

**SUBJECT:** Authorizing court reporters to take depositions

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

**VOTE:** 6 ayes — Leach, Julie Johnson, Krause, Middleton, Schofield, Smith  
0 nays  
3 absent — Davis, Dutton, Moody

**WITNESSES:** For — Mellony Ariail and Steve Bresnen, Texas Court Reporters Association; Karen Usher, Texas Deposition Reporters Association; (*Registered, but did not testify:* Guy Herman, Statutory Probate Courts of Texas as Presiding Judge; Amy Bresnen, Kim Cherry, and Gale Fiasco, Texas Court Reporters Association; Keith Oakley, Texas Deposition Reporters Association; Jim Perdue, Texas Trial Lawyers Association)  
Against — None

**BACKGROUND:** Code of Criminal Procedure art. 39.03 allows a court to appoint, order, or designate one of the following persons before whom a deposition in a criminal case shall be taken: a district judge, a county judge, a notary public, a district clerk, or a county clerk.  
  
In response to pandemic-related court closures, the Texas Supreme Court and Office of Court Administration authorized and purchased new technology tools to make remote court reporting feasible, and it has been suggested that changes to state law be made to allow remote court reporting to continue after the emergency orders expire. Interested parties say that expanding the conditions under which a certified court reporter could take a witness deposition to include remote options, such as videoconferencing, would increase efficiencies.

**DIGEST:** CSHB 2579 would authorize a court reporter to take a witness deposition in a criminal case. The bill would establish that a court reporter could comply with the Texas Rules of Appellate Procedure relating to filing

notes in a criminal case by electronically filing the untranscribed notes created by the court reporter using computer-aided software with the trial court not later than the 20th day after the expiration of the time the defendant was allotted to perfect the appeal.

A court reporting firm representative or a court reporter who reported a deposition for a case would be required to complete and sign a deposition certificate, known as the further certification. The deposition certificate would have to include certain statements, dates, and charges as specified in the bill.

The bill would authorize an official court reporter of a court of record to conduct the deposition of witnesses, receive, execute, and return commissions, and make a certificate of the proceedings in any court, rather than in any county in the court's judicial district.

**Witness oaths.** CSHB 2579 would authorize a shorthand reporter to administer oaths to witnesses as follows:

- in a jurisdiction outside this state if the reporter was at the same location as the witness and the witness was or could be a witness in a case filed in this state; and
- at any location authorized in a reciprocity agreement between this state and another jurisdiction; and
- without being at the same location as a witness or potential witness in a case filed in Texas if the reporter was physically located in Texas at the time the oath was administered or both the witness and the reporter were located in a jurisdiction that had an applicable reciprocity agreement with Texas.

The identity of a witness who was not in the physical presence of a shorthand reporter could be proven by certain statements under oath or on the record as specified in the bill or by the witness's presentation for inspection by the court reporter of an official document issued by this state or certain other jurisdictions.

A shorthand reporter to which the requirements applied would have to state on the record and certify in each transcript of the deposition the physical location of the witness and the reporter.

**Definitions.** CSHB 2579 would update definitions of "shorthand reporter" and "court reporter" to harmonize with applicable certification requirements. The bill would update a provision relating to the use of electronic court recording equipment to clarify that the operation of that equipment by a person who engaged in shorthand reporting but was not certified as a court reporter would be neither sanctioned nor prohibited by certification requirements associated with the titles or designations "court recorder," "court reporter," or "shorthand reporter."

The bill would take effect September 1, 2021, and would only apply to a deposition taken in a criminal case after that date.