

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

EVIDENCE. Allows certain certified records to be used as evidence

DIGEST

Present law (C.E. Art. 803) provides exceptions to the general rule prohibiting hearsay evidence, which exceptions include certain memoranda, reports, and other records of regularly conducted activities provided that it is the regular practice of that business activity to make and to keep the business records, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate a lack of trustworthiness.

Proposed law retains present law and extends the business record exception to records that are self-authenticated pursuant to proposed law (Art. 902(11)).

Present law (C.E. Art. 902) provides that extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to certain documents, including certain public documents, official publications, newspapers and periodicals, trade inscriptions, authentic acts, acknowledged acts, commercial paper, and labor reports.

Proposed law retains present law and includes certified records of regularly conducted activities if a certificate of the custodian or other qualified witness shows the first hand knowledge of that person about the making, maintenance, and storage of the records, evidence that the records are authentic as required by present law, that the records were: (1) made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters; (2) kept in the course of the regularly conducted activity; and (3) made by the regularly conducted activity as a regular practice.

Proposed law provides that such records are not self-authenticating if the sources of information or the method or circumstances of preparation indicate a lack of trustworthiness.

Proposed law provides that records certified pursuant to proposed law will be self-authenticating only if the proponent gives written notice in advance of trial to adverse parties of the intent to offer the records as self-authenticating and provides a copy of the records and of the authenticating certificate. Defines "certificate".

Proposed law provides that objections will be waived unless, within 15 days after receiving the notice, the objector serves written specific objections, obtains agreement of the proponent, or moves the court to increase the time in which to object.

Proposed law provides that the proponent will be responsible for scheduling a hearing on any objections, and the court shall hear and decide such objections before the trial or hearing at which they will be offered.

Proposed law provides this Act shall become effective on January 1, 2014.

(Amends C.E. Art. 803(6); Adds C.E. Art. 902(11))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Added provision to require written notice to adverse parties relative to offering self-authenticating records.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the engrossed bill

1. Changes "attestation" to "affidavit."
2. Deletes language that would have allowed proponent of the introduction of business records to file a motion seeking that costs of introduction of evidence necessary to secure admission of such business records be assessed against the objecting party and attorney, if the court determines that the objections raised no genuine questions and were made without arguable good cause.
3. Adds language that the Act shall become effective on January 1, 2014.