

BILL ANALYSIS

C.S.H.B. 1619
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised over the shortage of court reporters across the state and the potential consequences for the accuracy and efficiency of court proceedings. C.S.H.B. 1619 seeks to increase the number of qualified court reporters to address the shortage by providing for court reporter apprenticeships and provisional certification for court reporters. The bill also clarifies the applicability of certain laws to court reporters and court reporting firms, addresses aspects of the relationships between reporters and firms and certain entities that contract with them, as well as rules applicable to each.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Judicial Branch Certification Commission in SECTIONS 6, 11, and 13 of this bill.

ANALYSIS

C.S.H.B. 1619 amends the Business & Commerce Code to exempt from the applicability of the Uniform Electronic Transactions Act the transmission, preparation, completion, enforceability, or admissibility of a document in any form that is governed by rules adopted by the Supreme Court of Texas or produced by an appointed court reporter, a certified court reporter, or a registered shorthand reporting firm for use in the state or federal judicial system.

C.S.H.B. 1619 amends the Civil Practice and Remedies Code to require notice of appeal from a county or district court, including an interlocutory appeal, to be served on each court reporter responsible for preparing the reporter's record. The bill prohibits the supreme court from amending or adopting rules in conflict with this requirement.

C.S.H.B. 1619 amends the Government Code to require a court reporting firm, on request, to provide to a court reporter who prepares a deposition transcript an itemized statement of the charges that constitute the amount stated on the court reporter's certificate filed with the court as part of the deposition as required by the Texas Rules of Civil Procedure that the court clerk must tax as costs.

C.S.H.B. 1619 authorizes the Judicial Branch Certification Commission (JBCC) to waive any prerequisite to obtaining a court reporter certification or a shorthand reporting firm registration for an applicant after reviewing the applicant's credentials and determining the applicant holds a certification, registration, or license issued by another jurisdiction that has certification,

registration, or licensing requirements substantially equivalent to those of Texas. The bill requires JBCC to develop, not later than June 1, 2020, and periodically update on a schedule established by the JBCC a list of states that have certification, registration, or licensing requirements for court reporters and shorthand reporting firms substantially equivalent to those of Texas. The bill requires the JBCC to certify to the supreme court the name of each qualified applicant who:

- holds a certification, registration, or license to engage in court reporting issued by another state that, as determined by the JBCC, either is included on that list or has certification, registration, or licensing requirements to engage in court reporting that are substantially equivalent to the statutory requirements of Texas for a court reporter; and
- before certification in Texas, passes Part B of the shorthand reporting examination and provides proof acceptable to the JBCC that the applicant has been actively performing court reporting in another jurisdiction for at least three of the preceding five years.

C.S.H.B. 1619 requires a reciprocity agreement approved by the supreme court regarding certification, registration, and licensing of court professionals to require an applicant who holds a certification, registration, or license to engage in court reporting issued by another state and who applies for certification as a court reporter in Texas to satisfy the following criteria:

- pass Part B of the shorthand reporting examination;
- provide proof acceptable to the JBCC that the applicant has been actively performing court reporting in another jurisdiction for at least three of the preceding five years; and
- hold a certification, registration, or license that the JBCC determines is at least equivalent to the registered professional reporter designation or similar designation, unless the applicant meets the requirements to be certified by the JBCC as a qualified applicant, in which case this requirement does not apply.

C.S.H.B. 1619 requires the JBCC, not later than January 1, 2020, to communicate with the appropriate regulatory officials in each state to inquire whether that state desires to enter into a reciprocity agreement with Texas and, not later than April 1, 2020, to submit a report on the results of the inquiry to the supreme court or the court's designee.

C.S.H.B. 1619 requires the JBCC by rule to require each court reporter who holds a certification issued by the JBCC and at least one person who has management responsibility for a shorthand reporting firm registered in Texas to complete continuing professional education.

C.S.H.B. 1619 authorizes the JBCC by rule to provide for the certification of an apprentice court reporter who may engage in court reporting only under the direct supervision of a certified court reporter and only for the types of legal proceedings authorized by JBCC rule and to provide for the provisional certification of a court reporter that allows a person to engage in court reporting only in accordance with the terms and for the period expressly authorized by JBCC rule. The rules may allow for the issuance of a court reporter certification to a certified apprentice court reporter who satisfactorily completes the apprenticeship and passes Part A of the shorthand reporting examination or to a court reporter who holds a provisional certification on the reporter's completion of the terms of conditional approval set by the JBCC. The bill requires the JBCC to certify to the supreme court the name of each applicant who meets the qualifications for certification as an apprentice court reporter or a provisional court reporter. The bill requires the JBCC, in developing rules relating to the certification of apprentice court reporters and the provisional certification of a court reporter:

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

C.S.H.B. 1619 authorizes the JBCC to adopt rules requiring the issuance to certain applicants

who performed court reporting in another jurisdiction of a provisional certification that authorizes the applicant to serve as a court reporter in Texas for a limited time and under conditions the JBCC considers reasonably necessary to protect the public interest.

C.S.H.B. 1619 requires a shorthand reporting firm to pay a registration or renewal fee in an amount equal to the fee for court reporter certification in lieu of the fee required for a shorthand reporting firm registration if a certified court reporter of the firm has an ownership interest in the firm of more than 50 percent and maintains actual control of the firm.

C.S.H.B. 1619 removes the specification that sufficient causes other than those expressly described in statute are grounds on which the JBCC is required to take disciplinary actions against a certified shorthand reporter after receiving a complaint and giving the reporter notice and an opportunity for a hearing.

C.S.H.B. 1619 removes the specification that sufficient causes other than those expressly described in statute are grounds on which the JBCC is required to take disciplinary actions against a shorthand reporting firm or affiliate office after receiving a complaint and giving the firm or office notice and an opportunity for a hearing. The bill revises the conduct that is expressly classified as unprofessional conduct that is grounds for such disciplinary action by:

- removing the specification that giving or benefiting from or being employed as a result of giving any gift, incentive, reward, or anything of value to attorneys, clients, or their representatives or agents, with certain exceptions, must involve a pattern of such conduct; and
- including as such a ground 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.

C.S.H.B. 1619 requires the JBCC by rule to define the conditions under which a shorthand reporting firm's or affiliate office's repeated failure to fulfill a commitment to provide court reporting services is considered unprofessional conduct and grounds for disciplinary action. The bill requires the JBCC, in developing those rules:

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

C.S.H.B. 1619 creates a Class A misdemeanor offense for a person who provides shorthand reporting firm services in Texas in violation of firm registration requirements and establishes that each day of violation constitutes a separate offense.

C.S.H.B. 1619 subjects a contract for court reporting services for a court, agency, or instrumentality of the United States or Texas to the prohibition against a court reporter entering into or providing services under a contractual agreement that undermines the impartiality of the reporter or gives or appears to give an exclusive advantage to any party.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1619 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include a provision requiring a court reporter or shorthand reporting firm to disclose, to each party in a proceeding, rates and charges for services provided in a legal proceeding and to itemize the rate and amount charged for each service provided on each billing statement but includes a provision that instead requires a court reporting firm, on request, to provide an itemized statement of taxable costs to a court reporter who prepares a deposition transcript.

The substitute includes substantially the same reciprocity provisions but codifies them within the statutory provisions governing court reporter certification and shorthand reporting firm registration.

The substitute includes a provision requiring a person who has management responsibility for a shorthand reporting firm registered in Texas to complete continuing professional education.

The substitute requires the JBCC to establish applicable stakeholder work groups and to solicit comments in the development of certain rules.