

By: Leach

H.B. No. 2579

A BILL TO BE ENTITLED

AN ACT

relating to court reporting.

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. Amend Chapter 42, Code of Criminal Procedure, by adding Section 42.0184 to read as follows:

1 Sec. 42.0184. FILING OF REPORTER NOTES OR RECORDINGS. A
2 court reporter complies with Rule 13.6, Texas Rules of Appellate
3 Procedure, if, within the time required by the rule, the court
4 reporter electronically files with the trial court clerk the
5 reporter's notes made using computer-aided software. When
6 applicable, a court recorder shall comply with Rule 13.6, Texas
7 Rules of Appellate Procedure, by filing with the trial court clerk,
8 within the time required by the rule, the original recording of the
9 proceeding.

10 SECTION 3. Amend Section 52.001(a), Government Code, to
11 read as follows:

12 Sec. 52.001. DEFINITIONS. (a) In this chapter:

13 (1) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 42,
14 Sec. 3.01(1), eff. September 1, 2014.

15 (2) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 42,
16 Sec. 3.01(1), eff. September 1, 2014.

17 (2-a) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 42,
18 Sec. 3.01(1), eff. September 1, 2014.

19 (3) "Official court reporter" means the shorthand
20 reporter appointed by a judge as the official court reporter.

21 (4) "Shorthand reporter" and "court reporter" mean a
22 person who [~~engages in shorthand reporting~~] is certified by the
23 Supreme Court of Texas as a court reporter, apprentice court
24 reporter or provisional court reporter.

25 (5) "Shorthand reporting" and "court reporting" mean
26 the practice of shorthand reporting for use in litigation in the
27 courts of this state by making a verbatim record of an oral court

1 proceeding, deposition, or proceeding before a grand jury, referee,
2 or court commissioner using written symbols in shorthand, machine
3 shorthand, or oral stenography.

4 (6) "Shorthand reporting firm," "court reporting
5 firm," and "affiliate office" mean an entity wholly or partly in the
6 business of providing court reporting or other related services in
7 this state.

8 (7) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 42,
9 Sec. 3.01(1), eff. September 1, 2014.

10 SECTION 4. Section 52.011, Government Code, is amended to
11 read as follows:

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

18 (b) A court reporting firm representative or court reporter
19 shall complete and sign a further certification, which shall state
20 that the deposition transcript was submitted to the witness or to
21 the attorney for the witness for examination and signature, the
22 date on which the transcript was submitted, whether the witness
23 returned the transcript, and, if so, the date on which it was
24 returned; that changes, if any, made by the witness are attached to
25 the deposition transcript; that the deposition transcript was
26 delivered in accordance with Rule 203.3 of the Texas Rules of Civil
27 Procedure, the amount of the charges for preparing the original

1 deposition transcript and that a copy of the certificate was served
2 on all parties and the date of service.

3 SECTION 5. Section 52.046(b), Government Code, is amended
4 to read as follows:

5 (b) An official court reporter [~~of a district court~~] may
6 conduct the deposition of witnesses, receive, execute, and return
7 commissions, and make a certificate of the proceedings in any
8 county [~~that is included in the judicial district of that court~~] of
9 this state.

10 SECTION 6. Amend Section 154.001(a), Government Code, to
11 read as follows:

12 Sec. 154.001. DEFINITIONS. (a) In this chapter:

13 (1) "Advisory board" means the Court Reporters
14 Certification Advisory Board.

15 (1-a) "Apprentice court reporter" means a person to
16 whom an apprentice court reporter certification is issued as
17 authorized by Section 154.1011.

18 (2) "Certification" means, notwithstanding Section
19 151.001, a certification issued by the supreme court on the
20 commission's recommendation.

21 (3) "Official court reporter" means the shorthand
22 reporter appointed by a judge as the official court reporter.

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 (4) "Shorthand reporter" and "court reporter" mean a
27 person who [~~engages in shorthand reporting~~] is certified by the

1 Supreme Court of Texas as a court reporter, apprentice court
2 reporter or provisional court reporter.

3 (5) "Shorthand reporting" and "court reporting" mean
4 the practice of shorthand reporting for use in litigation in the
5 courts of this state by making a verbatim record of an oral court
6 proceeding, deposition, or proceeding before a grand jury, referee,
7 or court commissioner using written symbols in shorthand, machine
8 shorthand, or oral stenography.

9 (6) "Shorthand reporting firm," "court reporting
10 firm," and "affiliate office" mean an entity wholly or partly in the
11 business of providing court reporting or other related services in
12 this state.

13 SECTION 7. Amend Section 154.105, Government Code, by
14 amending Subsection (b) and adding a new Subsections (c), (d) and
15 (e) to read as follows:

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

18 (1) anywhere in this state;

19 (2) anywhere the reporter is located in a jurisdiction
20 outside this state, if the reporter is located with the witness and
21 the witness is or may be a witness in a case filed in this state; and

22 (3) if this state enters into a reciprocity agreement
23 as authorized by Section 152.202(b), anywhere that is provided in
24 the agreement.

25 (c) Notwithstanding any other law, including Rule 199.1(b),
26 Texas Rules of Civil Procedure, a person certified as a shorthand
27 reporter by the supreme court may administer an oath as provided in

1 this subsection to a person who is or may be a witness in a case
2 filed in this state without being located with a party or the
3 witness:

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

6 (2) if provided by a reciprocity agreement authorized
7 by Section 152.202(b), the witness is located in the state with
8 which this state has a reciprocity agreement and the reporter is
9 located in the same state as the witness.

10 (d) The identity of a deposition witness who is not in the
11 presence of a person certified as a shorthand reporter by the
12 supreme court may be proven by:

13 (1) a statement under oath on the record by a party
14 that the party has actual knowledge of the witness's identity;

15 (2) a statement on the record by an attorney for a
16 party, or an attorney for the witness, verifying the witness's
17 identity;

18 (3) a statement on the record by a notary who is in the
19 presence of the witness verifying the witness's identity; or

20 (4) by the witness's presentation for inspection by
21 the court reporter of an official document issued by this state,
22 another state, a federal agency, or another jurisdiction that
23 verifies the witness's identity.

24 (e) A shorthand reporter to which this section applies shall
25 state on the record and certify in each transcript of the
26 deposition:

27 (1) where the witness was located; and

1 (2) where the reporter was located.

2 SECTION 8. The change in law made by this Act to Section
3 39.03, Code of Criminal Procedure, applies only to a deposition in a
4 criminal case in which an information is filed or an indictment is
5 returned on or after the effective date of this Act. A deposition
6 taken in a criminal case in which an information is filed or an
7 indictment is returned before the effective date of this Act is
8 covered by the law in effect when the information is filed or the
9 indictment is returned, and the former law is continued in effect or
10 that purpose.

11 SECTION 9. The Judicial Branch Certification Commission
12 shall conform, as needed, to the changes in law made by this Act the
13 administrative rules applicable to court reporting, shorthand
14 reporters, and the uniform format applicable to the performance of
15 shorthand reporters.

16 SECTION 10. This Act takes effect September 1, 2021.