

SENATE RESOLUTION NO. 43

BY SENATOR MORRIS

A RESOLUTION

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

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

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

WHEREAS, Senate Resolution No. 202 of the 2021 Regular Session of the Louisiana Legislature set forth that the task force study the feasibility and propriety of the electronic filing of legal documents, the electronic filing of documents in the conveyance and mortgage records, the retention, maintenance, preservation, and disposition of original paper documents once converted to electronic record, public access to all public records, including ease of functionality and viewing, and maintaining the integrity of public records, including original documents, and propose recommendations, together with specific proposals for legislation, by written report to the legislature no later than February 15, 2022; and

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

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

(1) The interplay between electronic records as converted originals and evidence that must be filed, presented to the court, and preserved in its original paper form; and

(2) Whether persons seeking probate of a will or codicil should be required to deliver

to the clerk of court the will or codicil in original paper form and whether Clerks of Court should be required to retain and preserve such documents in original paper form as evidence; and

(3) Other instances where paper documents with evidentiary significance should be manually filed and retained; and

(4) Retention periods for preservation of such instruments in original paper format, considering periods of prescription and peremption of actions that might be brought to invalidate or annul a testament or codicil, to nullify an order of probate, for recognition of a right of inheritance, and for any other relief dependent upon the validity of such instruments; and

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

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

WHEREAS, the task force recommends that the Louisiana State Law Institute evaluate and propose an amendment of R.S. 44:116 to include a declaration providing that conveyance, mortgage, and probate records are permanent records which shall be preserved and maintained for all time, in either original form and in books, or by microfilm or other electronic format, and that records pertaining to title be maintained from date of formation of each parish until the present time.

THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana does hereby urge and request that the Louisiana State Law Institute propose legislation to enact, amend, and repeal laws in order to implement and revise procedures for the electronic filing of legal documents, the electronic filing of documents in the conveyance and mortgage

records, the retention, maintenance, preservation, and disposition of original paper documents once converted to electronic record, public access to all public records, including ease of functionality and viewing, and maintaining the integrity of public records, including original documents.

BE IT FURTHER RESOLVED that recommendations for revising state law in the form of proposed legislation shall be submitted to the Legislature of Louisiana no later than February 2, 2024.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the Louisiana State Law Institute.

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PRESIDENT OF THE SENATE