

By: Leach

H.B. No. 1619

A BILL TO BE ENTITLED

AN ACT

relating to court reporters and shorthand reporting firms; imposing a fee; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 322.003, Business & Commerce Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Except as otherwise provided in Subsections ~~[Subsection]~~ (b) and (e), this chapter applies to electronic records and electronic signatures relating to a transaction.

(e) This chapter does not apply to the transmission, preparation, completion, enforceability, or admissibility of a document in any form that is:

(1) produced by a court reporter appointed under Chapter 52, Government Code, or a court reporter certified under or a shorthand reporting firm registered under Chapter 154, Government Code, for use in the state or federal judicial system; or

(2) governed by rules adopted by the supreme court, including rules governing the electronic filing system established by the supreme court.

SECTION 2. Subchapter B, Chapter 51, Civil Practice and Remedies Code, is amended by adding Section 51.017 to read as follows:

Sec. 51.017. SERVICE OF NOTICE ON COURT REPORTER. (a) In

1 addition to requirements for service of notice of appeal imposed by
2 Rule 25.1(e), Texas Rules of Appellate Procedure, notice of appeal,
3 including an interlocutory appeal, must be served on each court
4 reporter responsible for preparing the reporter's record.

5 (b) Notwithstanding Section 22.004, Government Code, the
6 supreme court may not amend or adopt rules in conflict with this
7 section.

8 SECTION 3. Chapter 52, Government Code, is amended by
9 adding Subchapter B to read as follows:

10 SUBCHAPTER B. DUTIES OF SHORTHAND REPORTING FIRMS

11 Sec. 52.011. PROVISION OF SIGNED CERTIFICATION. On request
12 of a court reporter who reported a deposition, a court reporting
13 firm shall provide the reporter with a copy of the document related
14 to the deposition, known as the further certification, that the
15 reporter has signed or to which the reporter's signature has been
16 applied.

17 SECTION 4. Section 154.001(a), Government Code, is amended
18 by adding Subdivisions (1-a) and (3-a) to read as follows:

19 (1-a) "Apprentice court reporter" means a person to
20 whom an apprentice court reporter certification is issued as
21 authorized by Section 154.1011.

22 (3-a) "Provisional court reporter" means a court
23 reporter to whom a provisional certification is issued as
24 authorized by Section 154.1011.

25 SECTION 5. Sections 154.101(b), (c), and (e), Government
26 Code, are amended to read as follows:

27 (b) A person may not engage in shorthand reporting in this

1 state unless the person is certified as:

2 (1) a shorthand reporter by the supreme court under
3 this section; or

4 (2) an apprentice court reporter or provisional court
5 reporter certified as authorized by Section 154.1011, subject to
6 the terms of the person's certification.

7 (c) A certification issued under this section [~~chapter~~]
8 must be for one or more of the following methods of shorthand
9 reporting:

10 (1) written shorthand;

11 (2) machine shorthand;

12 (3) oral stenography; or

13 (4) any other method of shorthand reporting authorized
14 by the supreme court.

15 (e) A person may not assume or use the title or designation
16 "court recorder," "court reporter," or "shorthand reporter," or any
17 abbreviation, title, designation, words, letters, sign, card, or
18 device tending to indicate that the person is a court reporter or
19 shorthand reporter, unless the person is certified as a shorthand
20 reporter or provisional court reporter by the supreme court.

21 Nothing in this subsection shall be construed to either sanction or
22 prohibit the use of electronic court recording equipment operated
23 by a noncertified court reporter pursuant and according to rules
24 adopted or approved by the supreme court.

25 SECTION 6. Subchapter C, Chapter 154, Government Code, is
26 amended by adding Sections 154.1011 and 154.1012 to read as
27 follows:

1 Sec. 154.1011. APPRENTICE COURT REPORTER AND PROVISIONAL
2 COURT REPORTER CERTIFICATIONS. (a) Subject to Section 152.101,
3 the commission by rule may provide for:

4 (1) the certification of an apprentice court reporter
5 who may engage in court reporting only:

6 (A) under the direct supervision of a certified
7 court reporter; and

8 (B) for the types of legal proceedings authorized
9 by commission rule; and

10 (2) the provisional certification of a court reporter,
11 including a court reporter described by Section 154.1012(f), that
12 allows a person to engage in court reporting only in accordance with
13 the terms and for the period expressly authorized by commission
14 rule.

15 (b) Rules adopted under Subsection (a) may allow for the
16 issuance of a certification under Section 154.101 to:

17 (1) a certified apprentice court reporter who
18 satisfactorily completes the apprenticeship and passes Part A of
19 the examination required by Section 154.103; or

20 (2) a court reporter who holds a provisional
21 certification on the reporter's completion of the terms of the
22 commission's conditional approval.

23 Sec. 154.1012. RECIPROCITY. (a) The commission may waive
24 any prerequisite to obtaining a court reporter certification or a
25 shorthand reporting firm registration for an applicant after
26 reviewing the applicant's credentials and determining the
27 applicant holds a certification, registration, or license issued by

1 another jurisdiction that has certification, registration, or
2 licensing requirements substantially equivalent to those of this
3 state.

4 (b) The commission shall develop and periodically update on
5 a schedule established by the commission a list of states that have
6 certification, registration, or licensing requirements for court
7 reporters and shorthand reporting firms substantially equivalent
8 to those of this state.

9 (c) The commission shall certify to the supreme court the
10 name of each qualified applicant who:

11 (1) holds a certification, registration, or license to
12 engage in court reporting issued by another state that, as
13 determined by the commission:

14 (A) has certification, registration, or
15 licensing requirements to engage in court reporting that are
16 substantially equivalent to the requirements of this state for a
17 court reporter governed by this chapter and Chapter 52; or

18 (B) is included on the list developed by the
19 commission under Subsection (b); and

20 (2) before certification in this state:

21 (A) passes Part B of the examination required by
22 Section 154.103; and

23 (B) provides proof acceptable to the commission
24 that the applicant has been actively performing court reporting in
25 another jurisdiction for at least three of the preceding five
26 years.

27 (d) A reciprocity agreement approved by the supreme court

1 under Section 152.202(b) must require an applicant who holds a
2 certification, registration, or license to engage in court
3 reporting issued by another state and who applies for certification
4 as a court reporter in this state to:

5 (1) pass Part B of the examination required by Section
6 154.103;

7 (2) provide proof acceptable to the commission that
8 the applicant has been actively performing court reporting in
9 another jurisdiction for at least three of the preceding five
10 years; and

11 (3) hold a certification, registration, or license
12 that the commission determines is at least equivalent to the
13 registered professional reporter designation or similar
14 designation.

15 (e) A person who applies for certification as a court
16 reporter in this state and meets the requirements under Subsection
17 (c) is not required to meet the requirement under Subsection
18 (d)(3).

19 (f) Subject to Section 152.101, the commission may adopt
20 rules requiring the issuance of a provisional certification under
21 Section 154.1011 to an applicant described by Subsection (c) or (d)
22 that authorizes the applicant to serve as a court reporter in this
23 state for a limited time and under conditions the commission
24 considers reasonably necessary to protect the public interest.

25 SECTION 7. Section 154.102, Government Code, is amended to
26 read as follows:

27 Sec. 154.102. APPLICATION FOR EXAMINATION. If applicable,

1 a [A] person seeking certification must file an application for
2 examination with the commission not later than the 30th day before
3 the date fixed for the examination. The application must be
4 accompanied by the required fee.

5 SECTION 8. Section [154.104](#), Government Code, is amended to
6 read as follows:

7 Sec. 154.104. CERTIFICATION TO SUPREME COURT. (a) The
8 commission shall certify to the supreme court the name of each
9 qualified applicant for certification under Section [154.101](#) who has
10 passed the examination.

11 (b) The commission shall certify to the supreme court the
12 name of each applicant who meets the qualifications for
13 certification as:

14 (1) an apprentice court reporter; or

15 (2) a provisional court reporter.

16 SECTION 9. Section [154.105](#)(a), Government Code, is amended
17 to read as follows:

18 (a) On certification under Section [154.101](#) or as a
19 provisional court reporter, a shorthand reporter may use the title
20 "Certified Shorthand Reporter" or the abbreviation "CSR."

21 SECTION 10. Section [154.107](#), Government Code, is amended by
22 adding Subsection (d) to read as follows:

23 (d) Notwithstanding Section [152.2015](#) and Subsection (c) of
24 this section, a shorthand reporting firm shall pay a registration
25 or renewal fee in an amount equal to the fee for court reporter
26 certification under Section [154.101](#) in lieu of the fee required for
27 a shorthand reporting firm registration if a certified court

1 reporter of the firm:

2 (1) has an ownership interest in the firm of more than
3 50 percent; and

4 (2) maintains actual control of the firm.

5 SECTION 11. Subchapter C, Chapter 154, Government Code, is
6 amended by adding Section 154.108 to read as follows:

7 Sec. 154.108. CONTINUING EDUCATION. Subject to Section
8 152.101, the commission by rule shall require each court reporter
9 who holds a certification issued by the commission and at least one
10 person who has management responsibility for a shorthand reporting
11 firm registered in this state to complete continuing professional
12 education.

13 SECTION 12. Section 154.110(a), Government Code, is amended
14 to read as follows:

15 (a) After receiving a complaint and giving the certified
16 shorthand reporter notice and an opportunity for a hearing as
17 prescribed by Subchapter B, Chapter 153, the commission shall
18 revoke, suspend, or refuse to renew the shorthand reporter's
19 certification or issue a reprimand to the reporter for:

20 (1) fraud or corruption;

21 (2) dishonesty;

22 (3) wilful or negligent violation or failure of duty;

23 (4) incompetence;

24 (5) fraud or misrepresentation in obtaining
25 certification;

26 (6) a final conviction of a felony or misdemeanor that
27 directly relates to the duties and responsibilities of a certified

1 shorthand reporter, as determined by supreme court rules;

2 (7) engaging in the practice of shorthand reporting
3 using a method for which the reporter is not certified;

4 (8) engaging in the practice of shorthand reporting
5 while certification is suspended;

6 (9) unprofessional conduct, including giving directly
7 or indirectly, benefiting from, or being employed as a result of any
8 gift, incentive, reward, or anything of value to attorneys,
9 clients, or their representatives or agents, except for nominal
10 items that do not exceed \$100 in the aggregate for each recipient
11 each year;

12 (10) entering into or providing services under a
13 prohibited contract described by Section 154.115; or

14 (11) committing any other act that violates this
15 chapter or a rule or provision of the code of ethics adopted under
16 this subtitle[~~, or~~

17 [~~(12) other sufficient cause~~].

18 SECTION 13. Section 154.111, Government Code, is amended by
19 amending Subsections (a) and (b) and adding Subsection (g) to read
20 as follows:

21 (a) After receiving a complaint and giving the shorthand
22 reporting firm or affiliate office notice and an opportunity for a
23 hearing as prescribed by Subchapter B, Chapter 153, the commission
24 shall reprimand, assess a reasonable fine against, or suspend,
25 revoke, or refuse to renew the registration of a shorthand
26 reporting firm or affiliate office for:

27 (1) fraud or corruption;

1 (2) dishonesty;

2 (3) conduct on the part of an officer, director, or
3 managerial employee of the shorthand reporting firm or affiliate
4 office if the officer, director, or managerial employee orders,
5 encourages, or permits conduct that the officer, director, or
6 managerial employee knows or should have known violates this
7 subtitle;

8 (4) conduct on the part of an officer, director, or
9 managerial employee or agent of the shorthand reporting firm or
10 affiliate office who has direct supervisory authority over a person
11 for whom the officer, director, employee, or agent knows or should
12 have known violated this subtitle and knowingly fails to take
13 reasonable remedial action to avoid or mitigate the consequences of
14 the person's actions;

15 (5) fraud or misrepresentation in obtaining
16 registration;

17 (6) a final conviction of an officer, director, or
18 managerial employee of a shorthand reporting firm or affiliate
19 office for a felony or misdemeanor that is directly related to the
20 provision of court reporting services, as determined by supreme
21 court rules;

22 (7) engaging the services of a reporter that the
23 shorthand reporting firm or affiliate office knew or should have
24 known was using a method for which the reporter is not certified;

25 (8) knowingly providing court reporting services
26 while the shorthand reporting firm's or affiliate office's
27 registration is suspended or engaging the services of a shorthand

1 reporter whose certification the shorthand reporting firm or
2 affiliate office knew or should have known was suspended;

3 (9) unprofessional conduct, including:

4 (A) [a pattern of] giving directly or indirectly
5 or benefiting from or being employed as a result of giving any gift,
6 incentive, reward, or anything of value to attorneys, clients, or
7 their representatives or agents, except for nominal items that do
8 not exceed \$100 in the aggregate for each recipient each year; or

9 (B) repeatedly committing to provide at a
10 specific time and location court reporting services for an attorney
11 in connection with a legal proceeding and unreasonably failing to
12 fulfill the commitment under the terms of that commitment;

13 (10) entering into or providing services under a
14 prohibited contract described by Section 154.115; or

15 (11) committing any other act that violates this
16 chapter or a rule or provision of the code of ethics adopted under
17 this subtitle[~~, or~~

18 [~~(12) other sufficient cause~~].

19 (b) Nothing in Subsection (a)(9)(A) [~~(a)(9)~~] shall be
20 construed to define providing value-added business services,
21 including long-term volume discounts, such as the pricing of
22 products and services, as prohibited gifts, incentives, or rewards.

23 (g) The commission by rule shall define the conditions under
24 which a shorthand reporting firm's or affiliate office's repeated
25 failure to fulfill a commitment to provide court reporting services
26 as described by Subsection (a)(9)(B) is considered unprofessional
27 conduct and grounds for disciplinary action.

1 SECTION 14. Section 154.113, Government Code, is amended by
2 adding Subsection (a-1) to read as follows:

3 (a-1) A person commits an offense if the person provides
4 shorthand reporting firm services in this state in violation of
5 Section 154.106. Each day of violation constitutes a separate
6 offense.

7 SECTION 15. Section 154.115, Government Code, is amended to
8 read as follows:

9 Sec. 154.115. PROHIBITED CONTRACTS. (a) A court reporter
10 or shorthand reporting firm may not enter into or provide services
11 under any contractual agreement, written or oral, exclusive or
12 nonexclusive, that:

13 (1) undermines the impartiality of the court reporter;

14 (2) requires a court reporter to relinquish control of
15 an original deposition transcript and copies of the transcript
16 before it is certified and delivered to the custodial attorney;

17 (3) requires a court reporter to provide any service
18 not made available to all parties to an action; ~~or~~

19 (4) gives or appears to give an exclusive advantage to
20 any party; or

21 (5) restricts an attorney's choice in the selection of
22 a court reporter or shorthand reporting firm.

23 (b) Subsections (a)(2) and (3) do ~~[This section does]~~ not
24 apply to a contract for court reporting services for a court,
25 agency, or instrumentality of the United States or this state.

26 SECTION 16. (a) In developing rules under Sections
27 154.1011 and 154.111(g), Government Code, as added by this Act, the

1 Judicial Branch Certification Commission shall:

2 (1) establish a stakeholder work group to receive
3 input; and

4 (2) solicit comments from the Texas Court Reporters
5 Association, the Texas Deposition Reporters Association, court
6 reporting schools, and other interested parties.

7 (b) Not later than June 1, 2020, the Judicial Branch
8 Certification Commission shall develop the list required by Section
9 154.1012(b), Government Code, as added by this Act.

10 (c) Not later than January 1, 2020, the Judicial Branch
11 Certification Commission shall communicate with the appropriate
12 regulatory officials in each state to inquire whether the state
13 desires to enter into a reciprocity agreement with this state as
14 authorized by Section 152.202(b), Government Code. Not later than
15 April 1, 2020, the commission shall submit a report on the results
16 of the inquiry to the Supreme Court of Texas or the court's
17 designee.

18 SECTION 17. This Act takes effect September 1, 2019.