conveyance and mortgage records, the clerk of court of Lafayette Parish

may electronically record filings, documents, pleadings, and all other written instruments and make indexes of conveyance and mortgage records on nonrewritable magnetic, optical, or laser type storage media, including but not limited to CD-ROM. Further provides that the media shall comply with the standards of the American National Standard Institute or the International Standards Organization for electronic storage of records.

Proposed law repeals present law.

Effective August 1, 2026.

(Amends R.S. 44:40(A), (B), (C), and (E) and 116; repeals R.S. 44:118)