

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. POWERS AND DUTIES OF COURT REPORTERS AND SHORTHAND
11 REPORTING FIRMS

12 Sec. 52.011. RATES AND CHARGES FOR SERVICES; BILLING. A
13 court reporter or shorthand reporting firm shall:

14 (1) disclose the reporter's or firm's rates and
15 charges for services provided in a legal proceeding to each party in
16 the proceeding either directly or through the party's attorney; and

17 (2) on each billing statement for services provided by
18 the reporter or firm in a legal proceeding, fully itemize the rate
19 and amount charged for each service provided.

20 SECTION 4. Section 152.202, Government Code, is amended by
21 amending Subsection (a) and adding Subsections (a-1), (a-2), (c),
22 (d), (e), and (f) to read as follows:

23 (a) In this section, "court reporter," "court reporting,"
24 and "shorthand reporting firm" have the meanings assigned by
25 Section 154.001.

26 (a-1) The commission may waive any prerequisite to
27 obtaining a certification, registration, or license for an

1 applicant after reviewing the applicant's credentials and
2 determining that the applicant holds a certification,
3 registration, or license issued by another jurisdiction that has
4 certification, registration, or licensing requirements
5 substantially equivalent to those of this state.

6 (a-2) The commission shall develop and periodically update
7 on a schedule established by the commission a list of states that
8 have certification, registration, or licensing requirements for
9 court reporters and shorthand reporting firms substantially
10 equivalent to those of this state.

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

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

16 (A) has certification, registration, or
17 licensing requirements to engage in court reporting that are
18 substantially equivalent to the requirements of this state for a
19 court reporter governed by Chapters 52 and 154; or

20 (B) is included on the list developed by the
21 commission under Subsection (a-2); and

22 (2) before certification in this state:

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

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

1 years.

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

7 (1) pass Part B of the examination required by Section
8 154.103;

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

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

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

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

27 SECTION 5. Section 152.204, Government Code, is amended by

adding Subsection (a-1) to read as follows:

(a-1) Subject to Section 152.101, the commission by rule shall require each court reporter who holds a certification issued by the commission to complete continuing professional education.

SECTION 6. Section 154.001(a), Government Code, is amended by adding Subdivisions (1-a) and (3-a) to read as follows:

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

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

SECTION 7. Sections 154.101(b), (c), and (e), Government Code, are amended to read as follows:

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

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

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

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

- (1) written shorthand;
- (2) machine shorthand;
- (3) oral stenography; or

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

(e) A person may not assume or use the title or designation "court recorder," "court reporter," or "shorthand reporter," or any abbreviation, title, designation, words, letters, sign, card, or device tending to indicate that the person is a court reporter or shorthand reporter, unless the person is certified as a shorthand reporter or provisional reporter by the supreme court. Nothing in this subsection shall be construed to either sanction or prohibit the use of electronic court recording equipment operated by a noncertified court reporter pursuant and according to rules adopted or approved by the supreme court.

SECTION 8. Subchapter C, Chapter 154, Government Code, is amended by adding Section 154.1011 to read as follows:

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

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

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

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

(2) the provisional certification of a court reporter, including a court reporter described by Section 152.202(f), that allows a person to engage in court reporting only in accordance with the terms and for the period expressly authorized by commission

1 rule.

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

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

7 (2) a court reporter who holds a provisional
8 certification on the reporter's completion of the terms of the
9 commission's conditional approval.

10 SECTION 9. Section 154.102, Government Code, is amended to
11 read as follows:

12 Sec. 154.102. APPLICATION FOR EXAMINATION. If applicable,
13 a ~~[A]~~ person seeking certification must file an application for
14 examination with the commission not later than the 30th day before
15 the date fixed for the examination. The application must be
16 accompanied by the required fee.

17 SECTION 10. Section 154.104, Government Code, is amended to
18 read as follows:

19 Sec. 154.104. CERTIFICATION TO SUPREME COURT. (a) The
20 commission shall certify to the supreme court the name of each
21 qualified applicant for certification under Section 154.101 who has
22 passed the examination.

23 (b) The commission shall certify to the supreme court the
24 name of each applicant who meets the qualifications for
25 certification as:

26 (1) an apprentice court reporter; or

27 (2) a provisional court reporter.

SECTION 11. Section 154.105(a), Government Code, is amended to read as follows:

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

SECTION 12. Section 154.107, Government Code, is amended by adding Subsection (d) to read as follows:

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

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

(2) maintains actual control of the firm.

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

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

(1) fraud or corruption;

(2) dishonesty;

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

(4) incompetence;

1 (5) fraud or misrepresentation in obtaining
2 certification;

3 (6) a final conviction of a felony or misdemeanor that
4 directly relates to the duties and responsibilities of a certified
5 shorthand reporter, as determined by supreme court rules;

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

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

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

16 (10) entering into or providing services under a
17 prohibited contract described by Section [154.115](#); or

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

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

22 SECTION 14. Section [154.111](#), Government Code, is amended by
23 amending Subsections (a) and (b) and adding Subsection (g) to read
24 as follows:

25 (a) After receiving a complaint and giving the shorthand
26 reporting firm or affiliate office notice and an opportunity for a
27 hearing as prescribed by Subchapter B, Chapter [153](#), the commission

1 shall reprimand, assess a reasonable fine against, or suspend,
2 revoke, or refuse to renew the registration of a shorthand
3 reporting firm or affiliate office for:

4 (1) fraud or corruption;

5 (2) dishonesty;

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

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

19 (5) fraud or misrepresentation in obtaining
20 registration;

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

26 (7) engaging the services of a reporter that the
27 shorthand reporting firm or affiliate office knew or should have

1 known was using a method for which the reporter is not certified;

2 (8) knowingly providing court reporting services
3 while the shorthand reporting firm's or affiliate office's
4 registration is suspended or engaging the services of a shorthand
5 reporter whose certification the shorthand reporting firm or
6 affiliate office knew or should have known was suspended;

7 (9) unprofessional conduct, including:

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

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

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

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

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

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

27 (g) The commission by rule shall define the conditions under

1 which a shorthand reporting firm's or affiliate office's repeated
2 failure to fulfill a commitment to provide court reporting services
3 as described by Subsection (a)(9)(B) is considered unprofessional
4 conduct and grounds for disciplinary action.

5 SECTION 15. Section 154.113, Government Code, is amended by
6 adding Subsection (a-1) to read as follows:

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

11 SECTION 16. Section 154.115(b), Government Code, is amended
12 to read as follows:

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

16 SECTION 17. (a) Not later than June 1, 2020, the Judicial
17 Branch Certification Commission shall develop the list required by
18 Section 152.202(a-2), Government Code, as added by this Act.

19 (b) Not later than January 1, 2020, the Judicial Branch
20 Certification Commission shall communicate with the appropriate
21 regulatory officials in each state to inquire whether the state
22 desires to enter into a reciprocity agreement with this state as
23 authorized by Section 152.202(b), Government Code. Not later than
24 April 1, 2020, the commission shall submit a report on the results
25 of the inquiry to the Supreme Court of Texas or the court's
26 designee.

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