

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2749

By: Coleman

AS INTRODUCED

An Act relating to shorthand and court reporters; amending 12 O.S. 1991, Section 3228, as last amended by Section 5, Chapter 253, O.S.L. 1995 (12 O.S. Supp. 1995, Section 3228), which relates to persons authorized to take depositions; modifying who may take depositions; amending 20 O.S. 1991, Section 106.4, which relates to duties of court reporters; modifying methods of reporting; providing that additional method does not authorize certification of certain persons; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 1991, Section 3228, as last amended by Section 5, Chapter 253, O.S.L. 1995 (12 O.S. Supp. 1995, Section 3228), is amended to read as follows:

Section 3228. A. DEPOSITIONS TAKEN WITHIN OKLAHOMA. Within this state, 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 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 officer who is either a certified shorthand reporter (CSR) or a licensed shorthand reporter (LSR); provided however, ~~on~~ and after the effective date of this act beginning March 10, 1992, any person who was taking depositions by the steno-mask method of reporting within this state prior to January 1, 1990, and beginning November 1, 1996, any person who was taking depositions by the multichannel method of reporting within this state prior to January 1, 1990, may continue to take depositions within this state if the person provides to the State Board of Examiners of Official Shorthand Reporters or successor entity of the Board a certification, signed by a judge of the district court and by an attorney licensed to practice law in this state, declaring that the person has taken depositions that were admitted into evidence in any court of this state. The certification shall be submitted within thirty (30) days of the effective date ~~of this act~~ provided for in this subsection for the method to be used to the State Board of Examiners of Official Shorthand Reporters or successor entity of the Board who shall issue said person a certificate as an acting court reporter permitting the person to take depositions or other sworn statements, subpoena witnesses for depositions, issue affidavits in respect to the regular duties of the person, and administer oaths and affirmations with authority equal to that of a notary public.

B. DEPOSITIONS TAKEN OUTSIDE OF OKLAHOMA. Depositions may be taken outside of Oklahoma:

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. 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. 1991, 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 electronic 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~~ the reporter 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 or multichannel method of reporting 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~~ on the judge's 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~~ the judge may seem just. In a criminal action, if the defendant shall present to the judge ~~his~~ an affidavit that ~~he~~ the defendant 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~~ the defendant to prosecute the appeal, and that ~~he~~ the defendant 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~~ the reporter's 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~~ the reporter is assigned may assign a reporter to secretarial or clerical duties arising out of official court operations.

SECTION 3. This act shall become effective November 1, 1996.

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