CASE TRANSFERS

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SEPTEMBER 2021

WHY?

- For years clerks have expressed concerns over how to transfer a case to another clerk or county.

- Before eFile you simply mailed certified copies of everything to the receiving clerk.

- Some clerks still send paper this way.

- Others eFile a transfer but still certify each document (unnecessary since an electronic document sent from a clerk is considered the original document per eFiling rules).

- Some receiving clerks file mark each document, some don't. Some clerks write or type their new case number on the documents and add their file mark over the original file mark.

- THE PURPOSE OF THIS BILL IS TO STANDARDIZE THE TRANSFER PROCESS WHILE UPHOLDING THE INTEGRITY OF THE ORIGINATING DOCUMENTS.

Section 155.207, Family Code, is amended to read as follows:

Sec.155.207. TRANSFER OF COURT FILES. (a) Not later than the 10th working day after the date an order of transfer is signed, the clerk of the court transferring a proceeding shall send, <u>using the electronic filing system established under Section 72.031, Government Code (eFileTx)</u>, to the proper court in the county to which transfer is being made:

 (1) <u>a transfer certificate and index of transferred documents</u> [the pleadings in the pending proceeding and any other document specifically requested by a party];

(2) [certified copies of all entries in the minutes] a [certified] copy of each final order;

(3) [and] a [certified] copy of the order of transfer signed by the transferring court;

(4) <u>a copy of the original papers filed in the transferring court</u>;

(5) <u>a copy of the transfer certificate and index of transferred documents from each previous transfer</u>; <u>and</u>

(6) <u>a bill of any costs that have accrued in the transferring court.</u>

(a-1) The clerk of the transferring court shall use the standardized transfer certificate and index of transferred documents form created by the Office of Court Administration of the Texas Judicial System under Section 72.037, Government Code, when transferring a proceeding under this section.

(b) The clerk of the transferring court shall keep a copy of [the] transferred pleadings [and other requested documents. If the transferring court retains jurisdiction of another child who was the subject of the suit, the clerk shall send a copy of the pleadings and other requested documents to the court to which the transfer is made and shall keep the original pleadings and other requested documents].

(c) The [On receipt of the pleadings, documents, and orders from the transferring court, the] clerk of the transferee court shall:

(1) accept documents transferred under Subsection (a);
(2) docket the suit; and
(3) [shall] notify, using the electronic filing system established under Section 72.031, Government Code [the judge of the transferee court], all parties, the clerk of the transferring court, and, if appropriate, the transferring court 's local registry that the suit has been docketed.

(c-1) The clerk of the transferee court shall physically or electronically mark or stamp the transfer certificate and index of transferred documents to evidence the date and time of acceptance under Subsection (c), but may not physically or electronically mark or stamp any other document transferred under Subsection (a).

(d) The clerk of the transferring court shall send a certified copy of the order directing payments to the transferee court:

(1) to any party [or employer] affected by the [that] order, and, if appropriate, to the local registry of the transferee court using the electronic filing system established under Section 72.031, Government Code; and

(2) to an employer affected by the order electronically or by first class mail.

(e) The clerks of both the transferee and transferring courts may each produce under Chapter 51, Government Code, certified or uncertified copies of documents filed in a case transferred under this section, but shall also include a copy of the transfer certificate and index of transferred documents with each document produced.

(F) SECTIONS 80.001 AND 80.002, GOVERNMENT CODE, DO NOT APPLY TO THE TRANSFER OF DOCUMENTS UNDER THIS SECTION.

- SECTION 80.001 – DELIVERY OF NOTICE OF DOCUMENT. a court, justice, judge, magistrate, or clerk may send any notice or document by a method authorized by section 80.002.

- SECTION 80.002 – AUTHORIZED DELIVERY OF NOTICE OR DOCUMENT. a court, justice, judge, magistrate, or clerk may send any notice or document using mail or electronic mail. this section applies to all civil and criminal statutes requiring delivery of a notice or document.

OTHER STATUTES AMENDED, SAME STORY!

- Section 7.02 amends Section 51.3071 Government Code – transfer from district to county court. Identical wording.

- Section 7.03 amends Section 51.403 Government Code – transfer from county to district court. identical wording with this addition:

- If the civil or criminal jurisdiction of a county court is transferred to a district court, the clerk of the county court shall send using the electronic filing system established under section 72.031 a certified copy of the judgements rendered in the county court that remain unsatisfied, [in electronic or paper form,] to the district clerk of the appropriate county.

STATUTORY REQUIREMENTS FOR THE FORM

- The next slide lists the statutory requirements for the form when creating the form in your case management systems as a merge form.

- This form displayed is an example of such.

Pursuant to House Bill 3774, 87th legislative session, Article 7. Statutes amended include Section 155.207 Family Code 155.207, Section 51.3071 and 51.403 Government Code and Subchapter C, Chapter 72 by adding Section 72.037 Government Code.

A transfer certificate issued by a county or district clerk must include:

1. The cause number,
2. The court it is being transferred from,
3. The style of the case,
4. Be styled The State of Texas and your county,
5. "Certifies that the following are true and correct electronic copies of each final order, the order to transfer, bill of costs, and any other documents requested, including previous transfer certificates (if applicable), in the transfer of this cause to the receiving county, Texas",
6. Index includes a list of all documents included in the transfer order and the date of those documents,
7. Certify it was given under the clerks hand and seal of the court,
8. Attach the seal of the court,
9. The current date being prepared,
10. The county, title and name of the clerk,
11. Be signed by the clerk or deputy clerk.

It should include a section for the "statement of receipt"

1. State the transfer is received from the clerks county and the state,
2. The cause number,
3. State "filed into the" court of the transferee court,
4. The transferee's county and state,
5. To the transferee's new cause number,
6. The date of the filing,
7. The seal of the court,
8. The title and county of the clerk.

THE FORM

- The OCA is required to promulgate the form per the bill.

- The CDCAT legislative team worked to create the form.

- The form is available in live binder and should be on the OCA website soon if not already there.

- This is a screen shot of the 2 pages of the form.

CAUSE NO. _____

<Style of case>   §   IN THE <district/county> COURT FOR

                                                    §   THE <court number/judicial district>

vs.

                                                    §   <your county> COUNTY, TEXAS

TRANSFER CERTIFICATE

THE STATE OF TEXAS   §
                                §
COUNTY OF <your county>   §

I, <Clerk's name and title>, in and for <your county> County, Texas do hereby certify that the following are true and correct electronic copies of each final order, the order to transfer, bill of costs, and any other documents requested, including previous transfer certificates (if applicable), in the transfer of this cause to (transferred county) County, Texas:

INDEX

File Date   Document

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, <_CurrDate_>.

 <affix court seal>   <Clerk's name, title>

                                      <your county> COUNTY, TEXAS

                                      By: _____ Deputy
                                          <_UserLogged_>

STATEMENT OF RECEIPT

Transfer received from <transferring county> County, Texas, Cause No. <_CaseNum_> and filed into the <court number/judicial district> <county/district> Court of <Transferred county> County, Texas to Cause No.<CaseNum> on this the _____ day of _____, 20_____.

<affix court seal>   <Clerk's name, title>

                                                      <transferred county> COUNTY, TEXAS

                                                      By: _____ Deputy
                                                         <_UserLogged

HOW DO WE HANDLE THE TRANSFER IN EFILE?

- TO MAKE IT ONE DOCUMENT OR ATTACHMENTS?

- POSITIVE – Counties in the State of Texas have the option of choosing the case management system that works best for them.

- NEGATIVE – Because counties have different case management systems, exporting and importing within eFileTx gives you several options that might not be compatible with the receiving county.

HOW DO WE MAKE IT UNIFORM FOR EVERYONE?

- UNLESS EVERY COUNTY IN THE STATE MOVES TO THE SAME CASE MANAGEMENT SYSTEM, IT IS NOT POSSIBLE.

- This was the dilemma when writing this bill. After many months of back and forth with the legislative group we came to the conclusion that we could not fix both sides of the issue. We could only fix how the transfer is sent, not received.

- Some clerks will continue to do what they have been, they call the receiving clerk before they send it and ask them how they want it, as one document, all lead documents, or attachments.

- Some will send it as it is in their CMS and the receiving clerk will have to manipulate the documents to load them into their CMS.

WHAT IF EFILING IS DOWN?

- How do I send a transfer if the eFiling system is down?

- When eFileTx is down treat transfers like any other filing. …

QUESTIONS?

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