88R4130 JTZ-F

By:  Leach H.B. No. 2383

A BILL TO BE ENTITLED

AN ACT

relating to court deposition and transcription services and fees and to court reporters and certified court interpreters; establishing a civil penalty.

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

SECTION 1.  The heading to Section 20.001, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 20.001.  PERSONS WHO MAY TAKE A DEPOSITION ON WRITTEN QUESTIONS.

SECTION 2.  Sections 20.001(b), (c), and (d), Civil Practice and Remedies Code, are amended to read as follows:

(b)  A deposition on written questions of a witness who is alleged to reside or to be outside this state, but inside the United States, may be taken in another state by:

(1)  a clerk of a court of record having a seal;

(2)  a commissioner of deeds appointed under the laws of this state; or

(3)  any notary public.

(c)  A deposition on written questions of a witness who is alleged to reside or to be outside the United States may be taken by:

(1)  a minister, commissioner, or charge d'affaires of the United States who is a resident of and is accredited in the country where the deposition is taken;

(2)  a consul general, consul, vice-consul, commercial agent, vice-commercial agent, deputy consul, or consular agent of the United States who is a resident of the country where the deposition is taken; or

(3)  any notary public.

(d)  A deposition on written questions of a witness who is alleged to be a member of the United States Armed Forces or of a United States Armed Forces Auxiliary or who is alleged to be a civilian employed by or accompanying the armed forces or an auxiliary outside the United States may be taken by a commissioned officer in the United States Armed Forces or United States Armed Forces Auxiliary or by a commissioned officer in the United States Armed Forces Reserve or an auxiliary of it. If a deposition on written questions appears on its face to have been taken as provided by this subsection and the deposition or any part of it is offered in evidence, it is presumed, absent pleading and proof to the contrary, that the person taking the deposition as a commissioned officer was a commissioned officer on the date that the deposition was taken, and that the deponent was a member of the authorized group of military personnel or civilians.

SECTION 3.  Section 51.601, Government Code, is amended to read as follows:

Sec. 51.601.  COURT REPORTER SERVICE FUND. (a) [~~(c)~~] The commissioners court of the county shall administer the court reporter service fund to assist in the payment of court-reporter-related services, that may include maintaining an adequate number of court reporters to provide services to the courts, obtaining court reporter transcription services, closed-caption transcription machines, Braille transcription services, or other transcription services, including a court reporter's preparation of an appellate record under the Texas Rules of Appellate Procedure and Rule 145, Texas Rules of Civil Procedure, to comply with state or federal laws, or providing any other service related to the functions of a court reporter.

(b) [~~(d)~~]  The commissioners court shall, in administering the court reporter service fund, assist any court in which a case is filed that requires the payment of the court reporter service fee.

SECTION 4.  Section 52.041, Government Code, is amended to read as follows:

Sec. 52.041.  APPOINTMENT OF OFFICIAL COURT REPORTER. (a) Each judge of a court of record shall appoint an official court reporter. An official court reporter is a sworn officer of the court and holds office at the pleasure of the court.

(b)  The judges of two or more courts of record that are not located in the same judicial district on agreement may jointly appoint an official court reporter to serve the courts.

(c)  Notwithstanding any other law, two or more judges of courts of record may appoint a certified shorthand reporter to serve each court as an official court reporter of the court. A certified shorthand reporter appointed under this subsection may serve as an official court reporter for more than one county and be an employee of more than one county.

(d)  An official court reporter may remotely serve any court to which the official court reporter is appointed.

SECTION 5.  Section 52.042, Government Code, is amended by adding Subsection (e) to read as follows:

(e)  A deputy court reporter may remotely serve any court to which the official court reporter is appointed.

SECTION 6.  Sections 52.047(c), (e), and (g), Government Code, are amended to read as follows:

(c)  On payment of the fee or as provided by the [~~Rule 40(a)(3) or 53(j),~~] Texas Rules of Appellate Procedure, the person requesting the transcript is entitled to the original and one copy of the transcript. The person may purchase additional copies for a fee per page that does not exceed one-third of the original cost per page.

(e)  If an objection is made to the amount of these additional fees, the judge shall set a reasonable fee. If the person applying for the transcript is entitled to a transcript without charge under the [~~Rule 40(a)(3) or 53(j),~~] Texas Rules of Appellate Procedure, the court reporter may not charge any additional fees under Subsection (d).

(g)  Notwithstanding the [~~Rule 53(j),~~] Texas Rules of Appellate Procedure, an official court reporter who is required to prepare a transcript in a criminal case without charging a fee is not entitled to payment for the transcript from the state or county if the county paid a substitute court reporter to perform the official court reporter's regular duties while the transcript was being prepared. To the extent that this subsection conflicts with the Texas Rules of Appellate Procedure, this subsection controls. Notwithstanding Sections 22.004 and 22.108(b), the supreme court or the court of criminal appeals may not amend or adopt rules in conflict with this subsection.

SECTION 7.  Section 52.054, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1)  A county responsible for payment of the salary of an official court reporter jointly appointed in accordance with Section 52.041(b) to serve courts of record in two or more counties that are not in the same judicial district shall pay a portion of the reporter's salary in an amount equal to the proportion that county's population bears to the combined population of all the counties responsible for payment of the salary.

SECTION 8.  Section 52.055(d), Government Code, is amended to read as follows:

(d)  The expenses reimbursed under this section are subject to annual limitations based on the size of the judicial district. Except as provided by Subsection (d-1), a court reporter may not receive more than the maximum reimbursement amount set for the reporter's judicial district in any one year. The maximum reimbursement amount is as follows:

(1)  if the judicial district contains two counties, the maximum reimbursement amount is $400 or a greater amount set by the commissioners court of the county for which the expenses were incurred;

(2)  if the judicial district contains three counties, the maximum reimbursement amount is $800 or a greater amount set by the commissioners court of the county for which the expenses were incurred;

(3)  if the judicial district contains four counties, the maximum reimbursement amount is $1,400 or a greater amount set by the commissioners court of the county for which the expenses were incurred; and

(4)  if the judicial district contains five or more counties, the maximum reimbursement amount is $2,000 or a greater amount set by the commissioners court of the county for which the expenses were incurred.

SECTION 9.  Section 52.056(a), Government Code, is amended to read as follows:

(a)  An official or deputy court reporter of a judicial district who is required to leave the county of the reporter's [~~his~~] residence to report proceedings as a substitute for the official court reporter of another county is entitled to reimbursement for actual and necessary travel expenses and a per diem allowance of $30 or the amount provided by the travel per diem policy of the county for which the expenses were incurred, whichever is greater, for each day or part of a day spent outside the reporter's [~~his~~] county of residence in the performance of duties as a substitute. These fees are in addition to the visiting reporter's regular salary.

SECTION 10.  Section 52.058(b), Government Code, is amended to read as follows:

(b)  Travel expenses reimbursed under this section may not exceed the mileage reimbursement rate established by the county [~~25 cents per mile~~] for the use of private conveyances, traveling the shortest practical route.

SECTION 11.  Sections 57.001(1) and (9), Government Code, are amended to read as follows:

(1)  "Certified court interpreter" means an individual who is a qualified interpreter as defined in Article 38.31, Code of Criminal Procedure, or Section 21.003, Civil Practice and Remedies Code, or is qualified in accordance with the communication access realtime translation services eligibility requirements established by the Office of Deaf and Hard of Hearing Services of the Health and Human Services Commission, [~~certified under Subchapter B by the Department of Assistive and Rehabilitative Services~~] to interpret court proceedings for a hearing-impaired individual.

(9)  "Certified CART provider" means an individual who holds a certification to provide communication access realtime translation services at an advanced or master level, including:

(A)  a level I through level V certificate of competency issued by the Texas Court Reporters Association;

(B)  a certified realtime reporter, certified realtime captioner, or other equivalent certified CART provider certificate of competency issued by the National Court Reporters Association; or

(C)  a certificate of competency issued by another certification association selected by the department.

SECTION 12.  Section 154.101(f), Government Code, is amended to read as follows:

(f)  Except as provided by Section 154.112 and by Section 20.001, Civil Practice and Remedies Code, all depositions conducted in this state must be reported [~~recorded~~] by a certified shorthand reporter.

SECTION 13.  Sections 154.105(b), (c), and (d), Government Code, are amended to read as follows:

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

[~~(1) anywhere in this state;~~

[~~(2) in a jurisdiction outside this state if:~~

[~~(A) the reporter is at the same location as the witness; and~~

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

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

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

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

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

[~~(A) the witness is at a location in the other jurisdiction; and~~

[~~(B) the reporter is at a location in the same jurisdiction as the witness~~].

(c) [~~(d)~~]  The identity of a witness who is not in the physical presence of a certified shorthand reporter may be proven by:

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

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

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

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

SECTION 14.  The heading to Section 154.112, Government Code, is amended to read as follows:

Sec. 154.112.  EMPLOYMENT OF NONCERTIFIED PERSON FOR SHORTHAND REPORTING; CIVIL PENALTY.

SECTION 15.  Section 154.112, Government Code, is amended by amending Subsection (b) and adding Subsections (d), (e), (f), (g), and (h) to read as follows:

(b)  A person who is not certified as a court reporter may engage in shorthand reporting to report an oral deposition only if:

(1)  the uncertified person delivers an affidavit to the parties or to their counsel before [~~present at~~] the deposition begins stating that a certified shorthand reporter is not available; or

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

(d)  The person shall file the affidavit described by Subsection (b)(1) with the court as part of the certification required by Rule 203.2, Texas Rules of Civil Procedure.

(e)  In addition to any other remedy authorized by law, the commission may:

(1)  collect a civil penalty in an amount not to exceed $1,000 from a person who fails to comply with Subsection (b)(1) or (d); and

(2)  seek injunctive relief for a second or subsequent violation of Subsection (b)(1) or (d) to prohibit the person from engaging in shorthand reporting unless the person is certified as a court reporter under this chapter.

(f)  The commission shall collect a civil penalty assessed under Subsection (e)(1) following the same procedures the commission uses in taking disciplinary action against a certified court reporter for violating the laws and rules applicable to the reporter.

(g)  The attorney general, a county or district attorney whose jurisdiction includes the location at which a deposition is taken, or legal counsel the commission designates may represent the commission for purposes of collecting the civil penalty or obtaining the injunctive relief.

(h)  In an action authorized by this section, the commission may obtain reasonable attorney's fees, expenses, and costs incurred in obtaining the civil penalty or injunctive relief.

SECTION 16.  Section 154.105(e), Government Code, is repealed.

SECTION 17.  As soon as practicable after the effective date of this Act, the Texas Supreme Court shall revise the Texas Rules of Civil Procedure as the court determines necessary to conform to the changes in law made by this Act to Section 154.112, Government Code.

SECTION 18.  This Act takes effect September 1, 2023.