

ASSEMBLY BILL NO. 249—ASSEMBLYMAN OCEGUERA

MARCH 10, 2011

Referred to Committee on Judiciary

SUMMARY—Makes various changes pertaining to certain court reporters. (BDR 1-235)

FISCAL NOTE: Effect on Local Government: No.
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 court reporters; making various changes pertaining to the appointment, duties and work product of court reporters in the district courts and justice courts of this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill provides that a business organization appointed to provide
2 to a district court the services of a certified court reporter must be licensed by the
3 Certified Court Reporters' Board of Nevada. (NRS 3.320) **Section 2** of this bill
4 clarifies that an official reporter pro tempore of a district court is appointed rather
5 than employed and, like the official reporter he or she replaces, does not have a
6 fixed term of employment. (NRS 3.320, 3.340) **Section 3** of this bill states that
7 prima facie evidence of the testimony and proceedings in a district court is provided
8 by the transcript and not the report of the official reporter. (NRS 3.360) **Section 4**
9 of this bill makes various changes with respect to the compensation of the official
10 reporter of a district court. (NRS 3.370) **Section 5** of this bill provides that, when
11 sound recording equipment is used to record proceedings in a district court and a
12 transcript is subsequently made: (1) the person who transcribes the recording shall
13 subscribe to an oath that he or she has truly and correctly transcribed the
14 proceedings as recorded; and (2) the person who operates the sound recording
15 equipment shall subscribe to an oath that the sound recording is a true and accurate
16 recording of the proceedings and, in the event of an error, malfunction or other
17 problem relating to the sound recording equipment or the sound recording, report
18 that error, malfunction or problem to the court. (NRS 3.380) **Section 6** of this bill
19 states that, with regard to proceedings in a justice court, compensation for the
20 preparation of a transcript is to be deposited with the certified court reporter and not
21 with the deputy clerk of the court. (NRS 4.410) **Section 7** of this bill provides that,
22 with respect to certain criminal proceedings in a justice court, sound recordings
23 must be preserved for a period of at least 8 years. (NRS 4.420)



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

Section 1. NRS 3.320 is hereby amended to read as follows:

3.320 1. The judge or judges of any district court may appoint, subject to the provisions of this chapter and other laws as to the qualifications and examinations of the appointee, one certified court reporter, to be known as official reporter of the court or department and to hold office during the pleasure of the judge appointing the official reporter. The appointee may be any business organization *licensed by the Board* if the person representing ~~it,~~ *the business organization,* who actually performs the reporting service, is a certified court reporter.

2. The official reporter, or any one of them if there are two or more, shall:

(a) At the request of either party or of the court in a civil action or proceeding, and on the order of the court, the district attorney or the attorney for the defendant in a criminal action or proceeding, make a record of all the testimony, the objections made, the rulings of the court, the exceptions taken, all arraignments, pleas and sentences of defendants in criminal cases, and all statements and remarks made by the district attorney or judge, and all oral instructions given by the judge; and

(b) ~~It~~ *When* directed by the court or requested by either party, within such reasonable time after the trial of the case as may be designated by law or, in the absence of any law relating thereto, by the court, ~~[write out the record, or such specific portions thereof as may be requested, in plain and legible longhand, or by typewriter or other printing machine.]~~ *transcribe the record into a written transcript.* The reporter shall certify ~~[to that copy as being]~~ *that the action or proceeding was* correctly reported and transcribed and, when directed by the law or court, shall file ~~it~~ *the written transcript* with the clerk of the court.

3. *As used in this section, "Board" means the Certified Court Reporters' Board of Nevada, created by NRS 656.040.*

Sec. 2. NRS 3.340 is hereby amended to read as follows:

3.340 The official reporter of any district court shall attend to the duties of office in person except when excused for good and sufficient reason by order of the court, which order shall be entered upon the minutes of the court. Employment in his or her professional capacity elsewhere shall not be deemed a good and sufficient reason for such excuse. When the official reporter of any court has been excused in the manner provided in this section, the court may designate an official reporter pro tempore who shall perform the same duties and receive the same compensation during



1 the term of his or her ~~employment~~ *appointment* as the official
2 reporter.

3 **Sec. 3.** NRS 3.360 is hereby amended to read as follows:

4 3.360 The ~~report~~ *transcript* of the official reporter, or official
5 reporter pro tempore, of any court, duly appointed and sworn, when
6 transcribed and certified as being a correct transcript of the
7 testimony and proceedings in the case, is prima facie evidence of
8 such testimony and proceedings.

9 **Sec. 4.** NRS 3.370 is hereby amended to read as follows:

10 3.370 1. Except as otherwise provided in subsection 3, for his
11 or her services the official reporter or reporter pro tempore is
12 entitled to the following compensation:

13 (a) For being available to report civil and criminal testimony and
14 proceedings when the court is sitting during traditional business
15 hours on any day except Saturday or Sunday, \$170 per day, to be
16 paid by the county as provided in subsection 4.

17 (b) For being available to report civil and criminal testimony
18 and proceedings when the court is sitting beyond traditional
19 business hours or on Saturday or Sunday:

20 (1) If the reporter has been available to report for at least 4
21 hours, \$35 per hour for each hour of availability; or

22 (2) If the reporter has been available to report for fewer than
23 4 hours, a pro rata amount based on the daily rate set forth in
24 paragraph (a),

25 ➡ to be paid by the county as provided in subsection 4.

26 (c) For transcription:

27 (1) Except as otherwise provided in subparagraph (2), for the
28 original draft and any copy to be delivered:

29 (I) Within 24 hours after it is requested, \$7.50 per page
30 for the original draft and one copy, and \$2 per page for each
31 additional copy;

32 (II) Within 48 hours after it is requested, \$5.62 per page
33 for the original draft and one copy, and \$1.50 per page for each
34 additional copy;

35 (III) Within 4 days after it is requested, \$4.68 per page for
36 the original draft and one copy, and \$1.25 per page for each
37 additional copy; or

38 (IV) More than 4 days after it is requested, \$3.55 per page
39 for the original draft and one copy, and 55 cents per page for each
40 additional copy.

41 (2) For civil litigants who are ordering the original draft and
42 are represented by a nonprofit legal corporation or a program for pro
43 bono legal assistance, for the original draft and any copy to be
44 delivered:



(I) Within 24 hours after it is requested, \$5.50 per page and \$1.10 per page for each additional copy;

(II) Within 48 hours after it is requested, \$4.13 per page and 83 cents per page for each additional copy;

(III) Within 4 days after it is requested, \$3.44 per page and 69 cents per page for each additional copy; or

(IV) More than 4 days after it is requested, \$2.75 per page and 55 cents per page for each additional copy.

(3) For any party other than the party ordering the original draft, for the copy of the draft to be delivered:

(I) Within 24 hours after it is requested, \$1.10 per page;

(II) Within 48 hours after it is requested, 83 cents per page;

(III) Within 4 days after it is requested, 69 cents per page; or

(IV) More than 4 days after it is requested, 55 cents per page.

(d) For reporting all civil matters, in addition to the compensation provided in paragraphs (a) and (b), \$30 for each hour or fraction thereof actually spent, to be taxed as costs pursuant to subsection 5.

(e) For providing an instantaneous translation of testimony into English which appears on a computer that is located at a table in the courtroom where the attorney who requested the translation is seated:

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

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

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

(1) Except as otherwise provided in this subparagraph, in all criminal matters in which a party requests the diskette and the reporter agrees to provide the diskette, in addition to the compensation provided pursuant to paragraphs (a), (b) and (e),



1 \$1.50 per page of the translation contained on the diskette from the
2 party who makes the request. This additional compensation must be
3 paid by the county as provided pursuant to subsection 4 only if the
4 court issues an order granting the diskette to the prosecuting
5 attorney or to an indigent defendant who is represented by a county
6 or state public defender.

7 (2) In all civil matters in which a party requests the diskette
8 and the reporter agrees to provide the diskette, in addition to the
9 compensation provided pursuant to paragraphs (a), (b), (d) and (e),
10 \$1.50 per page of the translation contained on the diskette, to be
11 paid by the party who requests the diskette.

12 2. For the purposes of subsection 1, a page is a sheet of paper
13 8 1/2 by 11 inches **H and does not include a condensed transcript.**
14 The left margin must not be more than 1 1/2 inches from the left
15 edge of the paper. The right margin must not be more than three-
16 fourths of an inch from the right edge of the paper. Each sheet must
17 be numbered on the left margin and must contain at least 24 lines of
18 type. The first line of each question and of each answer may be
19 indented not more than five spaces from the left margin. The first
20 line of any paragraph or other material may be indented not more
21 than 10 spaces from the left margin. There must not be more than
22 one space between words or more than two spaces between
23 sentences. The type size must not be larger than 10 characters per
24 inch. The lines of type may be double spaced or one and one-half
25 spaced.

26 3. If the court determines that the services of more than one
27 reporter are necessary to deliver transcripts on a daily basis in a
28 criminal proceeding, each reporter is entitled to receive:

29 (a) The compensation set forth in paragraphs (a) and (b) of
30 subsection 1 and subparagraph (1) of paragraph (e) of subsection 1,
31 as appropriate; and

32 (b) Compensation of \$7.50 per page for the original draft and
33 one copy, and \$2 per page for each additional copy for transcribing
34 a proceeding of which the transcripts are ordered by the court to be
35 delivered on or before the start of the next day the court is scheduled
36 to conduct business.

37 4. The compensation specified in paragraphs (a) and (b) of
38 subsection 1, the compensation for transcripts in criminal cases
39 ordered by the court to be made, the compensation for transcripts in
40 civil cases ordered by the court pursuant to NRS 12.015, the
41 compensation for transcripts for parents or guardians or attorneys of
42 parents or guardians who receive transcripts pursuant to NRS
43 432B.459, the compensation in criminal cases that is ordered by the
44 court pursuant to subparagraph (1) of paragraph (e) and
45 subparagraph (1) of paragraph (f) of subsection 1 and the



1 compensation specified in subsection 3 must be paid out of the
2 county treasury upon the order of the court. When there is no
3 official reporter in attendance and a reporter pro tempore is
4 appointed, his or her reasonable expenses for traveling and detention
5 must be fixed and allowed by the court and paid in the same
6 manner. The respective district judges may, with the approval of the
7 respective board or boards of county commissioners within the
8 judicial district, fix a monthly salary to be paid to the official
9 reporter in lieu of per diem. The salary, and also actual traveling
10 expenses in cases where the reporter acts in more than one county,
11 must be prorated by the judge on the basis of time consumed by
12 work in the respective counties and must be paid out of the
13 respective county treasuries upon the order of the court.

14 5. Except as otherwise provided in subsection 4, in civil cases,
15 the compensation prescribed in paragraph (d) of subsection 1 and
16 for transcripts ordered by the court to be made must be paid by the
17 parties in equal proportions, and either party may, at the party's
18 option, pay the entire compensation. In either case, all amounts so
19 paid by the party to whom costs are awarded must be taxed as costs
20 in the case. The compensation for transcripts and copies ordered by
21 the parties must be paid by the party ordering them. No reporter may
22 be required to perform any service in a civil case until his or her
23 compensation has been paid to him or her . ~~{or deposited with the~~
24 ~~clerk of the court.}~~

25 6. Where a transcript is ordered by the court or by any party,
26 the compensation for ~~{it}~~ *the transcript* must be paid to the clerk
27 of the court and by the clerk paid to the reporter upon the furnishing
28 of the transcript.

29 ~~{7. The testimony and proceedings in an uncontested divorce~~
30 ~~action need not be transcribed unless requested by a party or ordered~~
31 ~~by the court.}~~

32 **Sec. 5.** NRS 3.380 is hereby amended to read as follows:

33 3.380 1. The judge or judges of any district court may, with
34 the approval of the board of county commissioners of any one or
35 more of the counties comprising such district, in addition to the
36 appointment of a court reporter as in this chapter provided, enter an
37 order for the installation of sound recording equipment for use in
38 any of the instances recited in NRS 3.320, for the recording of any
39 civil and criminal proceedings, testimony, objections, rulings,
40 exceptions, arraignments, pleas, sentences, statements and remarks
41 made by the district attorney or judge, oral instructions given by the
42 judge and any other proceedings occurring in civil or criminal
43 actions or proceedings, or special proceedings whenever and
44 wherever and to the same extent as any of such proceedings have
45 heretofore under existing statutes been recorded by the official



1 reporter or any special reporter or any reporter pro tempore
2 appointed by the court.

3 2. For the purpose of operating such sound recording
4 equipment, the court or judge may appoint or designate the official
5 reporter or a special reporter or reporter pro tempore or the county
6 clerk or clerk of the court or deputy clerk. The person so operating
7 such sound recording equipment shall subscribe to an oath that he or
8 she will well and truly operate the equipment so as to record all of
9 the matters and proceedings.

10 3. The court may then designate the person operating such
11 equipment or any other competent person to ~~read~~ *listen to* the
12 recording and to transcribe ~~it~~ *the recording* into ~~typewriting~~
13 *written text*. The person ~~transcribing~~ *who*:

14 (a) *Transcribes* the recording shall subscribe to an oath that he
15 or she has truly and correctly transcribed ~~it~~ *the proceedings as*
16 *recorded*.

17 (b) *Operates the sound recording equipment as described in*
18 *subsection 2 shall*:

19 (1) *Subscribe to an oath that the sound recording is a true*
20 *and accurate recording of the proceedings; and*

21 (2) *In the event of an error, malfunction or other problem*
22 *relating to the sound recording equipment or the sound recording,*
23 *report that error, malfunction or problem to the court.*

24 4. The transcript may be used for all purposes for which
25 transcripts have heretofore been received and accepted under then
26 existing statutes, including transcripts of testimony and transcripts
27 of proceedings as constituting bills of exceptions or part of the bill
28 of exceptions on appeals in all criminal cases and transcripts of the
29 evidence or proceedings as constituting the record on appeal in civil
30 cases and including transcripts of preliminary hearings before
31 justices of the peace and other committing magistrates, and are
32 subject to correction in the same manner as transcripts under
33 existing statutes.

34 5. In civil and criminal cases when the court has ordered the
35 use of such sound recording equipment, any party to the action, at
36 the party's own expense, may provide a certified court reporter to
37 make a record of and transcribe all the matters of the proceeding. In
38 such a case, the record prepared by sound recording is the official
39 record of the proceedings, unless it fails or is incomplete because of
40 equipment or operational failure, in which case the record prepared
41 by the certified court reporter shall be deemed, for all purposes, the
42 official record of the proceedings.

43 **Sec. 6.** NRS 4.410 is hereby amended to read as follows:

44 4.410 1. If the person designated to transcribe the
45 proceedings is:



(a) Regularly employed as a public employee, the person is not entitled to additional compensation for preparing the transcript.

(b) Not regularly employed as a public employee and not a certified court reporter, the person is entitled to such compensation for preparing the transcript as the board of county commissioners determines.

(c) A certified court reporter, the person is entitled to the same compensation as set forth in NRS 3.370.

2. The compensation for transcripts and copies must be paid by the party ordering them. In a civil case, the preparation of the transcript need not commence until the compensation has been deposited with the ~~deputy clerk of the court.~~ *court reporter.*

Sec. 7. NRS 4.420 is hereby amended to read as follows:

4.420 ~~[The]~~

1. Except as otherwise provided in this section:

(a) The sound recording of each proceeding in justice court must be preserved until at least 30 days after the time for filing an appeal expires.

(b) With respect to a proceeding in justice court that involves a misdemeanor for which enhanced penalties may be imposed, a gross misdemeanor or a felony, the sound recording of the proceeding must be preserved for at least 8 years after the time for filing an appeal expires.

2. If no appeal is taken, the justice of the peace may order the destruction of the recording at any time after ~~[that date.]~~ *the date specified in subsection 1.*

3. If there is an appeal to the district court, the sound recording must be preserved until at least 30 days after final disposition of the case on appeal, but the justice of the peace may order the destruction of the recording at any time after that date.

Sec. 8. This act becomes effective upon passage and approval.

