

By: Leach

H.B. No. 2579

Substitute the following for H.B. No. 2579:

By: Krause

C.S.H.B. No. 2579

A BILL TO BE ENTITLED

AN ACT

relating to shorthand reporting and depositions.

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

SECTION 1. Article 39.03, Code of Criminal Procedure, is amended to read as follows:

Art. 39.03. OFFICERS WHO MAY TAKE ~~THE~~ DEPOSITION. (a) On ~~Upon the~~ filing of the ~~such an~~ affidavit and application under Article 39.02, the court shall appoint, order, or designate one of the following persons before whom the ~~such~~ deposition must ~~shall~~ be taken:

(1) a ~~[1. A]~~ district judge; ~~[-]~~

(2) a ~~[2. A]~~ county judge; ~~[-]~~

(3) a ~~[3. A]~~ notary public; ~~[-]~~

(4) a ~~[4. A]~~ district clerk; ~~[-]~~

(5) a ~~[5. A]~~ county clerk; or

(6) a court reporter.

(b) The ~~[Such]~~ order shall specifically name the ~~such~~ person before whom, ~~and~~ the time when, and the place where the ~~such~~ deposition must ~~shall~~ be taken. Failure of a witness to respond to the order is ~~thereto, shall be~~ punishable by contempt by the court. The ~~[Such]~~ deposition must ~~shall~~ be oral or written, as the court directs ~~shall direct~~.

SECTION 2. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.25 to read as follows:

1       Art. 42.25. FILING OF REPORTER NOTES. A court reporter may  
2 comply with Rule 13.6, Texas Rules of Appellate Procedure, by  
3 electronically filing with the trial court clerk not later than the  
4 20th day after the expiration of the time the defendant is allotted  
5 to perfect the appeal the untranscribed notes created by the court  
6 reporter using computer-aided software.

7       SECTION 3. Section 52.001(a)(4), Government Code, is  
8 amended to read as follows:

9           (4) "Shorthand reporter" and "court reporter" mean a  
10 person who is certified as a court reporter, apprentice court  
11 reporter, or provisional court reporter under Chapter 154 to engage  
12 [engages] in shorthand reporting.

13       SECTION 4. Section 52.011, Government Code, is amended to  
14 read as follows:

15       Sec. 52.011. PROVISION OF SIGNED DEPOSITION CERTIFICATE;  
16 CERTIFICATE REQUIREMENTS [CERTIFICATION]. (a) A court reporting  
17 firm representative or a court reporter who reported a deposition  
18 for a case shall complete and sign a deposition certificate, known  
19 as the further certification.

20           (b) On request of a court reporter who reported a deposition  
21 for a case, a court reporting firm shall provide the reporter with a  
22 copy of the deposition certificate [document related to the  
23 deposition, known as the further certification,] that the reporter  
24 has signed or to which the reporter's signature has been applied.

25           (c) The deposition certificate must include:

26                   (1) a statement that the deposition transcript was  
27 submitted to the deponent or the deponent's attorney for

1 examination and signature;

2 (2) the date the transcript was submitted to the  
3 deponent or the deponent's attorney;

4 (3) the date the deponent returned the transcript, if  
5 returned, or a statement that the deponent did not return the  
6 transcript;

7 (4) a statement that any changes the deponent made to  
8 the transcript are reflected in a separate document attached to the  
9 transcript;

10 (5) a statement that the transcript was delivered in  
11 accordance with Rule 203.3, Texas Rules of Civil Procedure;

12 (6) the amount charged for preparing the original  
13 deposition transcript;

14 (7) a statement that a copy of the certificate was  
15 served on all parties to the case; and

16 (8) the date the copy of the certificate was served on  
17 the parties to the case.

18 SECTION 5. Sections 52.046(b) and (d), Government Code, are  
19 amended to read as follows:

20 (b) An official court reporter [~~of a district court~~] may  
21 conduct the deposition of witnesses, receive, execute, and return  
22 commissions, and make a certificate of the proceedings in any  
23 county [~~that is included in the judicial district of that court~~].

24 (d) A judge of a county court or county court at law shall  
25 appoint a [~~certified~~] shorthand reporter to report the oral  
26 testimony given in any contested probate matter in that judge's  
27 court.

1 SECTION 6. Section 154.001(a)(4), Government Code, is  
2 amended to read as follows:

3 (4) "Shorthand reporter" and "court reporter" mean a  
4 person who is certified as a court reporter, apprentice court  
5 reporter, or provisional court reporter under this chapter to  
6 engage [~~engages~~] in shorthand reporting.

7 SECTION 7. Section 154.101(e), Government Code, is amended  
8 to read as follows:

9 (e) A person may not assume or use the title or designation  
10 "court recorder," "court reporter," or "shorthand reporter," or any  
11 abbreviation, title, designation, words, letters, sign, card, or  
12 device tending to indicate that the person is a court reporter or  
13 shorthand reporter, unless the person is certified as a shorthand  
14 reporter or provisional court reporter by the supreme court.  
15 Nothing in this subsection shall be construed to either sanction or  
16 prohibit the use of electronic court recording equipment operated  
17 by a person who engages in shorthand reporting but is not certified  
18 as a [~~noncertified~~] court reporter pursuant and according to rules  
19 adopted or approved by the supreme court.

20 SECTION 8. Section 154.105, Government Code, is amended by  
21 amending Subsection (b) and adding Subsections (c), (d), and (e) to  
22 read as follows:

23 (b) A [~~certified~~] shorthand reporter may administer oaths  
24 to witnesses:

25 (1) anywhere in this state;

26 (2) in a jurisdiction outside this state if:

27 (A) the reporter is at the same location as the

1 witness; and

2 (B) the witness is or may be a witness in a case  
3 filed in this state; and

4 (3) at any location authorized in a reciprocity  
5 agreement between this state and another jurisdiction under Section  
6 152.202(b).

7 (c) Notwithstanding Subsection (b), a shorthand reporter  
8 may administer an oath as provided under this subsection to a person  
9 who is or may be a witness in a case filed in this state without  
10 being at the same location as the witness:

11 (1) if the reporter is physically located in this  
12 state at the time the oath is administered; or

13 (2) as authorized in a reciprocity agreement between  
14 this state and another jurisdiction under Section 152.202(b) if:

15 (A) the witness is at a location in the other  
16 jurisdiction; and

17 (B) the reporter is at a location in the same  
18 jurisdiction as the witness.

19 (d) The identity of a witness who is not in the physical  
20 presence of a shorthand reporter may be proven by:

21 (1) a statement under oath on the record by a party to  
22 the case stating that the party has actual knowledge of the  
23 witness's identity;

24 (2) a statement on the record by an attorney for a  
25 party to the case, or an attorney for the witness, verifying the  
26 witness's identity;

27 (3) a statement on the record by a notary who is in the

1 presence of the witness verifying the witness's identity; or  
2 (4) the witness's presentation for inspection by the  
3 court reporter of an official document issued by this state,  
4 another state, a federal agency, or another jurisdiction that  
5 verifies the witness's identity.

6 (e) A shorthand reporter to which this section applies shall  
7 state on the record and certify in each transcript of the deposition  
8 the physical location of:

- 9 (1) the witness; and  
10 (2) the reporter.

11 SECTION 9. Section 154.112, Government Code, is amended to  
12 read as follows:

13 Sec. 154.112. EMPLOYMENT OF NONCERTIFIED PERSON FOR  
14 SHORTHAND REPORTING [~~REPORTERS~~]. (a) A person who is not certified  
15 as a court [~~noncertified shorthand~~] reporter may be employed to  
16 engage in shorthand reporting until a certified shorthand reporter  
17 is available.

18 (b) A person who is not certified as a court [~~noncertified~~  
19 ~~shorthand~~] reporter may engage in shorthand reporting to report an  
20 oral deposition only if:

21 (1) the person [~~noncertified shorthand reporter~~]  
22 delivers an affidavit to the parties or to their counsel present at  
23 the deposition stating that a certified shorthand reporter is not  
24 available; or

25 (2) the parties or their counsel stipulate on the  
26 record at the beginning of the deposition that a certified  
27 shorthand reporter is not available.

1           (c) This section does not apply to a deposition taken  
2 outside this state for use in this state.

3           SECTION 10. (a) Except as provided by Subsection (b) of this  
4 section, the changes in law made by this Act apply only to a  
5 deposition taken on or after the effective date of this Act. A  
6 deposition taken before that date is governed by the law in effect  
7 on the date the deposition was taken, and the former law is  
8 continued in effect for that purpose.

9           (b) Article 39.03, Code of Criminal Procedure, as amended by  
10 this Act, applies only to a deposition taken in a criminal case in  
11 which an information is filed or an indictment is returned on or  
12 after the effective date of this Act. A deposition taken in a  
13 criminal case in which an information is filed or an indictment is  
14 returned before the effective date of this Act is governed by the  
15 law in effect when the information is filed or the indictment is  
16 returned, and the former law is continued in effect for that  
17 purpose.

18           SECTION 11. This Act takes effect September 1, 2021.