



Judicial Council of California

520 Capitol Mall, Suite 600 · Sacramento, California 95814-4717

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PATRICIA GUERRERO

*Chief Justice of California
Chair of the Judicial Council*

SHELLEY CURRAN

Administrative Director

January 8, 2024

Hon. Anthony Portantino, Chair
Senate Appropriations Committee
1021 O Street, Suite 7630
Sacramento, California 95814

Subject: Senate Bill 662 (Rubio), as amended April 27, 2023 – Support

Dear Senator Portantino:

The Judicial Council supports SB 662, which permits a court to electronically record any civil case if an official reporter or an official reporter pro tempore is unavailable, as specified. The bill requires that the court make every effort to hire a court reporter before electing to electronically record the action or proceedings pursuant to these provisions. It requires a court to provide a certified shorthand reporter, as specified, the right of first refusal to transcribe an electronically reported proceeding.

In addition, the bill requires the Court Reporters Board to review its licensing examination to determine whether it is necessary to require applicants who have passed the National Court Reporters Association's or the National Verbatim Reporters Association's certification examination, to demonstrate competency as a certified shorthand reporter. The bill requires the Board to evaluate whether the California-specific examination should be replaced with acceptance of the National Court Reporter's Association's or the National Verbatim Reporter's Association's certification examination to establish proficiency in machine shorthand reporting or voice writing. It requires the Board to submit its findings to the Legislature by June 1, 2024, during its regular Joint Sunset Review Oversight Hearings.

Finally, the bill requires the Judicial Council to collect information from courts regarding how they are utilizing funds appropriated to recruit and hire court reporters. It requires, beginning January 1, 2025, and annually thereafter until all such funds are expended, the Council to report to the Legislature the efforts courts have taken to hire and retain court reporters and how the funds appropriated for this purpose have been spent.

In expanding electronic reporting to all civil case types, SB 662 is consistent with the Council’s adopted [2023 Legislative Priorities](#) that include “Continu[ing] to promote the availability of verbatim records of court proceedings by working collaboratively to address court reporter shortages and exploring innovations in technology.”

Due to the well documented court reporter shortage, the prohibitive cost of hiring a private court reporter, and existing statutory restrictions on the use of electronic reporting, many parties today lack access to a verbatim record.¹

The California Supreme Court, in a 2018 opinion, stated that “the absence of a verbatim record of trial court proceedings will often have a devastating effect” on a litigant’s ability to have an appeal decided on the merits.² Without an accurate and complete transcript, these parties are for all practical purposes unable to meaningfully exercise their right to appeal. Removing the statutory case type restrictions and expanding the use of electronic reporting, which increases access to a verbatim record, promotes access to justice.

Next, SB 662 demonstrates a clear policy preference for court reporters by explicitly requiring that courts make every effort to hire a court reporter before permitting electronic recording. The bill also provides a right of first refusal to certified shorthand reporters if a transcript of an electronic recording is requested. Notably, under SB 662, these requirements would apply to both the civil cases added by the bill as well as existing case types in which electronic recording is already currently authorized.³

SB 662 also takes steps to address the court reporter shortage by requiring the Court Reporters Board to review its licensing requirements. It is hoped that this will help ease the critical shortage by expanding the pool of court reporters.

Finally, the bill requires the Council to track and report to the Legislature on funds appropriated to recruit and hire court reporters. This reporting requirement is similar to other reporting requirements already in statute. Because the Council is already tracking the purchase and lease of ER equipment by trial courts and providing semiannual reports to the Legislature pursuant to section 69958 of the Government Code, it is anticipated that the bill’s reporting requirement would not be unreasonably burdensome.

¹ *Fact Sheet: Shortage of Certified Shorthand Reporters in California*, Judicial Council of California, January 2024. There were 4,752 California-licensed court reporters residing in the state as of July 1, 2023. However, according to the California Department of Consumer Affairs [data portal](#), between FY 2013–14 and FY 2021–22, the number of total licensees has declined 19.2 percent and the number of new license applications has declined 70.1 percent. Just 35 new licenses were issued statewide in 2021–22.

² *Jameson v. Desta* (2018) 5 Cal.5th 594, 622.

³ Electronic recording is currently authorized in limited civil, misdemeanor, and infraction proceedings when a court reporter is unavailable (Gov. Code, § 69957(a)).

Hon. Anthony Portantino

January 8, 2024

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During July–September 2023 alone, an estimated 133,000 family, probate, and unlimited civil hearings were held in California with no verbatim record. This represents 38.8 percent of reported hearings in these case types. An additional 81,900 hearings in these case types had no court-provided reporter and it is unknown whether a verbatim record was captured by a private court reporter, representing 23.9 percent of reported hearings in these case types.

Certified Shorthand Reporters are the preferred way to provide a record; however, the number of court reporters is not keeping pace with the need. This threatens access to justice for all Californians, especially those who cannot afford to pay thousands of dollars for their own private court reporter when the court does not have enough court reporters to staff civil courtrooms.

As noted in *Jameson*, the lack of a verbatim record will “frequently be fatal” to a litigant’s ability to have an appeal decided on the merits.⁴ Victims seeking protective orders, such as victims of domestic violence or elder abuse, may have difficulty appealing the denial of a protective order because they don’t have a record. In civil matters, an appellate court may be unable to review a party’s claim of error in the trial court. In criminal proceedings, the lack of a sufficient record may impact a defendant’s constitutional rights of due process and equal protection.⁵

For these reasons, the Judicial Council supports SB 662.

Should you have any questions or require additional information, please contact Aviva Simon at 916-323-3121.

Sincerely,



Cory T. Jasperson
Director
Governmental Affairs

CTJ/AS/emu
Attachment

cc: Members, Senate Appropriations Committee
Hon. Susan Rubio, Member of the Senate, 22nd District
Ms. Christy Bouma, Legislative Affairs Secretary, Office of the Governor
Ms. Shelley Curran, Administrative Director, Judicial Council of California

⁴ *Jameson*, *supra*, 5 Cal.5th at 608, fn. 1.

⁵ *In re Armstrong* (1981) 126 Cal.App.3d 565; *March v. Mun. Ct.* (1972) 7 Cal.3d 422.

Fact Sheet: Shortage of Certified Shorthand Reporters in California

January 2024



Background

The California Supreme Court, in a 2018 opinion, stated that “the absence of a verbatim record of trial court proceedings will often have a devastating effect” on a litigant’s ability to have an appeal decided on the merits.¹ The verbatim record is captured and transcribed exclusively by certified shorthand reporters (court reporters) in case types where a court reporter is required² and electronic recording is not authorized.³ Parties may arrange for the services of a court reporter in other case types.⁴ However, a declining number of court reporters threatens access to justice for court users, especially Californians who can’t afford to pay for their own court reporter.

Number of Court-Employed Reporters Falls Short of Need

According to the fiscal year (FY) 2022–23 Schedule 7A, courts employ approximately 1,200 FTE (full-time equivalent) court reporters. To meet minimum requirements,⁵ it is estimated that California courts may need up to an additional 650 full-time court reporters.⁶ In addition to court reporters employed by the courts, courts also contract with pro tempore⁷ reporters to help meet the need.

California trial courts reported in recent surveys that between January 1 and September 30, 2023:

- 43 of the 58 courts actively recruited for court reporters;
- 69.3 (FTE) court reporters were hired, 16.5 (FTE) of whom came from other courts (23.8% of all hires); and
- 84.1 (FTE) court reporters have left employment at the courts, for a net loss of 14.8 (FTE) reporters.⁸

Recruitment and Retention Challenges

California courts are challenged to recruit and retain court reporters to meet the needs of court users and legal requirements. These challenges include an ever-decreasing number of California-licensed court reporters and difficulty competing with private employers in the labor market.

Declining availability of California-licensed court reporters

There were 4,752 California-licensed court reporters residing in the state as of July 1, 2023.⁹ However, according to the California Department of Consumer Affairs, between FY 2013–14 and FY 2021–22 the total number of licensees declined 19.2% and the number of new license applications declined 70.1%.¹⁰ Potential indicators that the decline will continue include:

- *Challenging pathway to licensure:* Thirty-five new licenses were issued statewide in 2021–22.^{11,12} Of the 271 individuals who applied to take the skills (dictation) portion of the past three California certified shorthand reporter exams (held Nov. 2022, Mar. 2023, and July 2023), 31.7% passed. The November 2022 exam was the first to include voice writing; a total of 17 individuals have since passed the skills exam as voice writers.¹³

¹ *Jameson v. Desta* (2018) 5 Cal.5th 594, 622.

² Felony and juvenile cases.

³ Electronic recording is not authorized except in limited civil, misdemeanor, and infraction proceedings when a court reporter is unavailable (Gov. Code, § 69957(a)).

⁴ Courts must also provide an official court reporter in civil cases when a party with a fee waiver requests one, and the proceeding cannot otherwise be electronically recorded.

⁵ Covering all case types where a court reporter is required or electronic recording is not authorized.

⁶ “Need” is calculated by applying the Resource Assessment Study estimate of court reporter need of 1.25 times the assessed judicial need for each included case type, www.courts.ca.gov/29305.htm.

⁷ Refers to an individual who is retained by the court on an intermittent or contractual basis.

⁸ Court Reporter Recruitment, Retention, and Attrition dashboard, www.courts.ca.gov/76328.htm.

⁹ Court Reporters Board: December 13, 2023, Board Meeting Packet, www.courtreportersboard.ca.gov/about-us/20231213_packet.pdf.

¹⁰ Department of Consumer Affairs data portal, www.dca.ca.gov/data/annual_license_stats.shtml.

¹¹ *Ibid.*

¹² Only eight court reporting programs recognized by the state remain open (down from 17 schools in 2010), www.courtreportersboard.ca.gov/applicants/school_info.shtml. However, students may also qualify for California’s Certified Shorthand Reporter exam by obtaining national certification demonstrating proficiency in machine shorthand reporting or voice writing.

¹³ Court Reporters Board, School Examination Statistics, www.courtreportersboard.ca.gov/applicants/examstats.shtml.

Fact Sheet: Shortage of Certified Shorthand Reporters in California

January 2024



- *Court reporters likely nearing retirement:* The National Court Reporters Association reported the average age of its court reporter members to be approximately 55 as of December 31, 2022.¹⁴ In California, approximately 44.9% of all active licenses were issued at least 30 years ago.¹⁵

Compensation

Court reporters in California courts are paid, on average, 51% more than other nonmanager court positions. At the same time, the declining number of court reporters in California has created a tight and competitive labor market, exacerbating compensation pressures. According to the FY 2022–23 Schedule 7A, court-employed reporters' median total salary plus benefits is estimated to be \$183,940.¹⁶ This is significantly lower than the cost to hire a court reporter through a private company: \$2,580/day for a deposition and \$3,300/day for a trial, on average.¹⁷ Additionally, transcripts must be purchased from court reporters. In 2021, the Legislature increased the statutory transcript fees by approximately 30%.¹⁸ In FY 2022–23, California courts spent \$22.6 million on transcripts.¹⁹

Current Recruitment and Retention Efforts

Trial courts are implementing a variety of incentives to recruit and retain court reporters. Between July 1 and September 30, 2023, approximately 82.9% of trial courts that are actively recruiting utilized at least one incentive to recruit and retain court reporters. These incentives included signing bonuses (63.4% of actively recruiting courts offered signing bonuses), retention and longevity bonuses (39.0%), increased salary ranges (41.5%), finder's fees (39.0%), student loan or tuition reimbursement incentives (29.3%), and more.²⁰ For example, the Los Angeles court is offering a \$50,000 signing bonus and \$25,000 finder's fee for court employees who refer a court reporter, Riverside offered up to \$32,500 in retention payments over three years, and Contra Costa provides a \$50,000 tuition reimbursement fund for existing court employees to use toward pursuing court reporter certification.

Importance of the Verbatim Record

Between July 1 and September 30, 2023, of 343,200 family, probate, and unlimited civil hearings in California, an estimated 133,000 hearings had no verbatim record (38.8% of reported hearings), and an additional estimated 81,900 hearings (23.9%) had no court-provided reporter and it is unknown whether a verbatim record was captured by a private court reporter.²¹ The lack of a verbatim record will "frequently be fatal" to a litigant's ability to have an appeal decided on the merits.²² For example, victims seeking protective orders, such as victims of domestic violence or elder abuse, may have difficulty appealing the denial of a protective order because they don't have a record. In civil matters, an appellate court may be unable to review a party's claim of error in the trial court. In criminal proceedings, the lack of a sufficient record may impact a defendant's constitutional rights of due process and equal protection.²³ California appellate courts have also ordered new criminal proceedings where a reporter's notes were destroyed or lost, there were substantial issues on appeal, and there was no adequate substitute for the notes.²⁴

¹⁴ National Court Reporters Association, www.ncra.org/home/about-ncra/NCRA-Statistics.

¹⁵ Department of Consumer Affairs, Licensee List (as of Nov. 2023), www.dca.ca.gov/consumers/public_info/index.shtml.

¹⁶ Median value of estimated salary and benefit costs statewide by the filled court reporter FTEs.

¹⁷ Data provided by a survey of 49 private consumer attorneys. It is unknown how much of the court reporter rate charged by companies is provided to the reporter in the form of compensation and how much is kept by the company.

¹⁸ [Sen. Bill 170 \(Stats. 2021, ch. 240\)](#).

¹⁹ 2022–23 Schedule 7A total court statewide transcript expenditures, excluding Electronic Recording.

²⁰ Court Reporter Recruitment, Retention, and Attrition dashboard, www.courts.ca.gov/76328.htm.

²¹ Courts were asked to provide the number of hearings without a verbatim record and the number of total hearings for each of these case types or in the aggregate. Where a court provided the number of hearings without a verbatim record for a case type but not the corresponding total hearings (or vice versa), that case type data was removed from the data set.

²² *Jameson, supra*, 5 Cal.5th at 608, fn. 1.

²³ *In re Armstrong* (1981) 126 Cal.App.3d 565; *March v. Municipal Court* (1972) 7 Cal.3d 422.

²⁴ *People v. Jones* (1981) 125 Cal.App.3d 298; *People v. Apalatequi* (1978) 82 Cal.App.3d 970; see Pen. Code, § 1181(9).



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*Chief Justice of California
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MILLICENT TIDWELL

Acting Administrative Director

May 3, 2023

Hon. Anthony Portantino, Chair
Senate Appropriations Committee
1021 O Street, Ste 7630
Sacramento, California 95814

Subject: Senate Bill 662 (Rubio), as amended April 27, 2023 – Support
Hearing: Senate Appropriations Committee – May 8, 2023

Dear Senator Portantino:

The Judicial Council supports SB 662, which permits a court to electronically record any civil case if an official reporter or an official reporter pro tempore is unavailable, as specified. The bill requires that the court make every effort to hire a court reporter before electing to electronically record the action or proceedings pursuant to these provisions. It requires a court to provide a certified shorthand reporter, as specified, the right of first refusal to transcribe an electronically reported proceeding.

In addition, the bill requires the Court Reporters Board to review its licensing examination to determine whether it is necessary to require applicants who have passed the National Court Reporters Association's or the National Verbatim Reporters Association's certification examination, to demonstrate competency as a certified shorthand reporter. The bill requires to Board to evaluate whether the California-specific examination should be replaced with acceptance of the National Court Reporter's Association's or the National Verbatim Reporter's Association's certification examination to establish proficiency in machine shorthand reporting or voice writing. It requires the Board to submit its findings to the Legislature by June 1, 2024, during its regular Joint Sunset Review Oversight Hearings.

Finally, the bill requires the Judicial Council to collect information from courts regarding how they are utilizing funds appropriated to recruit and hire court reporters. It requires, beginning January 1, 2025, and annually thereafter until all such funds are expended, the Council to report to the Legislature the efforts courts have taken to hire and retain court reporters and how the funds appropriated for this purpose have been spent.

In expanding electronic reporting to all civil case types, SB 662 is consistent with the Council's adopted [2023 Legislative Priorities](#) that include "Continu[ing] to promote the availability of verbatim records of court proceedings by working collaboratively to address court reporter shortages and exploring innovations in technology."

Due to the well documented court reporter shortage, the prohibitive cost of hiring a private court reporter, and existing statutory restrictions on the use of electronic reporting, many parties today lack access to a verbatim record.¹

The California Supreme Court, in a 2018 opinion, stated that "the absence of a verbatim record of trial court proceedings will often have a devastating effect" on a litigant's ability to have an appeal decided on the merits.² Without an accurate and complete transcript, these parties are for all practical purposes unable to meaningfully exercise their right to appeal. Removing the statutory case type restrictions and expanding the use of electronic reporting, which increases access to a verbatim record, promotes access to justice.

Next, SB 662 demonstrates a clear policy preference for court reporters by explicitly requiring that courts make every effort to hire a court reporter before permitting electronic recording. The bill also provides a right of first refusal to certified shorthand reporters if a transcript of an electronic recording is requested. Notably, under SB 662, these requirements would apply to both the civil cases added by the bill as well as existing case types in which electronic recording is already currently authorized.³

SB 662 also takes steps to address the court reporter shortage by mandating the Court Reporters Board to review its licensing requirements. It is hoped that this will help ease the critical shortage by expanding the pool of court reporters.

Finally, the bill requires the Council to track and report to the Legislature on funds appropriated to recruit and hire court reporters. This reporting requirement is similar to other reporting requirements already in statute. Because the Council is already tracking the purchase and lease of ER equipment by trial courts and providing semiannual reports to the Legislature pursuant to section 69958 of the Government Code, it is anticipated that the bill's reporting requirement would not be unreasonably burdensome.

¹ *Fact Sheet: Shortage of Certified Shorthand Reporters in California*, Judicial Council of California, March 2023. There are 4,576 California-licensed court reporters residing in the state as of January 2023. However, according to the California Department of Consumer Affairs [data portal](#), between FY 2013–14 and FY 2020–21, the number of total licensees has declined 17.1 percent and the number of new license applications has declined 67.2 percent. Just 39 new licenses were issued statewide in 2020–21.

² *Jameson v. Desta* (2018) 5 Cal.5th 594, 622.

³ Electronic recording is currently authorized in limited civil, misdemeanor, and infraction proceedings when a court reporter is unavailable (Gov. Code, § 69957(a)).

Hon. Anthony Portantino

May 3, 2023

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In preparation for the March 2023 Joint Hearing of the Senate Committees on Judiciary and Public Safety, the Los Angeles Superior Court provided data on the number of civil, probate, and family law hearings during January and February 2023 where no verbatim record was created because a court reporter was not available to capture and transcribe the hearing: 26,874 unlimited civil hearings had no record, 14,052 family law hearings had no record, and 11,021 probate hearings had no record. In just two months, that is nearly 52,000 proceedings with no verbatim record. If this continues, over 300,000 hearings in civil, probate, and family law cases will be held with no verbatim record in Los Angeles in this year alone.

Certified Shorthand Reporters are the preferred way to provide this record; however, the number of court reporters is not keeping pace with the need. This threatens access to justice for all Californians, especially those who cannot afford to pay thousands of dollars for their own private court reporter when the court does not have enough court reporters to staff civil courtrooms.

As noted in *Jameson*, the lack of a verbatim record will “frequently be fatal” to a litigant’s ability to have an appeal decided on the merits.⁴ Victims seeking protective orders, such as victims of domestic violence or elder abuse, may have difficulty appealing the denial of a protective order because they don’t have a record. In civil matters, an appellate court may be unable to review a party’s claim of error in the trial court. In criminal proceedings, the lack of a sufficient record may impact a defendant’s constitutional rights of due process and equal protection.⁵

For these reasons, the Judicial Council supports SB 662.

Should you have any questions or require additional information, please contact Aviva Simon at 916-323-3121.

Sincerely,



Cory T. Jaspersen
Director, Governmental Affairs

CTJ/AS/jh

Attachment (1)

cc: Members, Senate Appropriations Committee
Hon. Susan Rubio, Member of the Senate
Mr. Matthew Fleming, Consultant, Senate Appropriations Committee
Ms. Kayla Williams, Consultant, Senate Republican Office of Policy

⁴ *Jameson*, *supra*, 5 Cal.5th at 608, fn. 1.

⁵ *In re Armstrong* (1981) 126 Cal.App.3d 565; *March v. Mun. Ct.* (1972) 7 Cal.3d 422.

Hon. Anthony Portantino

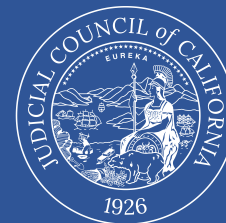
May 3, 2023

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Ms. Jessica Devencenzi, Chief Deputy Legislative Secretary, Office of the Governor
Ms. Millicent Tidwell, Acting Administrative Director, Judicial Council of California
Ms. Shelley Curran, Chief Policy & Research Officer, Judicial Council of California

Fact Sheet: Shortage of Certified Shorthand Reporters in California

March 2023



Background

The California Supreme Court, in a 2018 opinion, stated that “the absence of a verbatim record of trial court proceedings will often have a devastating effect” on a litigant’s ability to have an appeal decided on the merits.¹ The verbatim record (“record”) is captured and transcribed exclusively by Certified Shorthand Reporters (“court reporters”) in case types where a court reporter is required² and electronic recording (“ER”) is not authorized.³ Parties may arrange for the services of a court reporter in other case types.⁴ However, a declining number of court reporters threatens access to justice for court users, especially Californians who can’t afford to pay for their own court reporter.

Number of Court-Employed Reporters Falls Short of Estimated Need

According to preliminary FY 2022–23 estimates,⁵ courts employ approximately 1,200 FTE⁶ court reporters. To meet minimum requirements,⁷ it is estimated that California courts may need up to an additional 650 full-time court reporters.⁸ In addition to court reporters employed by the courts, courts also contract with pro tempore⁹ reporters to help meet the need.

Fifty-five of California’s 58 trial courts, representing 99.2 percent of filled FTE court reporter positions statewide, reported in a recent survey that:

- 74.5 percent of courts are actively recruiting for court reporters;
- Since July 1, 2022, courts hired 46 reporters, 16 of whom came from other courts (34.8 percent of all hires); and
- Since July 1, 2022, 97 court reporters have left employment at the courts, for a net loss of 51 reporters.

Recruitment and Retention Challenges

California courts are challenged to recruit and retain court reporters to meet the needs of court users and legal requirements. These challenges include (1) an ever-decreasing number of California-licensed court reporters, and (2) difficulty competing with private employers in the labor market.

Declining availability of California-licensed court reporters

There are 4,576 California-licensed court reporters residing in the state as of January 2023. However, according to the California Department of Consumer Affairs data portal,¹⁰ between FY 2013–14 and FY 2020–21, the number of total licensees has declined 17.1 percent and the number of new license applications has declined 67.2 percent. Potential indicators that the number of licensees will continue to decline in the foreseeable future include:

1. Court reporters likely nearing retirement eligibility: The National Court Reporters Association reported the average age of its court reporter members to be approximately 55 years old as of June 30, 2022.¹¹ In California, approximately 44.0 percent of all active licenses were issued at least 30 years ago.¹²

¹ *Jameson v. Desta* (2018) 5 Cal.5th 594, 622.

² Felony and juvenile cases.

³ Electronic recording is not authorized except in limited civil, misdemeanor, and infraction proceedings when a court reporter is unavailable (Gov. Code, § 69957(a)).

⁴ Courts must also provide an official court reporter in civil cases when a party with a fee waiver requests one, and the proceeding cannot otherwise be electronically recorded.

⁵ Preliminary FY 2022–23 Schedule 7A, Trial Courts’ Salary and Wages Supplement.

⁶ “FTE” is an abbreviation of “full-time equivalent.”

⁷ Covering all case types where a court reporter is required and ER is not authorized.

⁸ “Need” is calculated by applying the Resource Assessment Study (RAS) estimate of court reporter need of 1.25 times the assessed judicial need for each included case type, www.courts.ca.gov/29305.htm.

⁹ Refers to an individual who is retained by the court on an intermittent or contractual basis.

¹⁰ Department of Consumer Affairs: Data portal, www.dca.ca.gov/data/annual_license_stats.shtml.

¹¹ National Court Reporters Association, www.ncra.org/home/about-ncra/NCRA-Statistics.

¹² Department of Consumer Affairs, Licensee List (as of Jan. 2023), www.dca.ca.gov/consumers/public_info/index.shtml.

Fact Sheet: Shortage of Certified Shorthand Reporters in California

March 2023



2. **Challenging pathway to licensure:** Thirty-nine new licenses were issued statewide in 2020–21.^{13,14} In November 2022, of the 81 individuals who applied to take the skills (Dictation) portion of California’s certified shorthand reporter exam, 25.9 percent passed (compared to 23.7 and 23.1 percent in July and March of 2022, respectively). The November 2022 exam was the first to include voice writing and four of the six voice-writing applicants passed (66.7 percent).¹⁵ In March 2023, five more individuals applied to take the skills exam as voice writers.

Compensation

Court reporters in California courts are paid, on average, 51 percent higher than other nonmanager court positions. At the same time, the declining number of court reporters in California has created a tight and competitive labor market, exacerbating compensation pressures. According to the preliminary FY 2022–23 Schedule 7A, court-employed reporters’ median total salary plus benefits is estimated to be \$183,940.¹⁶ This is significantly lower than the cost to hire a court reporter through a private company: \$2,580/day for a deposition and \$3,300/day for a trial, on average.¹⁷

Additionally, transcripts must be purchased from court reporters. In 2021, the Legislature increased the statutory transcript fees by approximately 30 percent.¹⁸ In 2021–22, California courts spent \$18.4 million on transcripts.¹⁹

Current Recruitment and Retention Efforts

The 2021–22 State Budget appropriated \$30 million in ongoing funding for trial courts to increase the number of court reporters in family and civil law cases.²⁰ To increase the number of court reporters, some courts have offered increased salaries, signing bonuses, retention/longevity bonuses, and student loan forgiveness incentives. Below are the top intended uses as reported by court executive officers in a recent survey:

1. Raises
2. Salaries for new reporters
3. Signing bonuses for new reporters
4. Advertising
5. Retention bonus for existing reporters
6. Training/tuition reimbursement
7. Finder’s fees/referrals

Importance of the Verbatim Record

The lack of a verbatim record will “frequently be fatal” to a litigant’s ability to have an appeal decided on the merits.²¹ For example, victims seeking protective orders, such as victims of domestic violence or elder abuse, may have difficulty appealing the denial of a protective order because they don’t have a record. In civil matters, an appellate court may be unable to review a party’s claim of error in the trial court. In criminal proceedings, the lack of a sufficient record may impact a defendant’s constitutional rights of due process and equal protection.²² Under California law, appellate courts have also ordered new criminal proceedings where a reporter’s notes were destroyed or lost, there were substantial issues on appeal, and there was no adequate substitute for the notes.²³

¹³ Department of Consumer Affairs: Data portal, www.dca.ca.gov/data/annual_license_stats.shtml.

¹⁴ Only eight court reporting programs recognized by the state remain open, www.courtreportersboard.ca.gov/applicants/examstats_112022.pdf. However, students may also qualify for California’s Certified Shorthand Reporter exam by obtaining national certification demonstrating proficiency in machine shorthand reporting or voice writing.

¹⁵ Court Reporters Board, School Examination Statistics, www.courtreportersboard.ca.gov/applicants/index.shtml.

¹⁶ Median value of estimated salary and benefit costs statewide by the filled court reporter FTEs.

¹⁷ Data provided by a survey of 49 private consumer attorneys. It is unknown how much of the court reporter rate charged by companies is provided to the reporter in the form of compensation and how much is kept by the company.

¹⁸ [Sen. Bill 170 \(Stats. 2021, ch. 240\)](#).

¹⁹ 2021–22 Schedule 7A total court statewide transcript expenditures, excluding Electronic Recording.

²⁰ [Sen. Bill 170 \(Stats. 2021, ch. 240\)](#); [Sen. Bill 154 \(Stats. 2021, ch. 43\)](#).

²¹ *Jameson*, *supra*, 5 Cal.5th at 608, fn. 1.

²² *In re Armstrong* (1981) 126 Cal.App.3d 565; *March v. Mun. Ct.* (1972) 7 Cal.3d 422.

²³ *People v. Jones* (1981) 125 Cal.App.3d 298; *People v. Apalatequi* (1978) 82 Cal.App.3d 970; see also Pen. Code, § 1181(9).



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MILLICENT TIDWELL

Acting Administrative Director

April 17, 2023

Hon. Richard Roth, Chair
Senate Business, Professions & Economic Development Committee
1021 O Street, Ste 7510
Sacramento, California 95814

Subject: Senate Bill 662 (Rubio), as amended March 20, 2023 – Support
Hearing: Senate Business, Professions & Economic Development Committee – April 24,
2023

Dear Senator Roth:

The Judicial Council supports SB 662, which permits a court to electronically record any civil case if an official reporter or an official reporter pro tempore is unavailable, as specified. The bill requires that the court make every effort to hire a court reporter before electing to electronically record the action or proceedings pursuant to these provisions. It requires a court to provide a certified shorthand reporter, as specified, the right of first refusal to transcribe an electronically reported proceeding.

In addition, the bill authorizes the Court Reporters Board of California to issue a provisional certificate, that would be valid for 3 years, to an individual who has passed the Registered Professional Reporter examination administered by the National Court Reporters Association or who is eligible to take the examination to become a certified shorthand reporter approved by the board, as specified.

Finally, the bill requires the Judicial Council to collect information from courts regarding how they are utilizing funds appropriated to recruit and hire court reporters. It requires, beginning January 1, 2025, and annually thereafter until all such funds are expended, the Council to report to the Legislature the efforts courts have taken to hire and retain court reporters and how the funds appropriated for this purpose have been spent.

In expanding electronic reporting to all civil case types, SB 662 is consistent with the Council's adopted [2023 Legislative Priorities](#) that include "Continu[ing] to promote the availability of

verbatim records of court proceedings by working collaboratively to address court reporter shortages and exploring innovations in technology.”

Due to the well documented court reporter shortage, the prohibitive cost of hiring a private court reporter, and existing statutory restrictions on the use of electronic reporting, many parties today lack access to a verbatim record.¹

The California Supreme Court, in a 2018 opinion, stated that “the absence of a verbatim record of trial court proceedings will often have a devastating effect” on a litigant’s ability to have an appeal decided on the merits.² Without an accurate and complete transcript, these parties are for all practical purposes unable to meaningfully exercise their right to appeal. Removing the statutory case type restrictions and expanding the use of electronic reporting, which increases access to a verbatim record, promotes access to justice.

Next, SB 662 demonstrates a clear policy preference for court reporters by explicitly requiring that courts make every effort to hire a court reporter before permitting electronic recording. The bill also provides a right of first refusal to certified shorthand reporters if a transcript of an electronic recording is requested. Notably, under SB 662, these requirements would apply to both the civil cases added by the bill as well as existing case types in which electronic recording is already currently authorized.³

SB 662 also takes steps to address the court reporter shortage by permitting the Court Reporters Board to issue a provisional certificate to an individual who has passed the National Court Reporters Association exam or who is eligible to take the examination to become a certified shorthand reporter. It is hoped that this will help ease the critical shortage by expanding the pool of court reporters.

Finally, the bill requires the Council to track and report to the Legislature on funds appropriated to recruit and hire court reporters. This reporting requirement is similar to other reporting requirements already in statute. Because the Council is already tracking the purchase and lease of ER equipment by trial courts and providing semiannual reports to the Legislature pursuant to section 69958 of the Government Code, it is anticipated that the bill’s reporting requirement would not be unreasonably burdensome.

¹ *Fact Sheet: Shortage of Certified Shorthand Reporters in California*, Judicial Council of California, March 2023. There are 4,576 California-licensed court reporters residing in the state as of January 2023. However, according to the California Department of Consumer Affairs [data portal](#), between FY 2013–14 and FY 2020–21, the number of total licensees has declined 17.1 percent and the number of new license applications has declined 67.2 percent. Just 39 new licenses were issued statewide in 2020–21.

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Hon. Richard Roth

April 17, 2023

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Certified Shorthand Reporters are the preferred way to provide this record; however, the number of court reporters is not keeping pace with the need. This threatens access to justice for all Californians, especially those who cannot afford to pay thousands of dollars for their own private court reporter when the court does not have enough court reporters to staff civil courtrooms.

As noted in *Jameson*, the lack of a verbatim record will "frequently be fatal" to a litigant's ability to have an appeal decided on the merits.⁴ Victims seeking protective orders, such as victims of domestic violence or elder abuse, may have difficulty appealing the denial of a protective order because they don't have a record. In civil matters, an appellate court may be unable to review a party's claim of error in the trial court. In criminal proceedings, the lack of a sufficient record may impact a defendant's constitutional rights of due process and equal protection.⁵

For these reasons, the Judicial Council supports SB 662.

Should you have any questions or require additional information, please contact Aviva Simon at 916-323-3121.

Sincerely,



Cory T. Jaspersen
Director, Governmental Affairs

CTJ/AS/jh

Attachment (1)

cc: Members, Senate Business, Professions & Economic Development Committee
Hon. Susan Rubio, Member of the Senate
Ms. Elissa Silva, Consultant, Senate Business and Professions Committee
Ms. Kayla Williams, Consultant, Senate Republican Office of Policy

⁴ *Jameson*, *supra*, 5 Cal.5th at 608, fn. 1.

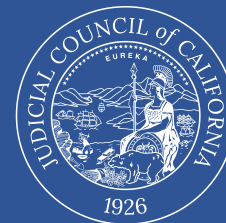
⁵ *In re Armstrong* (1981) 126 Cal.App.3d 565; *March v. Mun. Ct.* (1972) 7 Cal.3d 422.

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Ms. Jessica Devencenzi, Chief Deputy Legislative Secretary, Office of the Governor
Ms. Millicent Tidwell, Acting Administrative Director, Judicial Council of California
Ms. Shelley Curran, Chief Policy & Research Officer, Judicial Council of California

Fact Sheet: Shortage of Certified Shorthand Reporters in California

March 2023



Background

The California Supreme Court, in a 2018 opinion, stated that “the absence of a verbatim record of trial court proceedings will often have a devastating effect” on a litigant’s ability to have an appeal decided on the merits.¹ The verbatim record (“record”) is captured and transcribed exclusively by Certified Shorthand Reporters (“court reporters”) in case types where a court reporter is required² and electronic recording (“ER”) is not authorized.³ Parties may arrange for the services of a court reporter in other case types.⁴ However, a declining number of court reporters threatens access to justice for court users, especially Californians who can’t afford to pay for their own court reporter.

Number of Court-Employed Reporters Falls Short of Estimated Need

According to preliminary FY 2022–23 estimates,⁵ courts employ approximately 1,200 FTE⁶ court reporters. To meet minimum requirements,⁷ it is estimated that California courts may need up to an additional 650 full-time court reporters.⁸ In addition to court reporters employed by the courts, courts also contract with pro tempore⁹ reporters to help meet the need.

Fifty-five of California’s 58 trial courts, representing 99.2 percent of filled FTE court reporter positions statewide, reported in a recent survey that:

- 74.5 percent of courts are actively recruiting for court reporters;
- Since July 1, 2022, courts hired 46 reporters, 16 of whom came from other courts (34.8 percent of all hires); and
- Since July 1, 2022, 97 court reporters have left employment at the courts, for a net loss of 51 reporters.

Recruitment and Retention Challenges

California courts are challenged to recruit and retain court reporters to meet the needs of court users and legal requirements. These challenges include (1) an ever-decreasing number of California-licensed court reporters, and (2) difficulty competing with private employers in the labor market.

Declining availability of California-licensed court reporters

There are 4,576 California-licensed court reporters residing in the state as of January 2023. However, according to the California Department of Consumer Affairs data portal,¹⁰ between FY 2013–14 and FY 2020–21, the number of total licensees has declined 17.1 percent and the number of new license applications has declined 67.2 percent. Potential indicators that the number of licensees will continue to decline in the foreseeable future include:

1. Court reporters likely nearing retirement eligibility: The National Court Reporters Association reported the average age of its court reporter members to be approximately 55 years old as of June 30, 2022.¹¹ In California, approximately 44.0 percent of all active licenses were issued at least 30 years ago.¹²

¹ *Jameson v. Desta* (2018) 5 Cal.5th 594, 622.

² Felony and juvenile cases.

³ Electronic recording is not authorized except in limited civil, misdemeanor, and infraction proceedings when a court reporter is unavailable (Gov. Code, § 69957(a)).

⁴ Courts must also provide an official court reporter in civil cases when a party with a fee waiver requests one, and the proceeding cannot otherwise be electronically recorded.

⁵ Preliminary FY 2022–23 Schedule 7A, Trial Courts’ Salary and Wages Supplement.

⁶ “FTE” is an abbreviation of “full-time equivalent.”

⁷ Covering all case types where a court reporter is required and ER is not authorized.

⁸ “Need” is calculated by applying the Resource Assessment Study (RAS) estimate of court reporter need of 1.25 times the assessed judicial need for each included case type, www.courts.ca.gov/29305.htm.

⁹ Refers to an individual who is retained by the court on an intermittent or contractual basis.

¹⁰ Department of Consumer Affairs: Data portal, www.dca.ca.gov/data/annual_license_stats.shtml.

¹¹ National Court Reporters Association, www.ncra.org/home/about-ncra/NCRA-Statistics.

¹² Department of Consumer Affairs, Licensee List (as of Jan. 2023), www.dca.ca.gov/consumers/public_info/index.shtml.

Fact Sheet: Shortage of Certified Shorthand Reporters in California

March 2023



2. **Challenging pathway to licensure:** Thirty-nine new licenses were issued statewide in 2020–21.^{13,14} In November 2022, of the 81 individuals who applied to take the skills (Dictation) portion of California’s certified shorthand reporter exam, 25.9 percent passed (compared to 23.7 and 23.1 percent in July and March of 2022, respectively). The November 2022 exam was the first to include voice writing and four of the six voice-writing applicants passed (66.7 percent).¹⁵ In March 2023, five more individuals applied to take the skills exam as voice writers.

Compensation

Court reporters in California courts are paid, on average, 51 percent higher than other nonmanager court positions. At the same time, the declining number of court reporters in California has created a tight and competitive labor market, exacerbating compensation pressures. According to the preliminary FY 2022–23 Schedule 7A, court-employed reporters’ median total salary plus benefits is estimated to be \$183,940.¹⁶ This is significantly lower than the cost to hire a court reporter through a private company: \$2,580/day for a deposition and \$3,300/day for a trial, on average.¹⁷

Additionally, transcripts must be purchased from court reporters. In 2021, the Legislature increased the statutory transcript fees by approximately 30 percent.¹⁸ In 2021–22, California courts spent \$18.4 million on transcripts.¹⁹

Current Recruitment and Retention Efforts

The 2021–22 State Budget appropriated \$30 million in ongoing funding for trial courts to increase the number of court reporters in family and civil law cases.²⁰ To increase the number of court reporters, some courts have offered increased salaries, signing bonuses, retention/longevity bonuses, and student loan forgiveness incentives. Below are the top intended uses as reported by court executive officers in a recent survey:

1. Raises
2. Salaries for new reporters
3. Signing bonuses for new reporters
4. Advertising
5. Retention bonus for existing reporters
6. Training/tuition reimbursement
7. Finder’s fees/referrals

Importance of the Verbatim Record

The lack of a verbatim record will “frequently be fatal” to a litigant’s ability to have an appeal decided on the merits.²¹ For example, victims seeking protective orders, such as victims of domestic violence or elder abuse, may have difficulty appealing the denial of a protective order because they don’t have a record. In civil matters, an appellate court may be unable to review a party’s claim of error in the trial court. In criminal proceedings, the lack of a sufficient record may impact a defendant’s constitutional rights of due process and equal protection.²² Under California law, appellate courts have also ordered new criminal proceedings where a reporter’s notes were destroyed or lost, there were substantial issues on appeal, and there was no adequate substitute for the notes.²³

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¹⁴ Only eight court reporting programs recognized by the state remain open, www.courtreportersboard.ca.gov/applicants/examstats_112022.pdf. However, students may also qualify for California’s Certified Shorthand Reporter exam by obtaining national certification demonstrating proficiency in machine shorthand reporting or voice writing.

¹⁵ Court Reporters Board, School Examination Statistics, www.courtreportersboard.ca.gov/applicants/index.shtml.

¹⁶ Median value of estimated salary and benefit costs statewide by the filled court reporter FTEs.

¹⁷ Data provided by a survey of 49 private consumer attorneys. It is unknown how much of the court reporter rate charged by companies is provided to the reporter in the form of compensation and how much is kept by the company.

¹⁸ [Sen. Bill 170 \(Stats. 2021, ch. 240\)](#).

¹⁹ 2021–22 Schedule 7A total court statewide transcript expenditures, excluding Electronic Recording.

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²³ *People v. Jones* (1981) 125 Cal.App.3d 298; *People v. Apalatequi* (1978) 82 Cal.App.3d 970; see also Pen. Code, § 1181(9).



Judicial Council of California

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Telephone 916-323-3121 · Fax 916-323-4347

PATRICIA GUERRERO

*Chief Justice of California
Chair of the Judicial Council*

MILLICENT TIDWELL

Acting Administrative Director

April 11, 2023

Hon. Thomas Umberg, Chair
Senate Judiciary Committee
1021 O Street, Ste 6730
Sacramento, California 95814

Subject: Senate Bill 662 (Rubio), as amended March 20, 2023 – Support
Hearing: Senate Judiciary Committee – April 18, 2023

Dear Senator Umberg:

The Judicial Council supports SB 662, which permits a court to electronically record any civil case if an official reporter or an official reporter pro tempore is unavailable, as specified. The bill requires that the court make every effort to hire a court reporter before electing to electronically record the action or proceedings pursuant to these provisions. It requires a court to provide a certified shorthand reporter, as specified, the right of first refusal to transcribe an electronically reported proceeding.

In addition, the bill authorizes the Court Reporters Board of California to issue a provisional certificate, that would be valid for 3 years, to an individual who has passed the Registered Professional Reporter examination administered by the National Court Reporters Association or who is eligible to take the examination to become a certified shorthand reporter approved by the board, as specified.

Finally, the bill requires the Judicial Council to collect information from courts regarding how they are utilizing funds appropriated to recruit and hire court reporters. It requires, beginning January 1, 2025, and annually thereafter until all such funds are expended, the Council to report to the Legislature the efforts courts have taken to hire and retain court reporters and how the funds appropriated for this purpose have been spent.

In expanding electronic reporting to all civil case types, SB 662 is consistent with the Council's adopted [2023 Legislative Priorities](#) that include "Continu[ing] to promote the availability of verbatim records of court proceedings by working collaboratively to address court reporter

shortages and exploring innovations in technology.” Due to the well documented court reporter shortage, the prohibitive cost of hiring a private court reporter, and existing statutory restrictions on the use of electronic reporting, many parties today lack access to a verbatim record.¹ The California Supreme Court, in a 2018 opinion, stated that “the absence of a verbatim record of trial court proceedings will often have a devastating effect” on a litigant’s ability to have an appeal decided on the merits.² Without an accurate and complete transcript, these parties are for all practical purposes unable to meaningfully exercise their right to appeal. Removing the statutory case type restrictions and expanding the use of electronic reporting, which increases access to a verbatim record, promotes access to justice.

Next, SB 662 demonstrates a clear policy preference for court reporters by explicitly requiring that courts make every effort to hire a court reporter before permitting electronic recording. The bill also provides a right of first refusal to certified shorthand reporters if a transcript of an electronic recording is requested. Notably, under SB 662, these requirements would apply to both the civil cases added by the bill as well as existing case types in which electronic recording is already currently authorized.³

SB 662 also takes steps to address the court reporter shortage by permitting the Court Reporters Board to issue a provisional certificate to an individual who has passed the National Court Reporters Association exam or who is eligible to take the examination to become a certified shorthand reporter. It is hoped that this will help ease the critical shortage by expanding the pool of court reporters.

Finally, the bill requires the Council to track and report to the Legislature on funds appropriated to recruit and hire court reporters. This reporting requirement is similar to other reporting requirements already in statute. Because the Council is already tracking the purchase and lease of ER equipment by trial courts and providing semiannual reports to the Legislature pursuant to section 69958 of the Government Code, it is anticipated that the bill’s reporting requirement would not be unreasonably burdensome.

In preparation for last month's Joint Hearing of the Senate Committees on Judiciary and Public Safety, the Los Angeles Superior Court provided data on the number of civil, probate and family law hearings during January and February 2023 where no verbatim record was created because a court reporter was not available to capture and transcribe the hearing: 26,874 unlimited civil hearings had no record, 14,052 family law hearings had no record, and 11,021 probate hearings

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Hon. Thomas Umberg

April 11, 2023

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Should you have any questions or require additional information, please contact Aviva Simon at 916-323-3121.

Sincerely,



Cory T. Jaspersen
Director, Governmental Affairs

CTJ/AS/jh

Attachment (1)

cc: Members, Senate Judiciary Committee
Hon. Susan Rubio, Member of the Senate
Ms. Allison Meredith, Counsel, Senate Judiciary Committee
Mr. Morgan Branch, Consultant, Senate Republican Office of Policy
Ms. Jessica Devencenzi, Chief Deputy Legislative Secretary, Office of the Governor
Ms. Millicent Tidwell, Acting Administrative Director, Judicial Council of California
Ms. Shelley Curran, Chief Policy & Research Officer, Judicial Council of California

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Fact Sheet: Shortage of Certified Shorthand Reporters in California

March 2023



Background

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Number of Court-Employed Reporters Falls Short of Estimated Need

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Fact Sheet: Shortage of Certified Shorthand Reporters in California

March 2023



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