

Amendment No. 103

Assembly Amendment to Assembly Bill No. 249

(BDR 1-235)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

DP/KEL



Date: 3/30/2011

A.B. No. 249—Makes various changes pertaining to certain court reporters.
(BDR 1-235)



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:

Section 1 of this bill provides that a business organization appointed to provide to a district court the services of a certified court reporter must be licensed by the Certified Court Reporters' Board of Nevada. (NRS 3.320) **Section 2** of this bill clarifies that an official reporter pro tempore of a district court is appointed rather than employed and, like the official reporter he or she replaces, does not have a fixed term of employment. (NRS 3.320, 3.340) **Section 3** of this bill states that prima facie evidence of the testimony and proceedings in a district court is provided by the transcript and not the report of the official reporter. (NRS 3.360) **Section 4** of this bill makes various changes with respect to the compensation of the official reporter of a district court. (NRS 3.370) **Section 5** of this bill provides that, when sound recording equipment is used to record proceedings in a district court and a transcript is subsequently made: (1) the person who transcribes the recording shall subscribe to an oath that he or she has truly and correctly transcribed the proceedings as recorded; and (2) the person who operates the sound recording equipment shall subscribe to an oath that the sound recording is a true and accurate recording of the proceedings and, in the event of an error, malfunction or other problem relating to the sound recording equipment or the sound recording, report that error, malfunction or problem to the court. (NRS 3.380) **Section 6** of this bill states that, with regard to proceedings in a justice court, compensation for the preparation of a transcript is to be deposited with the certified court reporter and not with the deputy clerk of the court. (NRS 4.410) **Section 7** of this bill provides that **§ 7 : (1) the sound recording of each proceeding in justice court must be preserved until at least 1 year, instead of 30 days, after the time for filing an appeal expires; and (2)** with respect to certain criminal proceedings in a justice court, sound recordings must be preserved for a period of at least 8 years. (NRS 4.420)

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 ~~fit~~ *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) ~~fit~~ *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 ~~fit~~ *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 the term of his or her ~~employment~~ *appointment* as the official reporter.

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

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

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

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

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

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

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

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

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

(c) For transcription:

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

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

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

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

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

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

1 for the first day and \$90 per day for each subsequent day, to be paid by the party
2 who requests the translation.

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

5 (1) Except as otherwise provided in this subparagraph, in all criminal
6 matters in which a party requests the diskette and the reporter agrees to provide the
7 diskette, in addition to the compensation provided pursuant to paragraphs (a), (b)
8 and (e), \$1.50 per page of the translation contained on the diskette from the party
9 who makes the request. This additional compensation must be paid by the county as
10 provided pursuant to subsection 4 only if the court issues an order granting the
11 diskette to the prosecuting attorney or to an indigent defendant who is represented
12 by a county or state public defender.

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

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

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

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

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

37 4. The compensation specified in paragraphs (a) and (b) of subsection 1, the
38 compensation for transcripts in criminal cases ordered by the court to be made, the
39 compensation for transcripts in civil cases ordered by the court pursuant to NRS
40 12.015, the compensation for transcripts for parents or guardians or attorneys of
41 parents or guardians who receive transcripts pursuant to NRS 432B.459, the
42 compensation in criminal cases that is ordered by the court pursuant to
43 subparagraph (1) of paragraph (e) and subparagraph (1) of paragraph (f) of
44 subsection 1 and the compensation specified in subsection 3 must be paid out of the
45 county treasury upon the order of the court. When there is no official reporter in
46 attendance and a reporter pro tempore is appointed, his or her reasonable expenses
47 for traveling and detention must be fixed and allowed by the court and paid in the
48 same manner. The respective district judges may, with the approval of the
49 respective board or boards of county commissioners within the judicial district, fix
50 a monthly salary to be paid to the official reporter in lieu of per diem. The salary,
51 and also actual traveling expenses in cases where the reporter acts in more than one
52 county, must be prorated by the judge on the basis of time consumed by work in the

1 respective counties and must be paid out of the respective county treasuries upon
2 the order of the court.

3 5. Except as otherwise provided in subsection 4, in civil cases, the
4 compensation prescribed in paragraph (d) of subsection 1 and for transcripts
5 ordered by the court to be made must be paid by the parties in equal proportions,
6 and either party may, at the party's option, pay the entire compensation. In either
7 case, all amounts so paid by the party to whom costs are awarded must be taxed as
8 costs in the case. The compensation for transcripts and copies ordered by the parties
9 must be paid by the party ordering them. No reporter may be required to perform
10 any service in a civil case until his or her compensation has been paid to him or her
11 ~~for deposited with the clerk of the court.~~

12 6. Where a transcript is ordered by the court or by any party, the
13 compensation for ~~the~~ *the transcript* must be paid to the ~~clerk of the court and by~~
14 ~~the clerk paid to the~~ reporter upon the furnishing of the transcript.

15 ~~7. *The testimony and proceedings in an uncontested divorce action need not*~~
16 ~~*be transcribed unless requested by a party or ordered by the court.*~~

17 *If a proceeding is recorded and a transcript is requested, a copy of any sound*
18 *recording must, if requested, be provided with the transcript. The cost for*
19 *providing the sound recording must not exceed the actual cost of production and*
20 *must be paid by the party who requests the sound recording.*

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

22 3.380 1. The judge or judges of any district court may, with the approval of
23 the board of county commissioners of any one or more of the counties comprising
24 such district, in addition to the appointment of a court reporter as in this chapter
25 provided, enter an order for the installation of sound recording equipment for use in
26 any of the instances recited in NRS 3.320, for the recording of any civil and
27 criminal proceedings, testimony, objections, rulings, exceptions, arraignments,
28 pleas, sentences, statements and remarks made by the district attorney or judge, oral
29 instructions given by the judge and any other proceedings occurring in civil or
30 criminal actions or proceedings, or special proceedings whenever and wherever and
31 to the same extent as any of such proceedings have heretofore under existing
32 statutes been recorded by the official reporter or any special reporter or any reporter
33 pro tempore appointed by the court.

34 2. For the purpose of operating such sound recording equipment, the court or
35 judge may appoint or designate the official reporter or a special reporter or reporter
36 pro tempore or the county clerk or clerk of the court or deputy clerk. The person so
37 operating such sound recording equipment shall subscribe to an oath that he or she
38 will well and truly operate the equipment so as to record all of the matters and
39 proceedings.

40 3. The court may then designate the person operating such equipment or any
41 other competent person to ~~read~~ *listen to* the recording and to transcribe ~~the~~ *the*
42 ~~recording~~ *into* ~~typewriting~~ *written text*. The person ~~transcribing~~ *who*:

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

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

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

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

52 4. The transcript may be used for all purposes for which transcripts have
53 heretofore been received and accepted under then existing statutes, including

transcripts of testimony and transcripts of proceedings as constituting bills of exceptions or part of the bill of exceptions on appeals in all criminal cases and transcripts of the evidence or proceedings as constituting the record on appeal in civil cases and including transcripts of preliminary hearings before justices of the peace and other committing magistrates, and are subject to correction in the same manner as transcripts under existing statutes.

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

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

4.410 1. If the person designated to transcribe the 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~~ *1 year* 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.