

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 SENATE BILL 1356

By: Anderson

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5  
6 AS INTRODUCED

7 An Act relating to court reporter records; amending  
8 20 O.S. 2011, Sections 106.4, 106.4a, 1006, 1010 and  
9 1011, which relate to transcripts, destruction of  
10 records and notes, and removal of exhibits; deleting  
11 method of certain reporting; authorizing modification  
12 of certain fee; directing delivery of certain copies;  
13 requiring filing of certain material; authorizing  
14 court reporter to destroy certain exhibits; providing  
15 for destruction of certain materials; stating  
16 exception; providing for removal of certain materials  
17 from court reporter under certain circumstances; and  
18 providing an effective date.

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

20 SECTION 1. AMENDATORY 20 O.S. 2011, Section 106.4, is  
21 amended to read as follows:

22 Section 106.4. A. The court reporter shall make a full  
23 reporting by means of stenographic hand, ~~steno-mask~~ or machine  
24 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 the court 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~~

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

17 B. Upon request of either party in a civil or criminal case,  
18 the reporter shall transcribe the proceedings in a trial or other  
19 judicial proceeding, or so much thereof as may be requested by the  
20 party, certify to the correctness of the transcript, and deliver the  
21 same in accordance with the rules of the Supreme Court. The fee for  
22 an original transcript shall be Three Dollars and fifty cents  
23 (\$3.50) per page, or as prescribed by the Supreme Court. Two copies  
24 of the original transcript shall be furnished without additional

1 charge. In any court where the use of electronic transcripts and  
2 exhibits has been implemented by the Supreme Court, the court  
3 reporter shall deliver the electronic copy of the transcript  
4 directly to the person ordering the transcript, by electronic mail  
5 or as otherwise agreed between the court reporter and that person.

6 Each page shall be at least twenty-five lines to the page and typed  
7 no fewer than nine characters to the typed inch. Each page shall be  
8 no more than double spaced and the margin on the left side of the  
9 page shall be no more than one and one-half (1 1/2) inches and the  
10 margin on the right side of the page shall be no more than one-half  
11 (1/2) inch from the edge of the paper. The format for all  
12 transcripts shall be prescribed by the Supreme Court. The fees for  
13 making the transcript shall be paid in the first instance by the  
14 party requesting the transcript and shall be taxed as costs in the  
15 suit.

16 When the judge on his or her own motion orders a transcript of  
17 the reporter's notes, the judge may direct the payment of charges  
18 and the taxation of the charges as costs in such manner as the court  
19 deems appropriate. In a criminal action, if the defendant shall  
20 present to the judge an affidavit that the defendant intends in good  
21 faith to take an appeal in the case and that a transcript of the  
22 reporter's notes is necessary to enable the defendant to prosecute  
23 the appeal, and that he or she has not the means to pay for the  
24 transcript, the court, upon finding that there is reasonable basis

1 for the averment, shall order the transcript made at the expense of  
2 the district court fund. The format preparation, delivery and  
3 filing of transcripts to be used in civil and criminal appeals may  
4 be regulated by the Supreme Court.

5 C. The court reporter shall file his or her records of the  
6 evidence and the proceedings taken in any case with the clerk of the  
7 court in which the case was tried. Where the Supreme Court has  
8 provided for the filing of electronic transcripts and exhibits, the  
9 court reporter shall file or maintain such electronic transcripts  
10 and exhibits as prescribed by the Supreme Court.

11 D. To the extent that it does not substantially interfere with  
12 the court reporter's other official duties, the judge by whom a  
13 reporter is employed or to whom he or she is assigned may assign a  
14 reporter to secretarial or clerical duties arising out of official  
15 court operations.

16 SECTION 2. AMENDATORY 20 O.S. 2011, Section 106.4a, is  
17 amended to read as follows:

18 Section 106.4a. A transcript of the court reporter's notes,  
19 upon request and for the use of an indigent defendant or a district  
20 attorney, may not be charged to the court fund unless, before its  
21 preparation, the cost to be incurred was authorized by written  
22 judicial order.

23 When a judge authorizes or orders a transcript of the court  
24 reporter's notes of any proceeding to be prepared at the expense of

1 the court fund, or where a prosecuting attorney orders such a  
2 transcript at public or court fund expense and the accused as an  
3 indigent is constitutionally entitled to a free copy of the  
4 transcript, a reporter shall prepare an original and two copies of  
5 the transcript so ordered and file it with the clerk of the trial  
6 court. The court reporter shall immediately notify the district  
7 attorney and the defendant of the date the transcript was filed. The  
8 district attorney and the defendant shall have access to the copies  
9 of the transcript on such terms as the trial court may impose. The  
10 chief judge may prescribe rules for access to or disposition of the  
11 copies of the transcript. In any court where the use of electronic  
12 transcripts and exhibits has been implemented by the Supreme Court,  
13 the court reporter shall deliver the electronic copy of the  
14 transcript directly to the district attorney and the defendant, or  
15 the attorney for the defendant, by electronic mail or as otherwise  
16 agreed between the court reporter and that person.

17 SECTION 3. AMENDATORY 20 O.S. 2011, Section 1006, is  
18 amended to read as follows:

19 Section 1006. A. Unless there is an objection by the chief  
20 judge of the district court, the court reporter or the court clerk  
21 is authorized to destroy all exhibits in all domestic relations  
22 cases in which there has been no activity for more than twenty (20)  
23 years, and exhibits in all other civil cases in which there has been  
24 no activity for more than ten (10) years.

1 B. The chief judge may direct a court reporter to destroy a  
2 court reporter's notes after the expiration of ten (10) years from  
3 the date of a proceeding, or, if a proceeding has not resulted in an  
4 appeal upon which a request has been made to transcribe the  
5 proceeding, all notes of a court reporter may be destroyed  
6 immediately upon completion of transcription of a proceeding.

7 C. No pleadings or judgments shall be destroyed under the  
8 provisions of this section.

9 SECTION 4. AMENDATORY 20 O.S. 2011, Section 1010, is  
10 amended to read as follows:

11 Section 1010. A. A deceased court reporter's notes may be  
12 destroyed by a person lawfully in possession of the notes after a  
13 one-year period has elapsed following the death of the court  
14 reporter the expiration of ten (10) years from the date of a  
15 proceeding. All notes of a court reporter may be destroyed  
16 immediately upon completion of a transcription of a proceeding.

17 B. In any court where the use of electronic transcripts and  
18 exhibits has been implemented by the Supreme Court, upon the death  
19 of a court reporter, the chief judge or designee of the chief judge  
20 shall obtain one copy of all electronic exhibits and notes taken by  
21 the deceased court reporter and provide them to the trial court  
22 administrator, if any, or if there is no trial court administrator  
23 in the district court, then to the court clerk. The chief judge  
24 shall exercise due diligence in meeting this responsibility. The

1 trial court administrator or court clerk shall be authorized to  
2 destroy the materials in accordance with the time periods provided  
3 in Section 1006 of this title and Section 1327 of Title 22 of the  
4 Oklahoma Statutes. This subsection shall not apply to any court  
5 reporter's notes or exhibits which have been transcribed or filed in  
6 a case.

7 SECTION 5. AMENDATORY 20 O.S. 2011, Section 1011, is  
8 amended to read as follows:

9 Section 1011. A. 1. Unless otherwise ordered by a judge of  
10 the district court, each court reporter who has been employed by a  
11 district court of this state shall remove all exhibits, notes and  
12 other materials from the custody of the court clerk within thirty  
13 (30) days after termination of employment with that district court  
14 by the court reporter. In the event that the court reporter fails  
15 to remove the property in a timely manner, the court clerk or trial  
16 court administrator shall be authorized to destroy the materials  
17 ~~after six (6) months have elapsed since termination of the court~~  
18 ~~reporter's employment~~ in accordance with the time periods provided  
19 in Section 1006 of this title and Section 1327 of Title 22 of the  
20 Oklahoma Statutes.

21 2. In any court where the use of electronic transcripts and  
22 exhibits has been implemented by the Supreme Court, upon termination  
23 of employment with the court, the court reporter shall deliver one  
24 copy of all electronic exhibits and notes taken by the court

1 reporter to the trial court administrator, if any, or if there is no  
2 trial court administrator in the district court, then to the court  
3 clerk, and shall also provide an electronic index of all exhibits  
4 and notes being delivered. The trial court administrator or court  
5 clerk shall be authorized to destroy the materials in accordance  
6 with the time periods provided in Section 1006 of this title and  
7 Section 1327 of Title 22 of the Oklahoma Statutes. This subsection  
8 shall not apply to any court reporter's notes or exhibits which have  
9 been transcribed or filed in a case.

10 B. It shall be mandatory that the offering party in any case  
11 shall take possession of all exhibits offered in a case at the  
12 conclusion of an appeal, or after the appeal time has elapsed if no  
13 appeal is taken, except in capital murder and workers' compensation  
14 cases. In any court where the use of electronic exhibits has been  
15 implemented by the Supreme Court, the rules of the Supreme Court  
16 shall govern the possession, retention, and filing of exhibits  
17 offered in a case.

18 C. 1. The reporting notes of all certified shorthand reporters  
19 may be kept in any form of communication or representation including  
20 paper, electronic, or magnetic media or other technology capable of  
21 reproducing for transcription the testimony of the proceedings  
22 according to standards or guidelines for the preservation and  
23 reproduction of the medium adopted by the American National  
24 Standards Institute or the Association for Information and Image

1 Management. Reporting notes shall be stored in an environment free  
2 from excessive moisture, temperature variation and electromagnetic  
3 fields if stored on a medium other than paper.

4 2. If the reporting notes are kept in any form other than  
5 paper, one duplicate backup copy of the notes shall be stored in a  
6 manner and place that reasonably assures its preservation.

7 3. A periodic review of the media on which the reporting notes  
8 are stored shall be conducted to assure that a storage medium is not  
9 obsolete and that current technology is capable of accessing and  
10 reproducing the records for the required retention period.

11 SECTION 6. This act shall become effective November 1, 2014.

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