

SUBJECT: Allowing for electronic filing of subpoenas

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Hinojosa, Dunnam, Green, Keel, Nixon, Smith, Wise
0 nays
2 absent — Garcia, Talton

SENATE VOTE: On final passage, April 22 — 30-0

WITNESSES: (*On House companion bill, HB 1372*)
None

BACKGROUND: Under current law, subpoena applications in criminal cases are required to be in writing, sworn to, and filed with the other papers in the criminal case.

DIGEST: SB 1116 would amend the Civil Practice and Remedies Code to allow an application for issuance of a subpoena to be made by electronic means.

It also would amend the Code of Criminal Procedure to allow a defendant, the defendant's attorney, or the state's attorneys to make an application for a subpoena either in writing or by electronic means. It would delete the requirements that the subpoena application be sworn and that a hard copy of the subpoena application be placed with the other papers in the case

SB 1116 would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

SUPPORTERS SAY: SB 1116 would improve efficiency in civil and criminal actions by allowing the filing of subpoena applications to be done either in writing or by electronic means. To accommodate electronic filing, the subpoena application no longer would have to be sworn and the requirement that a hard copy of the application be placed with the other papers in the case would be discontinued, although a hard copy could be obtained from the clerk of the court. Requiring subpoenas applications to be in writing prevents the court system from taking advantage of new technology.

Penal Code 37.10 provides criminal penalties for tampering with governmental records and would prevent the abuse of subpoena power as it would apply to electronic filings.

**OPPONENTS
SAY:**

With the growing sophistication of computer hacking, allowing electronic filing for applications for issuance of subpoenas could be subject to fraud or abuse. Although criminal penalties exist for tampering with governmental records, available resources may be insufficient to trace and investigate fraudulent or frivolous filings.