

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1636

BY: COLEMAN

AS INTRODUCED

AN ACT RELATING TO COURTS; AMENDING SECTION 5, CHAPTER 198, O.S.L. 1982, AS LAST AMENDED BY SECTION 4, CHAPTER 129, O.S.L. 1989 AND AS RENUMBERED BY SECTION 14, CHAPTER 129, O.S.L. 1989 (12 O.S. SUPP. 1990, SECTION 3228), WHICH RELATES TO PERSONS AUTHORIZED TO TAKE DEPOSITIONS; MODIFYING WHO MAY TAKE DEPOSITIONS; AMENDING 20 O.S. 1981, SECTIONS 106.3B, AS LAST AMENDED BY SECTION 1, CHAPTER 204, O.S.L. 1989 AND 106.4, AS AMENDED BY SECTION 1, CHAPTER 39, O.S.L. 1989 (20 O.S. SUPP. 1990, SECTIONS 106.3B AND 106.4), WHICH RELATE TO COURT REPORTERS; MODIFYING QUALIFICATIONS FOR APPOINTMENT; MODIFYING FEE; MODIFYING AUTHORIZED METHODS FOR REPORTING; AMENDING 20 O.S. 1981, SECTIONS 1501, AS AMENDED BY SECTION 1, CHAPTER 105, O.S.L. 1984, 1502, 1503, 1504, AS AMENDED BY SECTION 9, CHAPTER 299, O.S.L. 1986, 1506, AS AMENDED BY SECTION 2, CHAPTER 204, O.S.L. 1989, AND 1508, AS AMENDED BY SECTION 4, CHAPTER 204, O.S.L. 1989 (20 O.S. SUPP. 1990, SECTIONS 1501, 1504, 1506 AND 1508), WHICH RELATE TO CERTIFICATION AND LICENSING OF SHORTHAND REPORTERS; RE-CREATING AND CHANGING THE NAME OF THE STATE BOARD OF EXAMINERS OF OFFICIAL SHORTHAND REPORTERS;

PROVIDING FOR THE LICENSING AND CERTIFICATION OF OTHER TYPES OF REPORTERS; MODIFYING EXAMINATION REQUIREMENTS; ADDING REQUIREMENTS FOR CERTAIN APPLICANTS; MODIFYING DEFINITION; MODIFYING QUALIFICATIONS FOR LICENSING AND CERTIFICATION OF COURT REPORTERS, WITHOUT EXAMINATION; MODIFYING A FEE; PROVIDING FOR SEALS FOR REPORTERS; PROVIDING FOR A FEE FOR SEALS; AMENDING 74 O.S. 1981, SECTION 3903, AS LAST AMENDED BY SECTION 1, CHAPTER 254, O.S.L. 1989 (74 O.S. SUPP. 1990, SECTION 3903), WHICH RELATES TO THE OKLAHOMA SUNSET LAW; MODIFYING LIST OF ENTITIES THAT TERMINATE ON A CERTAIN DATE; REPEALING 20 O.S. 1981, SECTION 1505, WHICH RELATES TO ENROLLMENT OF PERSONS LICENSED OR CERTIFIED IN ANOTHER STATE; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 5, Chapter 198, O.S.L. 1982, as last amended by Section 4, Chapter 129, O.S.L. 1989 and as renumbered by Section 14, Chapter 129, O.S.L. 1989 (12 O.S. Supp. 1990, Section 3228), is amended to read as follows:

Section 3228. A. WITHIN THE UNITED STATES. Within this state, or any other state, territory or insular possession subject to the jurisdiction of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the place where the examination is held, or before a person appointed by the

court in which the action is pending. A person so appointed has power to administer oaths and take testimony.

The term officer as used in Sections 3230 through 3232 of this title includes a:

1. A person appointed by the court or designated by the parties under Section 3229 of this title; except that on and after January 1, 1990, depositions taken within this state shall only be taken by an

2. An officer who is either a certified shorthand reporter (CSR) or a by the State Board of Examiners of Official Reporters;

3. An officer who is licensed shorthand reporter (LSR) by the State Board of Examiners of Official Reporters; or

4. A person engaged as a professional multichannel electronics reporter or steno-mask reporter in this state prior to January 1, 1990.

If video depositions are taken, the video depositions shall be taken by certified or licensed reporters in conjunction with depositions taken by other authorized methods of reporting.

B. IN FOREIGN COUNTRIES. In a foreign country, depositions may be taken:

1. On notice before a person authorized to administer oaths in the place in which the examination is held, either by the law thereof or by the law of this state; or

2. Before a person commissioned by the court, and a person so commissioned shall have the power by virtue of his commission to administer any necessary oath and take testimony; or

3. Pursuant to a letter rogatory.

A commission or a letter rogatory shall be issued on application and notice and on terms that are just and appropriate. It is not requisite to the issuance of a commission or a letter rogatory that the taking of the deposition in any other manner is impracticable or inconvenient; and both a commission and a letter rogatory may be

issued in proper cases. A notice or commission may designate the person before whom the deposition is to be taken either by name or descriptive title. A letter rogatory may be addressed "To the Appropriate Authority in (here name the country)". Evidence obtained in response to a letter rogatory need not be excluded merely for the reason that it is not a verbatim transcript or that the testimony was not taken under oath or for any similar departure from the requirements for depositions taken within this state.

C. DISQUALIFICATIONS FOR INTEREST. No deposition shall be taken before a person who is a relative or employee or attorney or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action.

SECTION 2. AMENDATORY 20 O.S. 1981, Section 106.3B, as last amended by Section 1, Chapter 204, O.S.L. 1989 (20 O.S. Supp. 1990, Section 106.3B), is amended to read as follows:

Section 106.3B Only the following persons may act and are eligible for appointment on a full-time or part-time basis as official court reporters for the courts, including the Workers' Compensation Court and the Corporation Commission:

a. Persons ~~now certified or hereafter~~ certified by the State Board of Examiners of Official ~~Shorthand~~ Reporters shall be given primary consideration for appointment;

b. Persons who, prior to July 1, 1978, were licensed as licensed shorthand reporters by the State Board of Examiners of Official Shorthand Reporters shall be given secondary consideration for appointment;

c. Persons who, prior to July 1, 1978, were acting shorthand reporters under a certificate issued by the Chief Justice;

d. When no person eligible for appointment as an official court reporter, as provided above, is available for appointment, a presiding judge or a district judge may make application to the Chief Justice to appoint a ~~shorthand~~ reporter on a temporary basis.

The Chief Justice may issue a temporary certificate valid for not more than twelve (12) months, upon payment of a fee of Fifty Dollars (\$50.00) and a fee of ~~Seventy-five Dollars (\$75.00)~~ One Hundred Dollars (\$100.00) for the certified ~~shorthand~~ reporter examination which will be deposited with the Clerk of the Supreme Court. The temporary certificate shall be nonrenewable, except in emergency situations as determined by the Chief Justice and for no longer than ninety (90) additional days;

e. The appointment of an official court reporter by a district or presiding judge shall be subject to the approval of the Chief Justice. Before giving his approval to the appointment, the Chief Justice shall determine, with the aid of the Administrative Director of the Courts, that the appointing judge has given proper consideration to the statutory preference accorded herein to certified and licensed reporters; and

f. A temporary court reporter, either while so serving or after the expiration of this appointment, shall be required to transcribe any testimony and other proceedings taken by him and to certify that the transcription is true and correct. A transcript certified by a temporary court reporter shall have the same effect as one certified by a regular court reporter.

SECTION 3. AMENDATORY 20 O.S. 1981, Section 106.4, as amended by Section 1, Chapter 39, O.S.L. 1989 (20 O.S. Supp. 1990, Section 106.4), is amended to read as follows:

Section 106.4 (a) The court reporter shall make a full reporting by means of stenographic hand, steno-mask, multichannel electronics recordings, or machine notes, or a combination thereof, of all proceedings, including the statements of counsel and the court and the evidence, in trials and other judicial proceedings to which he is assigned by the appointing judge unless excused by the judge who is trying the case with the consent of the parties to the action. ~~Nothing herein contained shall be construed to authorize~~

~~the certification of persons as certified shorthand reporters who rely exclusively upon the steno-mask for reporting judicial proceedings, except as provided by law.~~ A refusal of the court to permit or to require any statement to be taken down by the court reporter or transcribed after being taken down, upon the same being shown by affidavit or other direct and competent evidence, to the Supreme Court, or other appellate court, shall constitute a denial of due process of law. The court reporter may use an electronic instrument as a supplementary device. In any trial, hearing or proceedings, the judge before whom the matter is being heard may, unless objection is made by a party or counsel, order the proceedings electronically recorded. A trial or proceedings may proceed without the necessity of a court reporter being present, unless there is objection by a party or counsel. Provided that if an official transcript is ordered then it shall be prepared by the official court reporter.

(b) Upon request of either party in a civil or criminal case the reporter shall transcribe the proceedings in a trial or other judicial proceeding, or so much thereof as may be requested by the party, certify to the correctness of the transcript, and deliver the same in accordance with the rules of the Supreme Court. The fee for an original transcript shall be Two Dollars and fifty cents (\$2.50) per page. Two copies of the original transcript shall be furnished without additional charge. Each page shall be at least twenty-five lines to the page and typed in ten-point pica type. Said page as mentioned herein shall be no more than double spaced and the margin on the left side of the page shall be no more than one and one-half (1 1/2) inches and the margin on the right side of the page shall be no more than one-half (1/2) inch from the edge of the paper. The format for all transcripts shall be prescribed by the Supreme Court. The fees for making the transcript shall be paid in the first

instance by the party requesting the transcript and shall be taxed as costs in the suit.

When the judge of his own motion orders a transcript of the reporter's notes, the judge may direct the payment of charges therefor and the taxation of the charges as costs in such manner as to him may seem just. In a criminal action, if the defendant shall present to the judge his affidavit that he intends in good faith to take an appeal in the case and that a transcript of the reporter's notes is necessary to enable him to prosecute the appeal, and that he has not the means to pay for the transcript, the court, upon finding that there is reasonable basis for the averment, shall order the transcript made at the expense of the district court fund. The format preparation, delivery and filing of transcripts to be used in civil and criminal appeals may be regulated by the Supreme Court.

(c) The court reporter shall file his records of the evidence and the proceedings taken in any case with the clerk of the court in which the case was tried.

(d) To the extent that it does not substantially interfere with the court reporter's other official duties, the judge by whom a reporter is employed or to whom he is assigned may assign a reporter to secretarial or clerical duties arising out of official court operations.

SECTION 4. AMENDATORY 20 O.S. 1981, Section 1501, as amended by Section 1, Chapter 105, O.S.L. 1984 (20 O.S. Supp. 1990, Section 1501), is amended to read as follows:

Section 1501. There is hereby re-created, to continue until July 1, ~~1990~~ 1996, in accordance with the provisions of the Oklahoma Sunset Law, the State Board of Examiners of Official ~~Shorthand~~ Reporters which shall consist of five (5) members, all of whom shall be certified ~~shorthand~~ reporters. The members shall be persons who have been, for at least five (5) years prior to their appointment to the Board, residents of this state and certified ~~shorthand~~

reporters. All members shall be appointed by the Chief Justice of the Supreme Court and shall serve in staggered terms, each for a period of five (5) years. No member may serve more than one term in succession. The Board shall elect from its membership a chairman and a secretary. Three members shall constitute a quorum. The Board may adopt a seal for its official use. All actions of the Board shall be supervised by the Supreme Court and be subject to approval by the Court.

SECTION 5. AMENDATORY 20 O.S. 1981, Section 1502, is amended to read as follows:

Section 1502. The Board shall have the following duties:

- a. Conduct preliminary investigations to determine the qualifications of applicants seeking to attain the status of certified ~~shorthand~~ reporters;
- b. Conduct at least once a year, at a place and time to be published by ample notice given to all interested parties, an examination of those persons who seek to attain the status of certified ~~shorthand~~ reporters. The Board may also give examinations for a certificate of proficiency and for a certificate of merit;
- c. Recommend to the Supreme Court for official enrollment as certified court reporters those persons who, on their examination, have established the requisite proficiency in taking testimony and proceedings and in preparing accurate transcripts thereof;
- d. Conduct proceedings, on reasonable notice, the object of which is to recommend to the Supreme Court the suspension, cancellation, revocation or reinstatement of the enrollment of a certified or licensed court reporter or of the status of any acting court reporter, regular or temporary, on the following grounds:
 1. conviction of a felony or misdemeanor involving moral turpitude;
 2. misrepresentation in obtaining enrollment;

3. any violation of, or noncompliance with any rule or directive of the Supreme Court;
4. fraud, gross incompetence or neglect;
5. any other violation of duties; or
6. nonpayment of renewal dues.

In all hearings or investigations on revocation, cancellation or suspension of enrollment, each Board member shall be empowered to administer oaths and affirmations, subpoena witnesses and take evidence anywhere in the state, after giving reasonable notice to the party whose status is sought to be affected.

e. Adopt, with the approval of the Chief Justice, examination standards and rules governing enrollment, discipline, suspension, cancellation and revocation proceedings and any other matter within the Board's cognizance.

f. Keep a current roll of certified court reporters and a file on all disciplined court reporters, official or unofficial, regular or temporary.

SECTION 6. AMENDATORY 20 O.S. 1981, Section 1503, is amended to read as follows:

Section 1503. a. Every applicant who seeks to be examined for enrollment as a certified ~~shorthand~~ reporter shall prove to the satisfaction of the Board that he is of legal age, meets the requisite standards of ethical fitness and has at least a high school education or its equivalent.

b. Every applicant for enrollment as a certified ~~shorthand~~ reporter shall be required, on examination, to demonstrate proficiency in reporting testimony and proceedings. Every applicant for enrollment, using the shorthand method of reporting, shall be required to demonstrate proficiency in reporting at a speed of not less than two hundred (200) words per minute for courtroom testimony, not less than two hundred twenty-five (225) words per minute for deposition testimony, and not less than one hundred

eighty (180) words per minute for literary testimony, in taking a question-and-answer type dictation only, and no other type, and in preparing an accurate transcription thereof that is reasonably free from spelling, grammar, and punctuation errors. Every applicant for enrollment, using the multichannel electronics or steno-mask method of reporting, shall be required, on examination, to demonstrate proficiency in reporting testimony and proceedings, and shall prepare an accurate transcription thereof that is reasonably free from spelling, grammar, and punctuation errors. Every applicant for enrollment as a certified video reporter shall be required to demonstrate, on examination, proficiency in video reporting and to pass a written examination. Any examination or test given shall be approved by the Supreme Court. The Board may not increase or decrease such minimum speed requirement, by rule or otherwise.

c. As used in paragraph b hereof, the phrase "proficiency in reporting testimony and proceedings" means proficiency in verbatim reporting by use of any generally recognized system of symbols or abbreviations written with pen or pencil, stenotype, steno-mask, or similar machines, proficiency in verbatim reporting by use of a multichannel courtroom system, or such other method as may be from time to time approved by the Supreme Court.

SECTION 7. AMENDATORY 20 O.S. 1981, Section 1504, as amended by Section 9, Chapter 299, O.S.L. 1986 (20 O.S. Supp. 1990, Section 1504), is amended to read as follows:

Section 1504. The following persons shall be entitled to enrollment as licensed court reporters without examination:

a. Any noncertified court reporter who was engaged and serving on March 1, 1969, as an official court reporter for the district or superior court;

b. ~~Any person deemed by the Board to hold an equivalent license from another state who is a resident of Oklahoma, provided his credentials are found to be in proper order; and~~

~~e.~~ Any person who, prior to July 1, 1978, was an acting shorthand reporter under a certificate issued by the Chief Justice of the Oklahoma Supreme Court; and

c. Any person who, prior to January 1, 1990, was engaged professionally as a multichannel electronics reporter or steno-mask reporter and is a resident of this state.

SECTION 8. AMENDATORY 20 O.S. 1981, Section 1506, as amended by Section 2, Chapter 204, O.S.L. 1989 (20 O.S. Supp. 1990, Section 1506), is amended to read as follows:

Section 1506. The Board shall charge the following fees:

a. ~~Seventy-five Dollars (\$75.00)~~ One Hundred Dollars (\$100.00) for an examination fee for a bona fide resident of the state;

b. One Hundred Fifty Dollars (\$150.00) for an examination fee for a nonresident of the state;

c. One Hundred Fifty Dollars (\$150.00) for an application to enroll a ~~certified shorthand~~ licensed reporter without an examination;

d. Seventy-five Dollars (\$75.00) as ~~an~~ a bi-annual renewal fee to be paid by all persons enrolled as certified or licensed ~~shorthand~~ reporters.

SECTION 9. AMENDATORY 20 O.S. 1981, Section 1508, as amended by Section 4, Chapter 204, O.S.L. 1989 (20 O.S. Supp. 1990, Section 1508), is amended to read as follows:

Section 1508. A. Certified and Licensed Shorthand Reporters:

Every person enrolled as a certified shorthand reporter shall be entitled to use the abbreviation C.S.R. after his name and shall receive from the Board, ~~without additional charge,~~ a metal seal with his name and the words "Oklahoma Certified Shorthand Reporter". Every person enrolled as a licensed shorthand reporter shall be entitled to use the abbreviation L.S.R. after his name ~~and shall receive from the Board, without additional charge, a metal seal with his name and the words "Oklahoma Licensed Shorthand Reporter".~~

B. Certified and Licensed Electronics and Steno-mask Reporters:

1. Every person enrolled as a certified electronics reporter shall be entitled to use the abbreviation C.E.R. after his name.

2. Every person enrolled as a licensed electronics reporter shall be entitled to use the abbreviation L.E.R. after his name.

3. Every person enrolled as a certified steno-mask reporter shall be entitled to use the abbreviation C.M.R. after his name.

4. Every person enrolled as a licensed steno-mask reporter shall be entitled to use the abbreviation of L.M.R.

C. Every person enrolled as C.S.R., C.E.R. or C.M.R., L.S.R., L.E.R., or L.M.R. shall be entitled to receive from the Board, for an additional charge of Twenty Dollars (\$20.00), a metal seal with his name and the words, "Oklahoma Certified Shorthand Reporter", "Oklahoma Certified Electronics Reporter", "Oklahoma Certified Steno-Mask Reporter", "Oklahoma Licensed Shorthand Reporter", "Oklahoma Licensed Electronics Reporter", or "Oklahoma Licensed Steno-Mask Reporter".

D. Acting court reporters shall not be allowed the use of a seal. The determination of the format and construction of the seal shall rest with the Supreme Court of the State of Oklahoma. The Oklahoma Supreme Court shall determine the procedures to be used in the distribution of all ~~shorthand~~ reporter seals provided for in this section. Certified ~~shorthand~~ reporters shall be authorized to issue affidavits in respect to their regular duties, to subpoena witnesses for depositions, administer oaths and affirmations, and to take depositions or other sworn statements, with authority equal to that of a notary public. Licensed ~~shorthand~~ reporters shall have the same authority while employed as official court reporters.

SECTION 10. AMENDATORY 74 O.S. 1981, Section 3903, as last amended by Section 1, Chapter 254, O.S.L. 1989 (74 O.S. Supp. 1990, Section 3903), is amended to read as follows:

Section 3903. The following statutory entities and their successors shall be terminated on July 1, 1990, and all powers, duties and functions shall be abolished one (1) year thereafter:

1. Oklahoma State Committee of Plumbing Examiners as created by Section 1004 of Title 59 of the Oklahoma Statutes;

2. Water and Sewage Works Operators Certification Advisory Council as created by Section 1103 of Title 59 of the Oklahoma Statutes;

3. Special Agency Account Board as created by Section 7.2 of Title 62 of the Oklahoma Statutes;

~~4. State Board of Examiners of Official Shorthand Reporters as created by Section 1501 of Title 20 of the Oklahoma Statutes; and~~

~~5.~~ Emergency Medical Services Advisory Council as created by Section 330.80 of Title 63 of the Oklahoma Statutes; and

~~6.~~ 5. Private Prison Industries Board as created by Section 546 of Title 57 of the Oklahoma Statutes.

SECTION 11. REPEALER 20 O.S. 1981, Section 1505, is hereby repealed.

SECTION 12. Sections 2 through 11 of this act shall become effective July 1, 1991.

SECTION 13. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-1-5391 SD