

ASSEMBLY BILL NO. 429—ASSEMBLYMAN HETTRICK

MARCH 19, 2001

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning protection of children from abuse and neglect. (BDR 38-294)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the protection of children; requiring each person who submits a report or information to a court for consideration in certain proceedings concerning protective services for a child to provide a copy of the report or information to the parent or guardian of the child or the attorney of the parent or guardian within a certain time before the proceeding; providing that such a proceeding may be continued under certain circumstances; providing that the parent or guardian or the attorney of the parent or guardian is entitled to receive a copy of the recording or transcript of such a proceeding under certain circumstances; reducing the period within which the placement of a child with a person other than his parent must be reviewed; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *A person who submits a report or information to the court for consideration in a proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, shall provide a copy of the report or information, to the extent that the data or information in the report or information is available pursuant to NRS 432B.290, to each parent or guardian of the child who is the subject of the proceeding or to the attorney of each parent or guardian not later than 72 hours before the proceeding.*

2. *If a person does not provide a copy of a report or information to a parent or guardian of a child or an attorney of the parent or guardian before a proceeding as required by subsection 1, the court or master:*

(a) Shall provide the parent or guardian and his attorney an opportunity to review the report or information; and

(b) May grant a continuance of the proceeding until a later date that is agreed upon by all the parties to the proceeding if the parent or



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1 guardian or his attorney requests that the court grant the continuance so
2 that the parent or guardian and his attorney may properly respond to the
3 report or information.

4 3. As used in this section, "person" includes, without limitation, a
5 government, governmental agency or political subdivision of a
6 government.

7 Sec. 3. 1. If a proceeding held pursuant to NRS 432B.410 to
8 432B.590, inclusive, is recorded using sound recording equipment or is
9 transcribed, the clerk of the court shall, upon request, provide to a parent
10 or guardian of the child who is the subject of the proceeding or the
11 attorney of the parent or guardian a copy of the sound recording or
12 transcript of the proceeding if:

13 (a) Such a copy is available or could be made available; and

14 (b) The parent or guardian or the county in which the proceeding is
15 held, as appropriate, pays the fee for the copy in accordance with
16 subsection 2.

17 2. Each board of county commissioners shall adopt a sliding scale
18 for determining the amount to be paid for a copy of a sound recording or
19 transcript of a proceeding pursuant to subsection 1 for a proceeding that
20 was held in a court in its county. The sliding scale must be based on the
21 ability of the parent or guardian to pay. The court shall review each case
22 and make a finding as to the reasonableness of the charge in relation to
23 the ability of the parent or guardian to pay. To the extent that the court
24 determines that a parent or guardian is unable to pay for a copy of the
25 recording or transcript pursuant to subsection 1, the cost of providing the
26 copy of the sound recording or transcript is a charge against the county
27 in which the proceeding was held.

28 Sec. 4. NRS 432B.190 is hereby amended to read as follows:

29 432B.190 The division of child and family services shall adopt
30 regulations establishing reasonable and uniform standards for:

31 1. Protective services provided in this state;

32 2. Programs for the prevention of abuse or neglect of a child;

33 3. The development of local councils involving public and private
34 organizations;

35 4. Reports of abuse or neglect, records of these reports and the
36 response to these reports;

37 5. The management and assessment of reported cases of abuse or
38 neglect;

39 6. The protection of the legal rights of parents and children;

40 7. Emergency shelter for a child;

41 8. The prevention, identification and correction of abuse or neglect of
42 a child in residential institutions;

43 9. Evaluating the development and contents of a plan submitted for
44 approval pursuant to NRS 432B.395;

45 10. Developing and distributing to persons who are responsible for a
46 child's welfare a pamphlet that sets forth the procedures for taking a child
47 for placement in protective custody and the legal rights of persons who are
48 parties to a proceeding held pursuant to NRS 432B.410 to 432B.590,



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1 inclusive, *and sections 2 and 3 of this act*, during all stages of the
2 proceeding; and

3 11. Making the necessary inquiries required pursuant to NRS
4 432B.397 to determine whether a child is an Indian child.

5 **Sec. 5.** NRS 432B.280 is hereby amended to read as follows:

6 432B.280 1. Reports made pursuant to this chapter, as well as all
7 records concerning these reports and investigations thereof, are
8 confidential.

9 2. Any person, law enforcement agency or public agency, institution or
10 facility who willfully releases data or information concerning such reports
11 and investigations, except:

12 (a) Pursuant to a criminal prosecution relating to the abuse or neglect of
13 a child; ~~or~~

14 (b) As *otherwise* authorized *or required* pursuant to NRS 432B.290 ~~or~~;
15 *or*

16 *(c) As otherwise required pursuant to section 2 of this act,*
17 *is guilty of a misdemeanor.*

18 **Sec. 6.** NRS 432B.290 is hereby amended to read as follows:

19 432B.290 1. Except as otherwise provided in subsections 2 and 3 ~~or~~
20 *and section 2 of this act*, data or information concerning reports and
21 investigations thereof made pursuant to this chapter may be made available
22 only to:

23 (a) A physician, if the physician has before him a child who he has
24 reasonable cause to believe has been abused or neglected;

25 (b) A person authorized to place a child in protective custody, if the
26 person has before him a child who he has reasonable cause to believe has
27 been abused or neglected and the person requires the information to
28 determine whether to place the child in protective custody;

29 (c) An agency, including, without limitation, an agency in another
30 jurisdiction, responsible for or authorized to undertake the care, treatment
31 or supervision of:

32 (1) The child; or

33 (2) The person responsible for the welfare of the child;

34 (d) A district attorney or other law enforcement officer who requires the
35 information in connection with an investigation or prosecution of the abuse
36 or neglect of a child;

37 (e) A court, for in camera inspection only, unless the court determines
38 that public disclosure of the information is necessary for the determination
39 of an issue before it;

40 (f) A person engaged in bona fide research or an audit, but information
41 identifying the subjects of a report must not be made available to him;

42 (g) The attorney and the guardian ad litem of the child;

43 (h) A grand jury upon its determination that access to these records is
44 necessary in the conduct of its official business;

45 (i) A federal, state or local governmental entity, or an agency of such an
46 entity, that needs access to the information to carry out its legal
47 responsibilities to protect children from abuse and neglect;

48 (j) A team organized pursuant to NRS 432B.350 for the protection of a
49 child;



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- 1 (k) A team organized pursuant to NRS 432B.405 to review the death of
2 a child;
- 3 (l) A parent or legal guardian of the *child or an attorney of a parent or*
4 *guardian of the* child, if the identity of the person responsible for reporting
5 the alleged abuse or neglect of the child to a public agency is kept
6 confidential;
- 7 (m) The persons who are the subject of a report;
- 8 (n) An agency that is authorized by law to license foster homes or
9 facilities for children or to investigate persons applying for approval to
10 adopt a child, if the agency has before it an application for that license or is
11 investigating an applicant to adopt a child;
- 12 (o) Upon written consent of the parent, any officer of this state or a city
13 or county thereof or legislator authorized, by the agency or department
14 having jurisdiction or by the legislature, acting within its jurisdiction, to
15 investigate the activities or programs of an agency that provides protective
16 services if:
- 17 (1) The identity of the person making the report is kept confidential;
18 and
- 19 (2) The officer, legislator or a member of his family is not the person
20 alleged to have committed the abuse or neglect;
- 21 (p) The division of parole and probation of the department of motor
22 vehicles and public safety for use pursuant to NRS 176.135 in making a
23 presentence investigation and report to the district court or pursuant to
24 NRS 176.151 in making a general investigation and report;
- 25 (q) The rural advisory board to expedite proceedings for the placement
26 of children created pursuant to NRS 432B.602 or a local advisory board to
27 expedite proceedings for the placement of children created pursuant to
28 NRS 432B.604; or
- 29 (r) The panel established pursuant to NRS 432B.396 to evaluate
30 agencies which provide protective services.
- 31 2. An agency investigating a report of the abuse or neglect of a child
32 shall, upon request, provide to a person named in the report as allegedly
33 causing the abuse or neglect of the child:
- 34 (a) A copy of:
- 35 (1) Any statement made in writing to an investigator for the agency
36 by the person named in the report as allegedly causing the abuse or neglect
37 of the child; or
- 38 (2) Any recording made by the agency of any statement made orally
39 to an investigator for the agency by the person named in the report as
40 allegedly causing the abuse or neglect of the child; or
- 41 (b) A written summary of the allegations made against the person who
42 is named in the report as allegedly causing the abuse or neglect of the
43 child. The summary must not identify the person responsible for reporting
44 the alleged abuse or neglect.
- 45 3. An agency which provides protective services shall disclose the
46 identity of a person who makes a report or otherwise initiates an
47 investigation pursuant to this chapter if a court, after reviewing the record
48 in camera and determining that there is reason to believe that the person
49 knowingly made a false report, orders the disclosure.



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1 4. Any person, except for:
2 (a) The subject of a report;
3 (b) A district attorney or other law enforcement officer initiating legal
4 proceedings; or
5 (c) An employee of the division of parole and probation of the
6 department of motor vehicles and public safety making a presentence
7 investigation and report to the district court pursuant to NRS 176.135 or
8 making a general investigation and report pursuant to
9 NRS 176.151,
10 who is given access, pursuant to subsection 1, to information identifying
11 the subjects of a report and who makes this information public is guilty of a
12 misdemeanor.

13 5. The division of child and family services shall adopt regulations to
14 carry out the provisions of this section.

15 **Sec. 7.** NRS 432B.470 is hereby amended to read as follows:

16 432B.470 1. ~~1A~~ *Except as otherwise provided in section 2 of this*
17 *act,* a child taken into protective custody pursuant to NRS 432B.390 must
18 be given a hearing, conducted by a judge, master or special master
19 appointed by the judge for that particular hearing, within 72 hours,
20 excluding Saturdays, Sundays and holidays, after being taken into custody,
21 to determine whether the child should remain in protective custody pending
22 further action by the court.

23 2. Notice of the time and place of the hearing must be given to a parent
24 or other person responsible for the child's welfare:

25 (a) By personal service of a written notice;
26 (b) Orally; or
27 (c) If the parent or other person responsible for the child's welfare
28 cannot be located after a reasonable effort, by posting a written notice on
29 the door of his residence.

30 3. If notice is given by means of paragraph (b) or (c) of subsection 2, a
31 copy of the notice must be mailed to the person at his last known address
32 within 24 hours after the child is placed in protective custody.

33 **Sec. 8.** NRS 432B.530 is hereby amended to read as follows:

34 432B.530 1. An adjudicatory hearing must be held within 30 days
35 after the filing of the petition, unless good cause is shown ~~H~~ *or the*
36 *hearing has been continued until a later date pursuant to section 2 of this*
37 *act.*

38 2. At the hearing, the court shall inform the parties of the specific
39 allegations in the petition and give them an opportunity to admit or deny
40 them. If the allegations are denied, the court shall hear evidence on the
41 petition.

42 3. In adjudicatory hearings all relevant and material evidence helpful
43 in determining the questions presented, including oral and written reports,
44 may be received by the court and may be relied upon to the extent of its
45 probative value. The parties or their attorney must be afforded an
46 opportunity to examine and controvert written reports so received and to
47 cross-examine individuals making reports when reasonably available.

48 4. The court may require the child to be present in court at the hearing.



1 5. If the court finds by a preponderance of the evidence that the child
2 is in need of protection, it shall record its findings of fact and may proceed
3 immediately or at another hearing held within 15 working days, to make a
4 proper disposition of the case. If the court finds that the allegations in the
5 petition have not been established, it shall dismiss the petition and, if the
6 child is in protective custody, order the immediate release of the child.

7 **Sec. 9.** NRS 432B.580 is hereby amended to read as follows:
8 432B.580 1. Except as otherwise provided in this section ~~H~~ and
9 *section 2 of this act*, if a child is placed pursuant to NRS 432B.550 other
10 than with a parent, the placement must be reviewed by the court at least
11 ~~semiannually;~~ *every 90 days*. Unless the parent, guardian or the custodian
12 objects to the referral, the court may enter an order directing that the
13 placement be reviewed by a panel appointed pursuant to NRS 432B.585.

14 2. An agency acting as the custodian of the child shall, before any
15 hearing for review of the placement of a child, submit a report to the court,
16 or to the panel if it has been designated to review the matter, which
17 includes an evaluation of the progress of the child and his family and any
18 recommendations for further supervision, treatment or rehabilitation. A
19 copy of the report must be given to the parents, the guardian ad litem and
20 the attorney, if any, representing the parent or the child.

21 3. The court or the panel shall hold a hearing to review the placement,
22 unless the parent, guardian or custodian files a motion with the court to
23 dispense with the hearing. If the motion is granted, the court or panel may
24 make its determination from any report, statement or other information
25 submitted to it.

26 4. Notice of the hearing must be given by registered or certified mail
27 to:

28 (a) All the parties to any of the prior proceedings; and
29 (b) Any persons planning to adopt the child, relatives of the child or
30 providers of foster care who are currently providing care to the
31 child,
32 except a parent whose rights have been terminated pursuant to chapter 128
33 of NRS or who has voluntarily relinquished the child for adoption pursuant
34 to NRS 127.040.

35 5. The court or panel may require the presence of the child at the
36 hearing and shall provide to each person to whom notice was given
37 pursuant to subsection 4 an opportunity to be heard at the hearing.

38 6. The court or panel shall review:
39 (a) The continuing necessity for and appropriateness of the placement;
40 (b) The extent of compliance with the plan submitted pursuant to
41 subsection 2 of NRS 432B.540;
42 (c) Any progress which has been made in alleviating the problem which
43 resulted in the placement of the child; and
44 (d) The date the child may be returned to, and safely maintained in, his
45 home or placed for adoption or under a legal guardianship.

46 7. The provision of notice and an opportunity to be heard pursuant to
47 this section does not cause any person planning to adopt the child, or any
48 relative or provider of foster care to become a party to the hearing.



1 **Sec. 10.** NRS 432B.585 is hereby amended to read as follows:
2 432B.585 For the purposes of conducting the ~~semiannual~~ review
3 required by NRS 432B.580, the judge or judges of the court may by mutual
4 consent appoint a panel of three or more persons. The persons so appointed
5 shall serve without compensation and at the pleasure of the court.

6 **Sec. 11.** NRS 432B.590 is hereby amended to read as follows:

7 432B.590 1. Except as otherwise provided in NRS 432B.600 ~~H~~ and
8 *section 2 of this act*, the court shall hold a hearing concerning the
9 permanent placement of a child:

10 (a) Not later than 12 months after the initial removal of the child from
11 his home and annually thereafter.

12 (b) Within 30 days after making any of the findings set forth in
13 subsection 3 of NRS 432B.393.

14 Notice of this hearing must be given by registered or certified mail to all
15 ~~to~~ the persons to whom notice must be given pursuant to subsection 4 of
16 NRS 432B.580.

17 2. The court may require the presence of the child at the hearing and
18 shall provide to each person to whom notice was given pursuant to
19 subsection 1 an opportunity to be heard at the hearing.

20 3. At the hearing, the court shall establish a plan for the permanent
21 placement of the child and determine whether:

22 (a) The child should be returned to his parents or other relatives;

23 (b) The child's placement in the foster home or other similar institution
24 should be continued; or

25 (c) It is in the best interests of the child to initiate proceedings to:

26 (1) Terminate parental rights pursuant to chapter 128 of NRS so that
27 the child can be placed for adoption; or

28 (2) Establish a guardianship pursuant to chapter 159 of
29 NRS.

30 If the court determines that it is in the best interests of the child to
31 terminate parental rights, the court shall use its best efforts to ensure that
32 the procedures required by chapter 128 of NRS are completed within 6
33 months after the date the court makes that determination, including,
34 without limitation, appointing a private attorney to expedite the completion
35 of the procedures.

36 4. If a child has been placed outside of his home and has resided
37 outside of his home pursuant to that placement for 14 months of any 20
38 consecutive months, the best interests of the child must be presumed to be
39 served by the termination of parental rights.

40 5. This hearing may take the place of the hearing for review required
41 by NRS 432B.580.

42 6. The provision of notice and an opportunity to be heard pursuant to
43 this section does not cause any person planning to adopt the child, or any
44 relative or provider of foster care to become a party to the hearing.

45 **Sec. 12.** NRS 3.370 is hereby amended to read as follows:

46 3.370 1. Except as otherwise provided in subsection 3, for his
47 services the official reporter or reporter pro tempore is entitled to the
48 following fees:



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- 1 (a) For being available to report civil and criminal testimony and
2 proceedings when the court is sitting during traditional business hours on
3 any day except Sunday, \$150 per day, to be paid by the county as provided
4 in subsection 4.
- 5 (b) For being available to report civil and criminal testimony and
6 proceedings when the court is sitting beyond traditional business hours or
7 on Sunday:
- 8 (1) If the reporter has been available to report for at least 4 hours, \$35
9 per hour for each hour of availability; or
- 10 (2) If the reporter has been available to report for fewer than
11 4 hours, a pro rata amount based on the daily rate set forth in
12 paragraph (a),
13 to be paid by the county as provided in subsection 4.
- 14 (c) For transcription:
- 15 (1) Except as otherwise provided in subparagraph (2), for the original
16 draft and any copy to be delivered:
- 17 (I) Within 24 hours after it is requested, \$7.10 per page for the
18 original draft and one copy, and \$1.10 per page for each additional copy;
- 19 (II) Within 48 hours after it is requested, \$5.32 per page for the
20 original draft and one copy, and 83 cents per page for each additional copy;
- 21 (III) Within 4 days after it is requested, \$4.43 per page for the
22 original draft and one copy, and 69 cents per page for each additional copy;
23 or
- 24 (IV) More than 4 days after it is requested, \$3.55 per page for the
25 original draft and one copy, and 55 cents per page for each additional copy.
- 26 (2) For civil litigants who are ordering the original draft and are
27 represented by a nonprofit legal corporation or a program for pro bono
28 legal assistance, for the original draft and any copy to be delivered:
- 29 (I) Within 24 hours after it is requested, \$5.50 per page and \$1.10
30 per page for each additional copy;
- 31 (II) Within 48 hours after it is requested, \$4.13 per page and 83
32 cents per page for each additional copy;
- 33 (III) Within 4 days after it is requested, \$3.44 per page and 69
34 cents per page for each additional copy; or
- 35 (IV) More than 4 days after it is requested, \$2.75 per page and 55
36 cents per page for each additional copy.
- 37 (3) For any party other than the party ordering the original draft, for
38 the copy of the draft to be delivered:
- 39 (I) Within 24 hours after it is requested, \$1.10 per page;
- 40 (II) Within 48 hours after it is requested, 83 cents per page;
- 41 (III) Within 4 days after it is requested, 69 cents per page; or
- 42 (IV) More than 4 days after it is requested, 55 cents per page.
- 43 (d) For reporting all civil matters, in addition to the fees provided in
44 paragraphs (a) and (b), \$20 for each hour or fraction thereof actually spent,
45 to be taxed as costs pursuant to subsection 5.
- 46 (e) For providing an instantaneous translation of testimony into English
47 which appears on a computer that is located at a table in the courtroom
48 where the attorney who requested the translation is seated:



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1 (1) Except as otherwise provided in this subparagraph, in all criminal
2 matters in which a party requests such a translation, in addition to the fees
3 provided pursuant to paragraphs (a) and (b), \$140 for the first day and \$90
4 per day for each subsequent day from the party who makes the request.
5 This additional fee must be paid by the county as provided pursuant to
6 subsection 4 only if the court issues an order granting the translation
7 service to the prosecuting attorney or to an indigent defendant who is
8 represented by a county or state public defender.

9 (2) In all civil matters in which a party requests such a translation, in
10 addition to the fees provided pursuant to paragraphs (a), (b) and (d), \$140
11 for the first day and \$90 per day for each subsequent day, to be paid by the
12 party who requests the translation.

13 (f) For providing a diskette containing testimony prepared from a
14 translation provided pursuant to paragraph (e):

15 (1) Except as otherwise provided in this subparagraph, in all criminal
16 matters in which a party requests the diskette and the reporter agrees to
17 provide the diskette, in addition to the fees provided pursuant to paragraphs
18 (a), (b) and (e), \$1.50 per page of the translation contained on the diskette
19 from the party who makes the request. This additional fee must be paid by
20 the county as provided pursuant to subsection 4 only if the court issues an
21 order granting the diskette to the prosecuting attorney or to an indigent
22 defendant who is represented by a county or state public defender.

23 (2) In all civil matters in which a party requests the diskette and the
24 reporter agrees to provide the diskette, in addition to the fees provided
25 pursuant to paragraphs (a), (b), (d) and (e), \$1.50 per page of the
26 translation contained on the diskette, to be paid by the party who requests
27 the diskette.

28 2. For the purposes of subsection 1, a page is a sheet of paper 8 1/2 by
29 11 inches. The left margin must not be more than 1 1/2 inches from the left
30 edge of the paper. The right margin must not be more than three-fourths of
31 an inch from the right edge of the paper. Each sheet must be numbered on
32 the left margin and must contain at least 24 lines of type. The first line of
33 each question and of each answer may be indented not more than five
34 spaces from the left margin. The first line of any paragraph or other
35 material may be indented not more than 10 spaces from the left margin.
36 There must not be more than one space between words or more than two
37 spaces between sentences. The type size must not be larger than 10
38 characters per inch. The lines of type may be double spaced or one and
39 one-half spaced.

40 3. If the services of more than one reporter are required by the court in
41 a criminal proceeding, each reporter is entitled to receive:

42 (a) The fees set forth in paragraphs (a) and (b) of subsection 1 and
43 subparagraph (1) of paragraph (e) of subsection 1, as appropriate; and

44 (b) A fee of \$5.33 per page for the original draft and one copy, and 83
45 cents per page for each additional copy for transcribing a proceeding of
46 which the transcripts are ordered by the court to be delivered on or before
47 the start of the next day the court is scheduled to conduct business.

48 4. The fees specified in paragraphs (a) and (b) of subsection 1, the fees
49 for transcripts in criminal cases ordered by the court to be made, *the fees*



1 *for transcripts in civil cases ordered by the court pursuant to NRS*
2 *12.015, the fees for transcripts for parents or guardians or attorneys of*
3 *parents or guardians who receive transcripts pursuant to section 3 of this*
4 *act, the fees in criminal cases that are ordered by the court pursuant to*
5 *subparagraph (1) of paragraph (e) and subparagraph (1) of paragraph (f) of*
6 *subsection 1 and the fees specified in subsection 3 must be paid out of the*
7 *county treasury upon the order of the court. When there is no official*
8 *reporter in attendance and a reporter pro tempore is appointed, his*
9 *reasonable expenses for traveling and detention must be fixed and allowed*
10 *by the court and paid in the same manner. The respective district judges*
11 *may, with the approval of the respective board or boards of county*
12 *commissioners within the judicial district, fix a monthly salary to be paid*
13 *to the official reporter in lieu of per diem. The salary, and also actual*
14 *traveling expenses in cases where the reporter acts in more than one*
15 *county, must be prorated by the judge on the basis of time consumed by*
16 *work in the respective counties and must be paid out of the respective*
17 *county treasuries upon the order of the court.*
18 5. ~~But~~ *Except as otherwise provided in subsection 4, in* civil cases ,
19 the fees prescribed in paragraph (d) of subsection 1 and for transcripts
20 ordered by the court to be made must be paid by the parties in equal
21 proportions, and either party may, at his option, pay the whole fee. In either
22 case, all amounts so paid by the party to whom costs are awarded must be
23 taxed as costs in the case. The fees for transcripts and copies ordered by the
24 parties must be paid by the party ordering them. No reporter may be
25 required to perform any service in a civil case until his fees have been paid
26 to him or deposited with the clerk of the court.
27 6. Where a transcript is ordered by the court or by any party, the fees
28 for it must be paid to the clerk of the court and by him paid to the reporter
29 upon the furnishing of the transcript.
30 7. The testimony and proceedings in an uncontested divorce action
31 need not be transcribed unless requested by a party or ordered by the court.
32 **Sec. 13.** This act becomes effective on July 1, 2001.

