BILL ANALYSIS

Senate Research Center
89R12285 BCH-F

S.B. 1538
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Jurisprudence
5/6/2025
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas is facing a growing shortage of court reporters, driven by factors like retirements, a lack of new entrants, and challenges from the COVID-19 pandemic. This shortage has led to delays in transcription service and case backlogs. In Bexar County, for example, the shortage has caused postponed court proceedings despite offering competitive salaries of more than $10,000 per month. Contributing factors to this shortage include uncompetitive pay in certain areas of the state, limited awareness of the profession, and the demanding nature of the job. What's more, current law narrowly defines official court reporters to mean shorthand reporters, eliminating an emerging field of court recorders from consideration as official court reporters.

S.B. 1538 would help mitigate this shortage by expanding the pool of court reporters to include registered court recorders regulated by the Judicial Branch Certification Commission. Court recorders, who may operate with advanced technology such as voice recognition or digital transcription, can help alleviate the burden to shorthand reporters by providing a complementary service. This would reduce the court's reliance on traditional court reporters, allowing them to focus on more complex cases that require their specific expertise. What's more, expanding the use of court recorders could help streamline proceedings, reduce delays, and ease the workload for existing court reporters, ultimately improving the efficiency of the entire legal system in Texas.

As proposed, S.B. 1538 amends current law relating to the registration and regulation of court recorders by the Judicial Branch Certification Commission, requires occupational registration, and creates criminal offenses.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 3.001 of this bill.

Rulemaking authority previously granted the Judicial Branch Certification is modified in SECTION 1.020 (Section 154.111, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. COURT RECORDING

SECTION 1.001. Amends the heading to Chapter 52, Government Code, to read as follows:

CHAPTER 52. COURT REPORTERS AND COURT REPORTING FIRMS

SECTION 1.002. Amends Section 52.001, Government Code, as follows:

> Sec. 52.001. DEFINITIONS. (a) Defines "court recorder," "court reporter," "court reporting," "digital reporting," and redefines "official court reporter," "shorthand reporter," and "shorthand reporting." Deletes existing text defining "shorthand reporting firm."
>
> (b) Makes conforming changes to this subsection.

SECTION 1.003. Amends the heading to Subchapter B, Chapter 52, Government Code, to read as follows:

SUBCHAPTER B. DUTIES OF COURT REPORTING FIRMS

SECTION 1.004. Amends Section 52.041(c), Government Code, as follows:

(c) Authorizes two or more judges of courts of record, notwithstanding any other law, to appoint a certified or registered court reporter, rather than a certified shorthand reporter, to serve each court as an official court reporter of the court, provided each court is located in a county with a population of 125,000 or less according to the 2020 federal decennial census. Makes conforming changes.

SECTION 1.005. Amends Sections 52.046(a) and (d), Government Code, as follows:

(a) Requires an official court reporter, on request, to:

(1) makes no changes to this subdivision;

(2) take full notes, rather than full shorthand notes, of oral testimony offered before the court, including objections made to the admissibility of evidence, court rulings and remarks on the objections, and exceptions to the rulings;

(3) makes conforming and nonsubstantive changes to this subdivision; and

(4)-(5) make no changes to these subdivisions;

(d) Requires a judge of a county court or county court at law to appoint a court reporter, rather than a shorthand reporter, to report the oral testimony given in any contested probate matter in that judge's court.

SECTION 1.006. Amends Sections 52.059(a) and (b), Government Code, to make conforming changes.

SECTION 1.007. Amends Section 154.001, Government Code, as follows:

Sec. 154.001. DEFINITIONS. (a) Defines "court recorder," "court reporter," "court reporting," and "digital reporting," and redefines "advisory board," "certification," "official court reporter," "shorthand reporter," and "shorthand reporting." Defines "apprentice shorthand reporter," rather than "apprentice court reporter," and "provisional shorthand reporter," rather than "provisional court reporter." Deletes existing text defining "shorthand reporting firm."

(b) Makes conforming and nonsubstantive changes to this subsection.

SECTION 1.008. Amends the heading to Subchapter B, Chapter 154, Government Code, to read as follows:

SUBCHAPTER B. COURT REPORTERS CERTIFICATION AND REGISTRATION ADVISORY BOARD

SECTION 1.009. Amends Section 154.051(a), Government Code, as follows:

(a) Provides that the Court Reporters Certification and Registration Advisory Board (advisory board), rather than the Court Reporters Certification Advisory Board, is established as an advisory board to the Judicial Branch Certification Commission (JBCC). Provides that the advisory board is composed of at least nine members appointed by the Supreme Court of Texas (supreme court) as follows:

(1)-(3) makes no changes to these subdivisions;

(4) two certified shorthand reporters actively engaged in the practice of court reporting, rather than engaged in the practice of shorthand reporting, on a freelance basis for more than the five years immediately preceding their appointment to the advisory board;

(5) makes no changes to this subdivision; and

(6) makes conforming changes to this subdivision.

SECTION 1.010. Redesignates Sections 154.101(a), (e), (f), (g), and (i), Government Code, as Section 154.1001, Government Code, and amends them, as follows:

Sec. 154.1001. CERTIFICATION OR REGISTRATION REQUIRED. (a) Prohibits a person from being appointed an official court reporter or a deputy court reporter unless the person is certified as a shorthand reporter by the supreme court under Section 154.101 or registered as a court recorder under Section 154.1045.

(b) Prohibits a person from engaging in court reporting in this state unless the person is:

(1) certified as a shorthand reporter by the supreme court under Section 154.101 or an apprentice shorthand reporter or provisional shorthand reporter as authorized by Section 154.1011, subject to the terms of the person's certification; or

(2) registered as a court recorder under Section 154.1045.

(c) Redesignates existing Subsection (e) as Subsection (c). Prohibits a person from assuming or using 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, shorthand reporter, or court recorder unless the person is certified as a shorthand reporter or provisional shorthand reporter, rather than provisional court reporter, by the supreme court under Section 154.101 or registered as a court recorder under Section 154.1045, as applicable. Makes a nonsubstantive change.

(d) Redesignates existing Subsection (f) as Subsection (d). Requires that all depositions conducted in this state, except as otherwise provided by law or by supreme court rule, rather than provided by Section 154.112 and by Section 20.001 (Persons Who May Take a Deposition on Written Questions), Civil Practice and Remedies Code, be reported by a certified shorthand reporter or registered court reporter.

(e) Redesignates existing Subsection (g) as Subsection (e). Authorizes JBCC to enforce this section and Sections 154.101 and 154.1045 by seeking an injunction or by filing a complaint against a person who is not certified as a shorthand reporter by the supreme court or registered as a court recorder.

(f) Redesignates Subsection (i) as Subsection (f) and makes a conforming change.

SECTION 1.011. Amends the heading to Section 154.101, Government Code, to read as follows:

Sec. 154.101. CERTIFICATION OF SHORTHAND REPORTERS.

SECTION 1.012. Amends Section 154.101(b), Government Code, as follows:

(b) Prohibits a person from engaging in shorthand reporting in this state unless the person is certified as an apprentice shorthand reporter or provisional shorthand reporter, rather

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

SECTION 1.013. Amends Sections 154.1011, 154.1012, and 154.102, Government Code, as follows:

Sec. 154.1011. New heading: APPRENTICE SHORTHAND REPORTER AND PROVISIONAL SHORTHAND REPORTER CERTIFICATIONS. Makes conforming changes to this section.

Sec. 154.1012. RECIPROCITY. (a) Makes a conforming change to this subsection.

(b) Requires JBCC to develop and periodically update on a schedule established by JBCC a list of states that have certification or licensing requirements for court reporters substantially equivalent to the certification requirements for the shorthand reporters of this state, rather than substantially equivalent to the certification or licensing requirements of this state.

(c)-(f) Makes conforming changes to these subsections.

Sec. 154.102. APPLICATION FOR EXAMINATION. Requires a person seeking certification as a shorthand reporter, if applicable, to file an application for examination with JBCC not later than the 30th day before the date fixed for the examination.

SECTION 1.014. Amends Section 154.104(b), Government Code, to make conforming changes.

SECTION 1.015. Amends Subchapter C, Chapter 154, Government Code, by adding Section 154.1045, as follows:

Sec. 154.1045. REGISTRATION OF COURT RECORDERS. Prohibits a person from engaging in court recording in this state unless the person is registered with JBCC in accordance with rules adopted by the supreme court.

SECTION 1.016. Amends Section 154.105, Government Code, as follows:

Sec. 154.105. TITLE; OATHS. (a) Makes a conforming change to this subsection.

(b) Authorizes a court recorder, on registration under Section 154.1045, to use the title "Registered Court Recorder" or other titles or abbreviations indicating the person is registered as a court recorder.

(c) Authorizes a court reporter, rather than a certified shorthand reporter, to administer oaths to witnesses without being at the same location as the witness.

(d) Redesignates Subsection (c) as Subsection (d) and makes a conforming change.

SECTION 1.017. Amends Section 154.106(a), Government Code, as follows:

(a) Prohibits a court reporting firm or an affiliate office, rather than a shorthand reporting firm and an affiliate office, from assuming or using the title or designation "court recording firm," "court reporting firm," or "shorthand reporting firm" or any abbreviation, title, designation, words, letters, sign, card, or device tending to indicate that the firm is a court recording firm, court reporting firm, or shorthand reporting firm, as applicable, or offer services as a court reporting firm, rather than offer services as a count reporting firm or shorthand reporting firm, unless the firm and its affiliate offices are registered with JBCC on a form prescribed by JBCC as required by Subchapter C (Certification and Registration).

SECTION 1.018. Amends Sections 154.107(a) and (d), Government Code, as follows:

(a) Requires a person who receives certification as a shorthand reporter, a person who registers with JBCC as a court recorder, or a court reporting firm, rather than or a shorthand reporting firm, or affiliate office that registers with JBCC to pay the initial fee and any other required fee before receiving the certification or registration.

(d) Makes a conforming change to this subsection.

SECTION 1.019. Amends the heading to Section 154.110, Government Code, to read as follows:

Sec. 154.110. DISCIPLINARY ACTION AGAINST SHORTHAND REPORTERS.

SECTION 1.020. Amends Section 154.111(a), (c), (d), (f), and (g), Government Code, as follows:

(a) Requires JBCC, after receiving a complaint and giving the court reporting firm or affiliate office notice, rather than the shorthand reporting firm, or affiliate office, notice and an opportunity for a hearing as prescribed by Subchapter B (Administrative Penalty; Administrative Sanction), Chapter 153 (Commission Enforcement), to reprimand, assess a reasonable fine against, or suspend, revoke, or refuse to renew the registration of a court reporting firm, rather than a shorthand reporting firm, or affiliate office for certain purposes. Makes conforming changes.

(c)-(g) Makes conforming changes to these subsections.

SECTION 1.021. Amends the heading to Section 154.112, Government Code, to read as follows:

Sec. 154.112. EMPLOYMENT OF NONCERTIFIED OR UNREGISTERED PERSON FOR COURT REPORTING; CIVIL PENALTY.

SECTION 1.022. Amends Sections 154.112(a), (b), (e), and (f), Government Code, as follows:

(a) Authorizes a person who is not certified as a shorthand reporter, rather than as a court reporter, or registered as a court recorder to be employed to engage in court reporting, rather than shorthand reporting, until a certified reporter, or registered recorder is available. Makes a conforming change.

(b) Provides that a person who is not certified or registered as a court reporter is authorized to engage in court reporting, rather than shorthand reporting, to report an oral deposition only if:

(1) the uncertified or unregistered person delivers an affidavit to the parties or to their counsel before the deposition begins stating that a certified shorthand reporter or a registered court recorder 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 or a registered court recorder is not available.

(e) Authorizes JBCC, in addition to any other remedy authorized by law, to:

(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) (relating to requiring the person to file the affidavit with the court as part of certification); and

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

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

SECTION 1.023. Amends Sections 154.113(a) and (a-1), Government Code, as follows:

(a) Provides that, except as provided by Section 154.112, a person commits an offense if the person engages in court reporting, rather than shorthand reporting, in violation of Section 154.1001, 154.101, or 154.1045.

(a-1) Makes a conforming change to this subsection.

SECTION 1.024. Amends Section 154.115(a), Government Code, to make conforming changes.

ARTICLE 2. CONFORMING CHANGES

SECTION 2.001. Amends Section 322.003(e), Business & Commerce Code, as follows:

(e) Provides that Chapter 322 (Uniform Electronic Transactions Act) does not apply to the transmission, preparation, completion, enforceability, or admissibility of a document in any form that is produced by a court reporter appointed under Chapter 52 (Court Reporters and Shorthand Reporting Firms), Government Code, or a court reporter certified or registered under or a court reporting firm, rather than a shorthand reporting firm, registered under Chapter 154 (Court Reporters Certification and Shorthand Reporting Firms Registration), Government Code, for use in the state or federal judicial system.

SECTION 2.002. Amends Section 21.255(e), Education Code, to require the school district to bear the cost of the services of the hearing examiner and certified or registered court reporter, rather than certified shorthand reporter, at the hearing and the production of any original hearing transcript.

SECTION 2.003. Amends Section 21.256(d), Education Code, to make conforming changes.

SECTION 2.004. Amends Section 21.260, Education Code, to make conforming changes.

SECTION 2.005. Amends Section 21.302(b), Education Code, to make conforming changes.

SECTION 2.006. Amends Section 25.1252(h), Government Code, as follows:

(h) Provides that, in addition to the lawful fees for transcribing testimony and preparing statements of facts, the official court reporter, rather than the official shorthand reporter, of the County Court of Jefferson County at Law No. 3 receives the same salary as the official court reporter, rather than the official shorthand reporter, of the County Court of Jefferson County at Law No. 1.

SECTION 2.007. Amends Section 25.2072(g), Government Code, to make conforming changes.

SECTION 2.008. Amends Section 52.048, Government Code, as follows:

Sec. 52.048. COURT REPORTERS FOR FAMILY LAW MASTERS IN EL PASO. Requires each El Paso family law master to appoint an official court reporter, rather than an official shorthand reporter, to serve that master. Requires the official court reporter, rather than the official shorthand reporter, to well skilled in the reporter's profession. Makes a nonsubstantive change.

SECTION 2.009. Amends Section 54.755, Government Code, to require each judge of the criminal law magistrate court to appoint an official court reporter, rather than an official shorthand reporter, to serve that judge. Makes conforming changes.

SECTION 2.010. Amends Section 158.013(b), Local Government Code, to provide that Subchapter A (County Civil Service System) does not apply to the official court reporter of a court, rather than the official shorthand reporter of a court.

SECTION 2.011. Amends Section 1103.512(a), Occupations Code, to require that contested case proceedings to be recorded by a certified or registered court reporter, rather than a certified shorthand reporter.

SECTION 2.012. Amends Section 1104.2131(a), Occupations Code, to require that contested case proceedings be recorded by a certified or registered court reporter, rather than a certified shorthand reporter.

ARTICLE 3. TRANSITION AND EFFECTIVE DATE

SECTION 3.001. Requires the supreme court, as soon as practicable after the effective date of this Act, to adopt rules related to the registration of court recorders as required by Section 154.1045, Government Code, as added by this Act.

SECTION 3.002. Effective date: September 1, 2025.