

By: Leach

H.B. No. 1619

Substitute the following for H.B. No. 1619:

By: Krause

C.S.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. ITEMIZED STATEMENT OF TAXABLE COSTS. A court
12 reporting firm on request shall provide to a court reporter who
13 prepares a deposition transcript an itemized statement of the
14 charges that constitute the amount stated on the court reporter's
15 certificate filed with the court as part of the deposition as
16 required by Rule 203, Texas Rules of Civil Procedure, that the court
17 clerk must tax as costs.

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

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

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

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

1 (b) A person may not engage in shorthand reporting in this
2 state unless the person is certified as:

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

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

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

11 (1) written shorthand;

12 (2) machine shorthand;

13 (3) oral stenography; or

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

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

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

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

1 follows:

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

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

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

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

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

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

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

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

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

1 applicant holds a certification, registration, or license issued by
2 another jurisdiction that has certification, registration, or
3 licensing requirements substantially equivalent to those of this
4 state.

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

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

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

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

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

21 (2) before certification in this state:

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

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

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

6 (1) pass Part B of the examination required by Section
7 154.103;

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

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

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

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

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

1 Sec. 154.102. APPLICATION FOR EXAMINATION. If applicable,
2 a [A] person seeking certification must file an application for
3 examination with the commission not later than the 30th day before
4 the date fixed for the examination. The application must be
5 accompanied by the required fee.

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

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

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

15 (1) an apprentice court reporter; or

16 (2) a provisional court reporter.

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

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

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

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

1 a shorthand reporting firm registration if a certified court
2 reporter of the firm:

3 (1) has an ownership interest in the firm of more than
4 50 percent; and

5 (2) maintains actual control of the firm.

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

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

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

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

21 (1) fraud or corruption;

22 (2) dishonesty;

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

24 (4) incompetence;

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

27 (6) a final conviction of a felony or misdemeanor that

1 directly relates to the duties and responsibilities of a certified
2 shorthand reporter, as determined by supreme court rules;

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

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

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

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

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

- 1 (1) fraud or corruption;
- 2 (2) dishonesty;
- 3 (3) conduct on the part of an officer, director, or
4 managerial employee of the shorthand reporting firm or affiliate
5 office if the officer, director, or managerial employee orders,
6 encourages, or permits conduct that the officer, director, or
7 managerial employee knows or should have known violates this
8 subtitle;
- 9 (4) conduct on the part of an officer, director, or
10 managerial employee or agent of the shorthand reporting firm or
11 affiliate office who has direct supervisory authority over a person
12 for whom the officer, director, employee, or agent knows or should
13 have known violated this subtitle and knowingly fails to take
14 reasonable remedial action to avoid or mitigate the consequences of
15 the person's actions;
- 16 (5) fraud or misrepresentation in obtaining
17 registration;
- 18 (6) a final conviction of an officer, director, or
19 managerial employee of a shorthand reporting firm or affiliate
20 office for a felony or misdemeanor that is directly related to the
21 provision of court reporting services, as determined by supreme
22 court rules;
- 23 (7) engaging the services of a reporter that the
24 shorthand reporting firm or affiliate office knew or should have
25 known was using a method for which the reporter is not certified;
- 26 (8) knowingly providing court reporting services
27 while the shorthand reporting firm's or affiliate office's

1 registration is suspended or engaging the services of a shorthand
2 reporter whose certification the shorthand reporting firm or
3 affiliate office knew or should have known was suspended;

4 (9) unprofessional conduct, including:

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

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

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

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

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

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

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

1 conduct and grounds for disciplinary action.

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

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

8 SECTION 15. Section 154.115(b), Government Code, is amended
9 to read as follows:

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

13 SECTION 16. (a) In developing rules under Sections
14 154.1011 and 154.111(g), Government Code, as added by this Act, the
15 Judicial Branch Certification Commission shall:

16 (1) establish a stakeholder work group to receive
17 input; and

18 (2) solicit comments from the Texas Court Reporters
19 Association, the Texas Deposition Reporters Association, court
20 reporting schools, and other interested parties.

21 (b) Not later than June 1, 2020, the Judicial Branch
22 Certification Commission shall develop the list required by Section
23 154.1012(b), Government Code, as added by this Act.

24 (c) Not later than January 1, 2020, the Judicial Branch
25 Certification Commission shall communicate with the appropriate
26 regulatory officials in each state to inquire whether the state
27 desires to enter into a reciprocity agreement with this state as

1 authorized by Section 152.202(b), Government Code. Not later than
2 April 1, 2020, the commission shall submit a report on the results
3 of the inquiry to the Supreme Court of Texas or the court's
4 designee.

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