

**SUBJECT:** Certification of certain court reporters and shorthand reporting firms

**COMMITTEE:** Judiciary and Civil Jurisprudence — committee substitute recommended

**VOTE:** 8 ayes — Leach, Farrar, Y. Davis, Krause, Meyer, Neave, Smith, White  
0 nays  
1 absent — Julie Johnson

**WITNESSES:** For — Steve Bresnen, Texas Court Reporters Association; (*Registered, but did not testify*: Russell Hamley, ABC of Greater Houston; Shari Krieger and Lorrie Schnoor, Texas Court Reporters Association; Monty Wynn, Texas Municipal League; Kris Allfrey, The Legal Wizards, LLC)  
  
Against — Robert Buie, Craig Enoch, and Karen Usher, Texas Deposition Reporters Association; (*Registered, but did not testify*: Rebecca Callow, Angelina Lozano, David Ross, Janice McMoran, Rene Moarefi, and Susan Miller, Texas Deposition Reporters Association; Kolby Monnig; Julie Gilberg)

**BACKGROUND:** Government Code sec. 154.101 requires a court reporter to be certified as a shorthand reporter by the Texas Supreme Court.  
  
Sec. 154.103 requires court reporters to take a two-part examination for certification in one or more of the authorized methods of shorthand reporting. Part A of the exam consists of five minutes of two-voice dictation of questions and answers, five minutes of dictation of jury charges, and five minutes of dictation of selected literary material. Part B consists of objective questions relating to elementary aspects of shorthand reporting, spelling, and grammar.  
  
Sec. 154.106 requires shorthand reporting firms to be registered with the Judicial Branch Certification Commission (JBCC) before offering services.

Sec. 154.111 authorizes JBCC to reprimand, assess a reasonable fine against, suspend, revoke, or refuse to renew the registration of a shorthand reporting firm or affiliate office for certain offenses.

Sec. 152.202 permits JBCC to waive any prerequisite for obtaining a certification, registration, or license for an applicant after determining that the applicant holds a certification issued by another jurisdiction that has certification requirements substantially equivalent to those of Texas or holds a certification by another jurisdiction with which Texas has a reciprocity agreement.

**DIGEST:**

CSHB 1619 would create an apprenticeship program and provisional certification for court reporters, would require the Judicial Branch Certification Commission (JBCC) to pursue reciprocity agreements with other states, and would amend certain laws and rules applicable to court reporters and firms.

**Certifications for apprentice and provisional court reporters.** CSHB 1619 would allow the Judicial Branch Certification Commission (JBCC) to provide for the certification of apprentice court reporters and provisional court reporters.

*Apprentice court reporters.* An apprentice court reporter could engage in court reporting only under direct supervision from a certified court reporter and only for certain types of legal proceedings. Rules adopted by JBCC could allow for the issuance of a full certification to a court reporter who successfully completed an apprenticeship and passed Part A of the certification examination.

*Provisional court reporters.* JBCC could adopt rules allowing for the issuance of a full certification to a provisional court reporter upon the reporter's completion of the terms of the commission's conditional approval.

CSHB 1619 would require JBCC to certify to the Supreme Court the name of each applicant who met the qualifications for certification as an

apprentice or provisional court reporter.

**Reciprocity.** CSHB 1619 would permit JBCC to waive any prerequisite required for court reporter certification or shorthand reporting firm registration for an applicant if the commission determined the applicant held a certification issued by another jurisdiction that had certification requirements substantially equivalent to those of Texas. JBCC would be required to create a list of such jurisdictions by June 1, 2020, and to periodically update this list.

JBCC would have to certify to the Supreme Court the name of each qualified applicant who:

- held a certification from a jurisdiction with substantially equivalent requirements to those to become a court reporter in Texas;
- before certification in Texas, passed Part B of the examination required for certification; and
- provided proof acceptable to JBCC that the applicant had been actively performing court reporting in another jurisdiction for at least three of the preceding five years.

Any reciprocity agreement approved by the Supreme Court would be required to mandate that an applicant in Texas who held a certification issued by another state:

- have passed Part B of the certification examination;
- have provided proof of actively performing court reporting in another jurisdiction for at least three of the past five years; and
- possessed a certification, registration, or license JBCC determined was at least equivalent to the registered professional reporter designation or similar designation.

An applicant who held a certification from a jurisdiction with substantially equivalent requirements to those to become a court reporter in Texas would not also be required to have a certification determined to be at least equivalent to the registered professional reporter designation or similar

designation.

JBCC could adopt rules requiring the issuance of provisional certifications to the above applicants to serve as a court reporter for a limited time and under conditions reasonably necessary to protect the public interest.

JBCC would, by January 1, 2020, have to communicate with regulatory officials in each state to inquire whether the state desired to enter into a reciprocity agreement with Texas and then report the results of the inquiry to the Supreme Court by April 1, 2020.

**Shorthand reporting firms.** A shorthand reporting firm would be required to pay a registration or renewal fee in an amount equal to the fee for court reporter certification instead of the registration fee required for a shorthand reporting firm if a certified court reporter of the firm had an ownership interest in the firm of 50 percent or more and maintained actual control of the firm.

CSHB 1619 would require a shorthand reporting firm to provide upon request to a court reporter who prepares a deposition transcript an itemized statement of the charges totaling the amount stated on the court reporter's certificate filed with the court.

**Disciplinary actions.** CSHB 1619 would add repeatedly committing to provide at a specific time and location court reporting services for an attorney in connection with a legal proceeding and unreasonably failing to fulfill the commitment under the terms of that commitment to the list of conduct for which JBCC was required to discipline a shorthand reporting firm.

The bill would create a class A misdemeanor offense (up to one year in jail and/or a maximum fine of \$4,000) for a person that provided shorthand reporting firm services in violation of firm registration requirements mandated by Government Code sec. 154.106. Each day of the violation would constitute a separate offense.

**Continuing education.** The JBCC by rule would require each court reporter certified by the commission and at least one person who has management responsibility for a shorthand reporting firm registered in Texas to complete continuing professional education.

**Other provisions.** When developing rules relating to certifications for apprentice and provisional court reporters and to disciplinary action for reporting firms that fail to fulfill commitments to provide court reporting services, JBCC would be required to:

- establish a stakeholder work group to receive input; and
- solicit feedback from the Texas Court Reporters Association, the Texas Deposition Reporters Association, court reporting schools, and other interested parties.

CSHB 1619 would exempt from the Uniform Electronic Transactions Act any document:

- produced by an appointed court reporter, certified court reporter, or a registered reporting firm for use in the state or federal judicial system; or
- governed by the electronic filing system rules established by the Texas Supreme Court.

The bill would require a notice of appeal to be served on each court reporter responsible for preparing the reporter's record. The Supreme Court would be prohibited from adopting rules that would conflict with the notice requirement.

The bill would take effect September 1, 2019.

SUPPORTERS  
SAY:

CSHB 1619 would help alleviate the state's court reporter shortage by attracting more court reporters to the industry while also ensuring court reporters maintained high standards by providing an appropriate level of oversight.

Texas is currently experiencing a shortage of court reporters. By establishing an apprenticeship program, the bill would allow young or new reporters to work under certified reporters while gaining valuable experience and fulfilling an imperative role in the legal system. The bill also would tackle the court reporter shortage problem by creating a provisional certification to let people work in this state who may be qualified but are not recognized under existing certification statutes. By requiring the Judicial Branch Certification Commission (JBCC) to establish a stakeholder work group and solicit comments from certain interested parties, the bill would ensure that the programs it created reflected the needs of the persons it regulated.

The bill would grant the Texas Supreme Court and JBCC the regulatory authority they need to use additional mechanisms to certify court reporters and tackle the shortage in the state. Currently, JBCC is only allowed to use few mechanisms to certify court reporters. The bill would provide them with statutory authority to use additional means, such as seeking reciprocity agreements with other states, and the flexibility to create appropriate rules for those new processes.

CSHB 1619 would close gaps in law and maintain the high standards required for court reporting by creating an offense for shorthand reporting firms that fail to register and by allowing JBCC to reprimand firms that repeatedly failed to provide services.

**OPPONENTS  
SAY:**

CSHB 1619 could create an apprenticeship program and provisional certification program that would not be clearly defined, would create unnecessary penalties, and could add regulatory burdens for JBCC and independent court reporters.

The bill is vague in defining expectations or criteria for the program. Not clearly outlining criteria for an apprenticeship would risk overregulating small firms or independent court reporters. The bill would stipulate certain provisions of the program, such as requiring an apprentice to only practice under a certified court reporter, but would not specify whether the responsibility to oversee the apprentice fell on a firm or a court.

CSHB 1619 would create a penalty for reporters or firms that repeatedly and unreasonably failed to fulfill a commitment to provide court reporting services in a legal proceeding but would not specify certain aspects of the offense, such as what evidence would be used to determine a failure to provide services. The lack of specificity could leave reporters and firms open to superfluous complaints with consequences for the accused party.

By requiring JBCC to seek reciprocity agreements with other states and report the results of those attempts to the Supreme Court, the bill could burden the commission's already limited resources.

NOTES:

The author plans to offer a floor amendment that would strike a requirement for a court reporting firm to provide upon request to a court reporter who prepares a deposition transcript, an itemized statement of the charges that total the amount stated on the court reporter's certificate filed with the court that the court must tax as costs. It would replace that provision with a requirement that a firm provide to a court reporter upon request a copy of the document related to that deposition known as the further certification that the reporter has signed or to which the reporter's signature has been applied.