



Judicial Council of California

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

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

PATRICIA GUERRERO
Chief Justice of California
Chair of the Judicial Council

MICHELLE CURRAN
Administrative Director

June 30, 2025

Hon. Thomas J. Umberg
Chair, Senate Judiciary Committee
1021 O Street, Room 3240
Sacramento, California 95814

Subject: Assembly Bill 882 (Papan), as amended on June 23, 2025—Oppose unless amended
Hearing: Senate Judiciary Committee July 15, 2025

Dear Senator Umberg:

The Judicial Council regrettably opposes Assembly Bill 882, unless amended. The bill purports to expand electronic recording (ER) authority but only to a limited number of litigants for a very limited amount of time—until January 1, 2028—while at the same time placing overly burdensome restrictions on the courts' ability to utilize that authority and on the public's ability to access a record of their proceedings. The bill further violates the principle of separation of powers by dictating court administrative practices and procedures, inappropriately interferes with collective bargaining and personnel practices, includes provisions that require automatic hiring of all certified court reporters who apply for a job, and that remove the management right of the court to assign court reporters to best meet the needs of the public.

Pursuant to California Rule of Court, rule [10.12\(a\)](#), positions on legislation are taken by the internal Legislation Committee on behalf of the Judicial Council. Chief Justice Guerrero and Justice Corrigan took no part in any deliberation or discussions of this decision, and have both recused themselves on any electronic recording issues that may come before the council.

We share a mutual commitment to maintaining the integrity of and access to the judicial record and want to work in collaboration with you and all interested stakeholders to address the court reporter shortage crisis. To that end, we urge amendments to authorize ER only when a court reporter is not available, for all civil cases and all parties, and remove the restrictions dictating court administrative practices and procedures that inappropriately interfere with collective bargaining and personnel practices. These changes would make the bill substantially similar to

Senator Rubio's bill ([SB 662](#)), sponsored by legal aid, that both Senate Judiciary and Senate Business, Professions & Economic Development Committees unanimously approved last session.

This is a critical access to justice issue in the courts that must be addressed. Unfortunately, the many onerous requirements and restrictive provisions in AB 882 seem designed to thwart the use of electronic recording to the fullest extent possible.

In its 2018 *Jameson v. Desta* ruling, the California Supreme Court 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.

Concerns about litigants’ inability to obtain these records in civil proceedings led the Family Violence Appellate Project and Bay Area Legal Aid to file a writ petition that is pending with the California Supreme Court. Resolution of this petition will provide more guidance to all interested parties and stakeholders on how litigants’ constitutional rights to a verbatim record intersect with existing statutory restrictions on the use of ER.

As documented on the [Court Reporter Shortage Dashboard](#), between April 1, 2023 and March 31, 2025, more than 1.7 million family, probate, and unlimited civil hearings were held in California courts with no verbatim record. Ironically, thousands of these hearings took place in courtrooms fully equipped with approved ER equipment¹ that could have been used to produce verbatim records; however, state law forbids the use of this equipment.

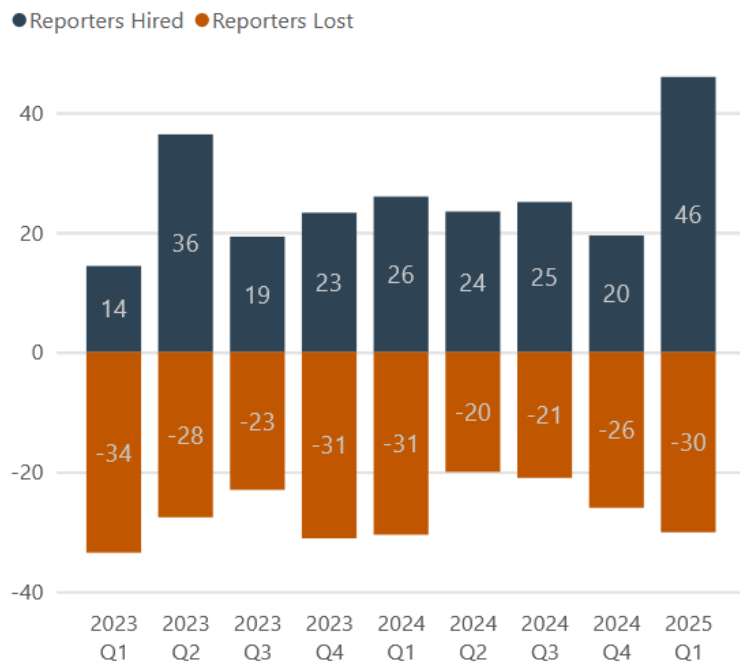
Net Loss of Court Reporters

Despite ongoing funding provided by the Legislature and widespread use of incentives to recruit and retain court reporters, courts continue to lose court reporters faster than they can hire them and faster than the state can license them. Between January 1, 2023 and March 31, 2025, California courts reported that 233.5 (FTE) court reporters were hired; however, 45.6 (FTE) of those new hires came from other courts (19.5% of all hires) and 242.8 (FTE) court reporters left positions at the courts, resulting in a **net loss of -9.3 (FTE) reporters**.

¹ Since 1975, courts have been authorized, only when a court reporter is not available, to use ER in misdemeanor, infraction, and limited civil cases. There are detailed rules of court for certifying the transcripts as well as specific technology requirements and standards for ER equipment, see [rule 2.952\(g\)](#), which requires the person making a written transcript of an electronic recording to execute a declaration under penalty of perjury and stating that the transcript is a full, true, and correct transcript, see also [rule 2.954](#) for detailed specifications and requirements for electronic recording equipment).

Hired vs. lost court reporters

Courts continue to lose more reporters than they can hire



Number of courts using each type of incentive²



Court reporters are the preferred way to provide a record; however, the number of court reporters licensed by the California Court Reporters Board is not keeping pace with the need.

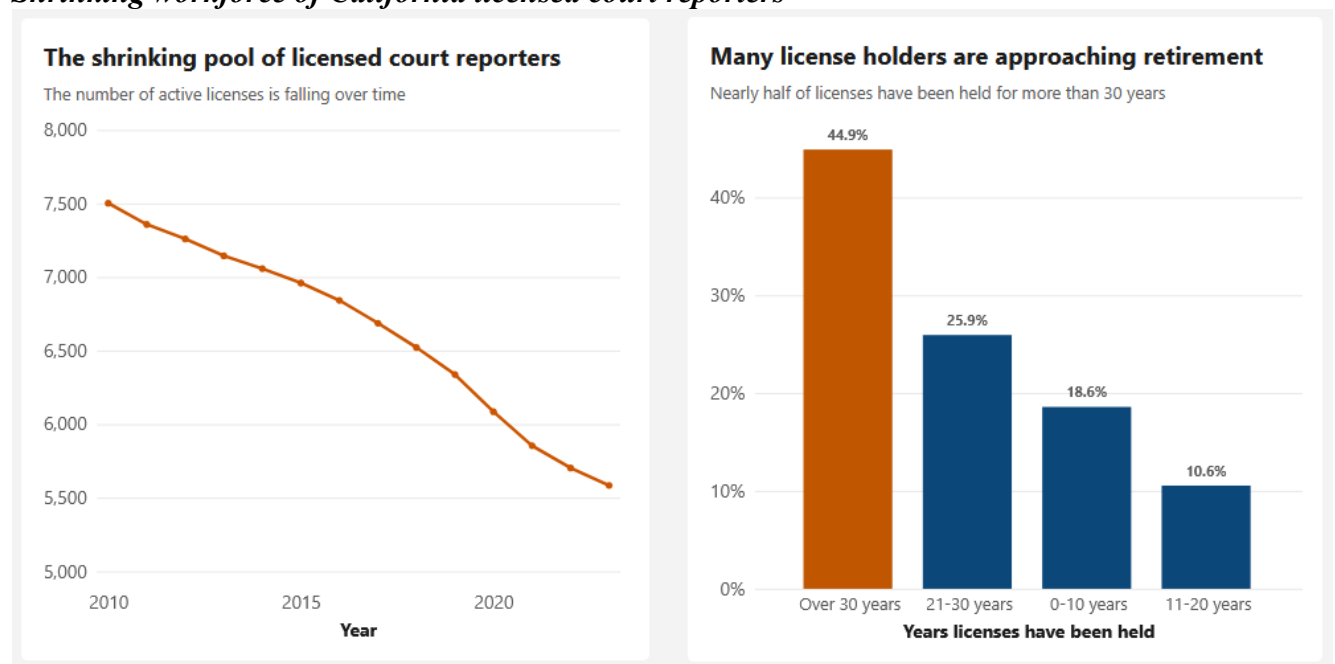
Year	New Licenses Issued
FY 2015-16	72
FY 2016-17	75

² Court reporter data and charts can be found on the Judicial Council's Court Reporter Shortage data dashboard, <https://courts.ca.gov/news-reference/research-data/shortage-court-reporters-california>.

FY 2017-18	86
FY 2018-19	32
FY 2019-20	66
FY 2020-21	39
FY 2021-22	35
FY 2022-23	68
FY 2023-24	123

While last year's number of licensees increased over prior years—likely due to the 2022 authorization for voice writers to be licensed—there is still a 20 percent decline in the total number of licensees since 2013 (a loss of over 1,300 reporters) and the estimated need for 691 additional full-time court reporters identified by the Legislative Analyst's Office in their [2024 report](#) to cover all non-mandated case types where electronic recording is not allowed. The LAO also highlighted that approximately two-thirds of active in-state licensees received their initial license prior to 2001 and could be approaching retirement.

Shrinking workforce of California licensed court reporters³



Policy and Fiscal Impact

The bill's language seems designed to thwart, rather than expand, the use of electronic recording. Specifically, litigants must provide one-day advance written notice to request a record in a department where court reporters are not regularly assigned. However, most litigants, especially self-represented litigants, might not be aware of the one-day notice requirement or which

³ Department of Consumer Affairs Data Portal, www.dca.ca.gov/data/annual_license_stats.shtml.

department may or may not have a court reporter or otherwise be unable to comply (the court itself may not be able to determine whether or not a court reporter will be available until the day of the hearing). The problem is not the length of time for the notice, but rather, that it creates an administrative barrier to litigants that serves no purpose. Further, the court would be required to turn over these notices to labor unions for unspecified purposes.

AB 882 raises serious separation of powers issues by dictating court administrative practices and procedures and inappropriately interferes with collective bargaining and personnel practices.

Automatic hiring provisions encroach on the independence of the courts by removing their right to exercise discretion in hiring decisions.

“The court shall offer employment to all certified shorthand reporters who apply for official reporter positions unless there is good cause for rejecting the applicant. In the event of a dispute, the court shall have the burden of showing that an applicant was rejected for good cause...”

This provision would require courts to hire all certified candidates who apply, with no limitations and little discretion, and places the burden on the courts to prove “good cause” for rejecting an applicant—setting up litigation against any court that declines to hire any certified applicant. This is untenable for many reasons.

The bill blurs the line of judicial independence and undermines collective bargaining by forcing burdensome personnel practices on the courts, including removing the management right to assign court reporters where the courts determine they are needed.

“Courts shall not, without the consent of the official reporter, reassign an official reporter who was regularly assigned to a family law, probate, or other civil department on the effective date of this section where the reassignment would create a need to use electronic recording in that department.”

Consider what would happen if there is a last day felony trial with no time waiver and the assigned court reporter calls in sick that day. If a court reporter could not be reassigned from another civil department, the court would be faced with dismissing the pending criminal matter if an assigned court reporter would not consent to cover it.

The prohibition on using ER in criminal proceedings conflicts with courts’ existing general orders that allow the use of ER in felony proceedings under specified circumstances when a court reporter is not available.

Labor issues abound in the bill, and represented and non-represented court reporters alike would be given the right to file grievances for any violations of the statute. These grievances would be resolved by binding arbitration with the burden of proof placed on the courts to justify any action.

Granting rights to anyone, represented or otherwise, to grieve the provisions of a statute is inappropriate. Grievances are appropriate for resolving issues involving the implementation of a collective bargaining agreement or MOU, not for adjudicating alleged violations of law.

The entire labor section in the bill is highly problematic. No other public sector employment statute, including both the *Trial Court Employment Protection and Governance Act* (Trial Court Act) and the *Trial Court Interpreter Employment and Labor Relations Act* (Interpreter Act), has such proscriptive language regarding the recruitment and hiring process.

Indeed, section [71634\(b\)\(3\)](#) of the Trial Court Act, among other things, specifically excludes electronic recording from the scope of representation relating to employment conditions and employer-employee relations.

Disputes about recruitment and use of electronic recording are not related to the terms and conditions of employment and should not be subject to grievance and binding arbitration.

Arbitration is subject to the agreement of the parties and typically not imposed by statute. It also seems unlikely that the California State Mediation & Conciliation Service (SMCS) has the resources to oversee such a process as they do not provide arbitration services, binding or otherwise. The only service SMCS currently provides is the generation of a [random list of arbitrators](#) and their resumes for a \$50 fee.

Further, binding arbitration will require the expenditure of public funds for outside counsel, transcripts, and arbitrator's fees. Given that the burden of proof is placed solely on the court for the numerous labor issues in the bill, AB 882 likely would lead to an increase in arbitrations, each of which can cost on average from \$10,000 to \$50,000, depending on the complexity of the claim and associated issues.

In addition to the increased likelihood of grievances and related costs, there likely would also be increased civil liability exposure. In addition to general employment law claims based on failure to hire based on protected categories (age, race, gender, etc.), AB 882 shifts the burden to the courts to show good cause for not hiring certified applicants. The cost of defending civil litigation is significantly higher than the cost of defending grievances because the parties are entitled to engage in discovery (including depositions) and motion practice. The cost to the Judicial Council for defending employment litigation matters can vary widely depending on the complexity of the issues, number of witnesses and other factors. Generally, defense fees and costs range from \$100,000 to \$300,000 per litigation matter.

The various labor provisions that would lead to additional grievances and litigation include:

- The court “*shall offer employment to all certified shorthand reporters who apply for official reporter positions unless there is good cause for rejecting the applicant.*” Represented and non-represented court reporters would be newly empowered to file a grievance and subject

the court to binding arbitration whenever any certified shorthand reporter is not hired. Given that the bill's language places the burden of proof to establish good cause solely on the court, it is anticipated that grievances will increase, and lead to more arbitrations where the courts will be at a significant disadvantage.

- The court *"shall not adopt any unreasonable barriers to applications or to hiring applicants. In the event of a dispute, the court shall have the burden of showing that its requirements are reasonable."* Placing this burden on the courts is unreasonable and may well increase litigation against the courts.
- The court *"shall make all reasonable efforts, consistent with the court's budget, to retain official reporters pro tempore to supplement the work of official reporters. In the event of a dispute, the court shall have the burden of showing that its efforts were reasonable."* Again, this provision will invite lawsuits and will impose an unreasonable burden on the courts.

In summary, courts have a duty to get cases heard with a verifiable record. In its current form, AB 882 only adds more administrative burdens to a court reporter shortage crisis that directly impacts access to justice. For these reasons the Judicial Council remains opposed to AB 882 unless amended to address the serious concerns detailed above. Should you have any questions or require additional information, please contact Morgan Lardizabal at 916-323-3121.

Sincerely,



Cory T. Jaspersen
Director
Governmental Affairs

Enclosure

CTJ/ML/

cc: Members, Senate Judiciary Committee
Hon. Diane Papan, Member of the Assembly, 21st District
Allison Meredith, Counsel, Senate Judiciary Committee
Morgan Branch, Consultant, Senate Republican Office of Policy
Jith Meganathan, Deputy Legislative Secretary, Office of the Governor
Michelle Curran, Administrative Director, Judicial Council of California

Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

AB 882 (Papan) Electronic court reporting.

As Amended on June 23, 2025 [The prior version of the bill is in *blue italics* with amendments in red underline or strikethrough, this is an add section, so everything is new law.]

SECTION 1. Section 69957.5 is added to the Government Code, to read:

69957.5. (a) Notwithstanding Section 69957, if a court is unable, after due diligence, to hire or retain sufficient official reporters or official reporters pro tempore ~~reporters~~ to provide verbatim records to civil litigants who cannot afford to ~~hire~~ retain a private court reporters and have requested a verbatim record of the civil proceedings, the court may, subject to the requirements of this section, use electronic recording to make a record of those civil proceedings.
~~Notwithstanding this section, electronic recording shall not be used in juvenile dependency proceedings. Electronic recording shall not be used in criminal proceedings, except as permitted by Section 69957 for misdemeanor and infraction proceedings. A transcript derived from such an electronic recording may be utilized whenever a transcript of court proceedings is required. Transcripts derived from electronic recordings shall include a designation of "inaudible" or "unintelligible" for those portions of the recording that contain no audible sound or are not discernible.~~

[Comments:

Since 1975, courts have had the authority, only when a court reporter is not available, to utilize electronic recording (ER) in misdemeanors, infractions, and limited civil cases. As documented on the [Court Reporter Shortage Dashboard](#), between April 1, 2023 and March 31, 2025, more than 1.7 million family, probate, and unlimited civil hearings were held in California with no verbatim record. Ironically, many thousands of these hearings actually took place in courtrooms fully equipped with approved ER equipment that could have been used to produce a verbatim record; however, current state law forbids such use.

AB 882 minimally expands ER authority and only to a limited number of proceedings through January 1, 2028. As set forth with greater detail below, the bill places burdensome restrictions on utilizing that limited authority, encourages litigation against the courts, raises significant separation of powers issues by dictating court administrative practices and procedures, and inappropriately interferes with collective bargaining and personnel practices, including removing the management right and obligation of the court to assign court reporters to best meet the needs of the public.

From an access to justice perspective, it is imperative that ER be authorized in all civil cases whenever an official reporter or an official reporter pro tempore is unavailable and particularly when parties cannot afford thousands of dollars to hire a private court reporter for their hearing.

Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

Also, in proceedings wherein an interpreter is required, a recording is the only way to accurately capture and preserve the complete record of what was said and whether it was interpreted correctly.

The digital recording generated by ER is not a function of AI, but rather is a tool and a service that enables a party to obtain a transcript, which is often necessary to perfect a party's subsequent appeal. In fact, as highlighted in its 2018 *Jameson v Desta* ruling, the California Supreme Court 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.

The Judicial Council's support for truly expanded authorization and use of ER is not an effort, in any way, to negatively impact the role and value placed on the professional court reporters relied upon across the state. We must underscore that ER does not replace court reporters as the authority to use ER applies only when a court reporter is unavailable. Thus, the earnest efforts to recruit and retain more court reporters can and will continue while at the same time ER can be made available to make sure parties have access to their record (and their rights to appeal). We share a mutual commitment to maintaining the integrity of, and access to the judicial record and we trust that all court professionals understand why this is a critical access to justice issue in the courts.

With respect to the current amendments: "Retain" or "retained" has been added to the bill in several places and with inconsistent meaning. In relation to the bill's hiring provisions, the word "hire" stands on its own and the references to retention suggest that "hire or retain" carries significant new meaning and might create obligations for courts to hire private reporters before using ER. Would courts be required to violate no-contracting-out laws to secure a private court reporter before using ER? Would courts, then, have to pay whatever rate the contractor is asking - potentially a rate far above that paid to its employees?

"A transcript derived from such an electronic recording may be utilized whenever a transcript of court proceedings is required. Transcripts derived from electronic recordings shall include a designation of "inaudible" or "unintelligible" for those portions of the recording that contain no audible sound or are not discernable."

This language is redundant with identical language in existing section 69957(a) and should just be cited as it is not necessary to repeat the language here. Note, that existing law also includes *"The electronic recording device and appurtenant equipment shall be of a type approved by the Judicial Council for courtroom use and shall only be purchased for use as provided by this section. A court shall not expend funds for or use electronic recording technology or equipment to make an unofficial record of an action or proceeding, including for purposes of judicial notetaking, or to make the official record of an action or proceeding in circumstances not authorized by this section."*]

Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

(b) Notwithstanding this section, electronic recording shall not be used to make the record in juvenile dependency proceedings, juvenile delinquency proceedings, proceedings under the Sexually Violent Predator Act (Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code), or other civil commitment proceedings. Electronic recording shall not be used in criminal proceedings, except as permitted by Section 69957 for misdemeanor and infraction proceedings.

[Comments:

Any reference to juvenile dependency and juvenile delinquency proceedings should be replaced with juvenile proceedings (this includes both dependency and justice/delinquency proceedings). This is necessary to maintain consistency with existing language in sections [347](#) and [677](#) of the Welfare & Institutions Code, which mandate an official court reporter in “any juvenile court hearing conducted by a juvenile court judge.”

The prohibition on ER in SVP and civil commitment proceedings is a new mandate that is not currently required in statute.

The prohibition on ER in criminal proceedings conflicts with courts’ existing general orders that allow ER in felony proceedings under specified circumstances when a court reporter is not available.]

(c) Electronic recording may be utilized in the circumstances authorized by this section only if the judicial officer presiding over the civil proceeding finds that all of the following requirements are satisfied:

(1) ~~The A~~ litigant ~~who cannot afford to hire a private court reporter~~ has requested a verbatim record of the proceeding.

(2) The litigant cannot afford to retain a private court reporter to make a verbatim record of the proceeding.

(2)

(3) No official reporter or official reporter pro tempore hired or retained by the court is available to make a verbatim record of the proceeding.

(3)

(4) No other party to the ~~proceeding, who is a low-income litigant that is unrepresented by counsel,~~ proceeding has retained a private court reporter to serve as an official reporter pro tempore for the proceeding.

[Comments:

Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

This finding remains a cumbersome requirement for volume calendars. This adds time to each case - potentially reducing the number of matters heard each day and causing further delay for litigants in family law and civil cases.

The language conflicts with the general orders that more broadly reference litigants' "reasonable inability to pay". Most self-represented litigants are unaware that they would need to request a verbatim record in advance, and most cannot afford to pay thousands of dollars for a private court reporter and so they would never attempt to retain one. Keep in mind that a single person would need to earn less than \$31,000 a year before taxes to qualify for a fee waiver. For families of four, the income level would be \$64,000.]

~~(c) (1) Except in cases of emergency, a~~

~~(d) A party to a civil proceeding who is a low-income litigant, is unrepresented by counsel, cannot afford to retain a private court reporter and who seeks to have the court make a record of an oral proceeding shall provide written notice in a department in which court reporters are not regularly provided shall submit a written request to the court at least one court day before the hearing, unless the litigant lacks advance notice of the hearing.~~

~~(2) If the official reporters employed by the court are represented by a recognized employee organization, the court shall forward a copy of that notice to the recognized employee organization on the same day it was submitted to the court.~~

[Comments:

Imposes onerous and unnecessary notice requirements by requiring a party to provide one-day notice prior to a hearing in order for a judicial officer to make the requisite findings for ER to be used. Parties (particularly pro pers) may not understand the need for making a request in advance, nor would they know about "a department in which court reporters are not regularly provided." Moreover, one-day advance notice is impracticable because the court may not know whether a court reporter will be available until the day of the hearing.

The one-day written notice would not be required if "the litigant lacks advance notice of the hearing." What is meant by advance notice? All litigants have advance notice of their hearings—that's how they know when and where to show up. So, the one-day written notice would apply to everyone. This requirement serves no purpose and is an unnecessary logistical barrier that impedes access to justice.

[Separation of Powers] This notice requirement seems designed to thwart the use of ER to the fullest extent possible. However, courts have the authority to preserve and promote the administration of justice and to protect the dignity and respect of the court. (See *People v. Shelley* (1984) 156 Cal.App.3d 521, 530.) There will be many circumstances where a party cannot strictly comply with the statute, but the administration of justice mandates that a record on appeal be available.]

Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

~~(d)~~

(e) If a court uses electronic recording to make records of civil proceedings in circumstances authorized by ~~Section 69957~~ this section, all of the following requirements shall apply:

(1) The court shall provide public notice that the court is accepting applications from certified shorthand reporters for positions as official court reporters. The court shall provide such notice to major court reporter job boards and to court reporting schools in California. The court shall maintain records of its outreach and recruitment activities.

(2) The court shall offer employment to all certified shorthand reporters who apply for official reporter positions unless there is good cause for rejecting the applicant. In the event of a dispute, the court shall have the burden of showing that an applicant was rejected for good cause. The court shall maintain records of applications received, interviews conducted, and reasons for hiring decisions.

(3) The court shall not adopt any unreasonable barriers to applications or to hiring applicants. In the event of a dispute, the court shall have the burden of showing that its requirements are reasonable.

(4) In addition to hiring official reporters, the court shall make all reasonable efforts, consistent with the court's budget, to retain official reporters pro tempore to supplement the work of official reporters. In the event of a dispute, the court shall have the burden of showing that its efforts were reasonable.

(5) (A) If the official reporters in the court are represented by a recognized employee organization, the court shall, upon request of the employee organization, meet and confer with the employee organization about the court's efforts to recruit official court reporters and provide the employee organization with the records that the court is required by this section to maintain.

(B) If the official reporters are not represented by a recognized employee organization, the court shall, upon the request of any official reporter employed by the court, provide the official reporter with the records that the court is required by this section to maintain.

(6) If the official reporters employed by the court are represented by a recognized employee organization, the court shall forward a copy of written requests submitted pursuant to subdivision (d) on the same day the request is submitted to the court.

(7) Courts shall not, without the consent of the official reporter, reassign an official reporter who was regularly assigned to a family law, probate, or other civil department on the effective date of this section where the reassignment would create a need to use electronic recording in that department.

[Comments:

JUDICIAL COUNCIL staff comments 06-30-2025;

Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

Why is this necessary? This is problematic as this is a management right, excluded from bargaining. Section [71634\(d\)](#) provides that courts “have the right to determine assignments and transfers of trial court employees; provided that the process, procedures, and criteria for assignments and transfers shall be included within the scope of representation.”

Is the intent to remove discretion from the court to determine where staff is needed? Or must the court postpone hearings and make parties wait for a reporter to become available?

What happens if there is a last day felony trial with no time waiver – if courts cannot pull someone from another department to cover, then the court is faced with dismissal of a pending criminal matter because an assigned court reporter won’t agree to cover the felony trial?]

~~(6)~~

(8) (A) If the official reporters in the court are represented by a recognized employee organization, the employee organization may file a grievance with the court if the employee organization contends that the court has violated this ~~section~~ subdivision. Unless the parties to the dispute agree upon other procedures after the dispute arises, or other procedures are provided in a memorandum of understanding or agreement with a recognized employee organization, unresolved disputes between the recognized employee organization and the court concerning a violation of this ~~section~~ subdivision shall be submitted for binding arbitration to the California State Mediation and Conciliation Service.

~~(e) Courts shall not purchase or lease electronic recording technology or equipment to make records pursuant to this section.~~

~~(f) Courts shall not, without the consent of the official reporter, displace existing official reporters from their assignments in family law, probate, and civil contempt departments in order to make records pursuant to this section.~~

[Comments:

The newly added language regarding non-represented court reporters seems to confer the rights of a recognized employee organization on individuals who are not actually part of such an organization. This creates new burdens for the court, as the court would have an obligation to share information with any unrepresented court reporter who asks for information. Would a court be required to share otherwise confidential personnel information about another employee to demonstrate and explain why a decision was made? Surely not. Further, instead of dealing with one union, the court could potentially have numerous different and potentially conflicting relationships to manage and provide information which would be very burdensome to the fair and efficient running of courts. It also creates a highly unusual precedent whereby courts might be expected to share similar types of information with non-union members in the future.

Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

This entire section is highly problematic. No other public sector employment statute, including both the Trial Court Employment Protection and Governance Act (Trial Court Act) and the Trial Court Interpreter Employment and Labor Relations Act (Interpreter Act), have such detailed language regarding the recruitment and hiring process.

Section [71634\(b\)\(3\)](#) of the Trial Court Act, among other things, specifically excludes electronic recording from the scope of representation relating to employment conditions and employer-employee relations.

[Separation of Powers] Court reporters are professionals upon whom the court relies in exercising judicial functions. They are court employees who play a key role in enabling a court to carry out its constitutional functions, including but not limited to enabling a court to fulfill its obligation of ensuring the availability of a verbatim record on appeal. The hiring and firing of all court employees is left to the discretion of each individual court, consistent with the provisions of the Trial Court Act, the Interpreter Act, the MOU between the court and union, and any applicable court personnel policies. This language would strip courts of important discretion in hiring court reporters, unless the court was able to articulate reasons that would amount to an undefined “good cause” standard. It is contrary to a court’s independence and integrity to require a court to hire essentially any licensed candidate that applies and leave the court with little discretion to reject an applicant whom the court does not find to be an appropriate fit for this sensitive and crucial position.

Is it really the intent to mandate that courts must hire anyone with a certificate? Some applicants demand higher pay than can be granted. Some demand remote work. Some show themselves to be unreliable during the recruitment process.

Placing the burden on the court to prove “good cause” for rejecting a certified shorthand reporter applicant essentially encourages litigation against any court that declines to hire any certified applicant. This is untenable in many ways and will likely result in increased civil liability exposure. In addition to general employment law basis for failure to hire based on protected categories (age, race, gender, etc.), the burden shifting to the courts to show good cause for not hiring a certified applicant exposes the courts to even greater liability. The cost of civil litigation is significantly higher than the cost of grievances because the parties are entitled to engage in legal discovery (including depositions) and motion practice.

The suggestion that courts are not hiring “available” reporters likely stems from isolated examples, which are insufficient to justify imposing new statutory requirements on courts’ recruitment and hiring processes. For example, we are aware of an instance where a court determined that a pro tem reporter with a long history of disciplinary issues was not “available” even though they wanted to work, given their history of misconduct.

JUDICIAL COUNCIL staff comments 06-30-2025;

Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

Provides that courts “shall not adopt any unreasonable barriers to applications or to hiring applicants. In the event of a dispute, the court shall have the burden of showing that its requirements are reasonable.” Placing this burden on the courts is unreasonable and foreshadows lawsuits.

Courts “shall make all reasonable efforts, consistent with the court’s budget, to retain official reporters pro tempore to supplement the work of official reporters. In the event of a dispute, the court shall have the burden of showing that its efforts were reasonable.” Separate from the general ambiguity behind what is intended by referencing a court’s obligation to “retain” reporters, this invites lawsuits and is an unreasonable burden on the courts.

Courts have a duty to get cases heard with a verifiable record—all of this adds more administrative burden to a court reporter crisis that directly impacts access to justice.

These are collective bargaining issues, and should be left for the parties to resolve through the meet and confer process.

The California Public Employment Relations Board (PERB) is supportive of a robust bargaining process and dictating terms and requirements with this excessive level of detail in statute is inconsistent with this.

As mentioned above, labor issues abound in the bill, and represented and non-represented reporters alike will have the right to file a grievance for any violations. These grievances would be resolved by binding arbitration, which will have a cost for outside counsel, transcripts, and arbitrator’s fees. Given the burden of proof is placed solely on the court for the various labor issues listed below, it is anticipated that the bill’s labor provisions will create a potentially significant impact on arbitration activity. Each arbitration typically costs the Judicial Council between \$10,000 to \$50,000, depending on the length and complexity of the claim and associated issues.

The various labor provisions that would lead to additional grievances and litigation include:

- The court “*shall offer employment to all certified shorthand reporters who apply for official reporter positions unless there is good cause for rejecting the applicant.*” Labor would be newly empowered to file a grievance and subject the court to binding arbitration whenever any certified shorthand reporter is not hired. Given that the bill’s language places the burden of proof solely on the court, it is anticipated that grievances will increase, and lead to more litigated arbitrations where the courts will be at a significant disadvantage.
- The court “*shall not adopt any unreasonable barriers to applications or to hiring applicants. In the event of a dispute, the court shall have the burden of showing that its requirements are reasonable.*” Placing this burden on the courts is unreasonable and foreshadows litigation.

JUDICIAL COUNCIL staff comments 06-30-2025;

Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

- The court “*shall make all reasonable efforts, consistent with the court’s budget, to retain official reporters pro tempore to supplement the work of official reporters. In the event of a dispute, the court shall have the burden of showing that its efforts were reasonable.*” Again, this invites lawsuits and is an unreasonable burden on the courts.
- The term “*major court reporter job board*” is not defined. This ambiguity could be the basis of grievances.]

(B) If the official reporters are not represented by a recognized employee organization, any official reporter employed by the court may file a grievance with the court if the reporter contends that the court has violated this subdivision and, if the dispute is not resolved, submit the dispute for binding arbitration to the California State Mediation and Conciliation Service.

(C) The grievance and arbitration process set forth in this subdivision shall be the exclusive means of resolving disputes about compliance with this subdivision.

[Comments:

This provision could greatly expand the number of grievances, and could be a precedent setting slippery slope that will allow for greater rights for non-represented employees in the future (see above).

Disputes about recruitment and use of ER are not related to the terms and conditions of employment and should not be subject to grievance and binding arbitration. It seems unlikely that the California State Mediation & Conciliation Service (SMCS) would oversee such a process as they do not provide arbitration services, binding or otherwise. The only service SMCS provides is that for \$50 they will generate a [random list of arbitrators](#) and provide a copy of their resumes.

What is the position of SMCS on this proposal?

Arbitration is usually agreed upon by both parties. It is unusual for arbitration to be imposed via statute.]

(f) For purposes of this section, a court shall find that a litigant who has requested a verbatim record of a proceeding cannot afford to retain a private court reporter if any of the following requirements is satisfied:

(1) The litigant has been granted a waiver of court fees for the proceeding.

(2) The litigant is represented in the proceeding without charge by a nonprofit legal aid organization.

(3) The litigant establishes to the satisfaction of the judicial officer that the litigant lacks the financial ability to retain a private court reporter for the proceeding.

JUDICIAL COUNCIL staff comments 06-30-2025;

Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

(g) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

[Comments:

The court reporter shortage is only expected to worsen. Why repeal the statute on January 1, 2028? The number of court reporters licensed by the California Court Reporters Board is not keeping pace with the need. There has been a steady decline (20 percent) in the total number of licensees since 2013 (a loss of over 1,300 reporters) and the courts, [according to the LAO in their 2024 report](#), have an estimated need for 691 additional full-time court reporters to cover all non-mandated case types where electronic recording is not allowed.

Year	New Licenses Issued
FY 2015-16	72
FY 2016-17	75
FY 2017-18	86
FY 2018-19	32
FY 2019-20	66
FY 2020-21	39
FY 2021-22	35
FY 2022-23	68
FY 2023-24	123

Despite widespread use of incentives, courts continue to lose reporters faster than they can hire them and faster than the state can license them. Between January 1, 2023 and March 31, 2025, California courts reported that 233.5 (FTE) court reporters were hired; however, 45.6 (FTE) of those new hires came from other courts (19.5% of all hires) and 242.8 (FTE) court reporters left positions at the courts, resulting in a **net loss of -9.3 (FTE) reporters.**

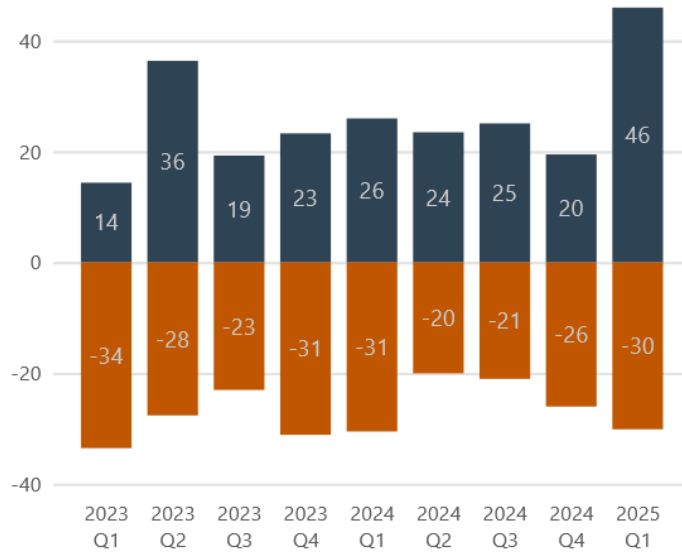
JUDICIAL COUNCIL staff comments 06-30-2025;

Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

Hired vs. lost court reporters

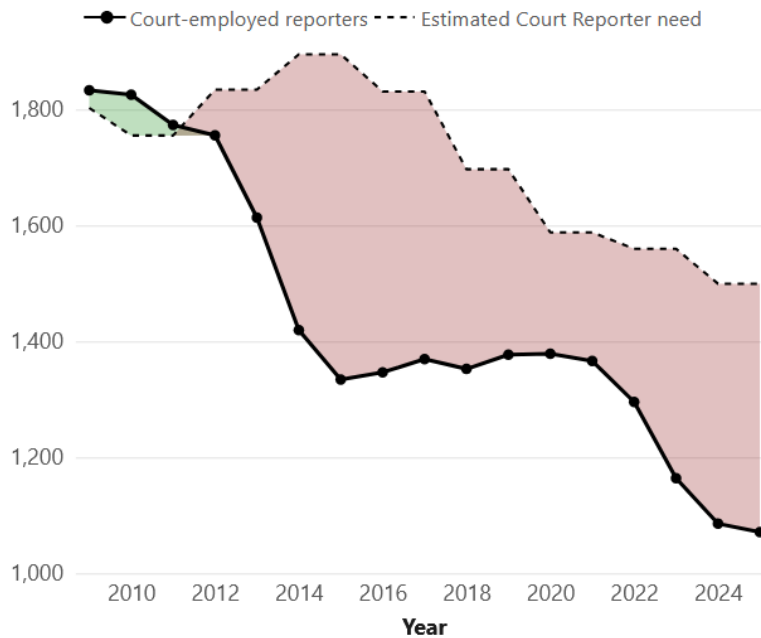
Courts continue to lose more reporters than they can hire

● Reporters Hired ● Reporters Lost



And to make the shortage worse, over half of current official court reporters were licensed more than 30 years ago and are currently eligible to retire.]

Number of court-employed reporters has fallen far short of need for more than a decade





Judicial Council of California

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

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

PATRICIA GUERRERO
Chief Justice of California
Chair of the Judicial Council

MICHELLE CURRAN
Administrative Director

April 23, 2025

Hon. Buffy Wicks
Chair, Assembly Appropriations Committee
1021 O Street, Room 8220
Sacramento, California 95814

Subject: Assembly Bill 882 (Papan), as amended on April 9, 2025—Oppose unless amended
Hearing: Assembly Appropriations Committee

Dear Assembly Member Wicks:

The Judicial Council must regretfully oppose Assembly Bill 882, unless amended. The bill minimally expands electronic reporting authority to a very limited number of additional cases through January 1, 2028 while at the same time placing overly burdensome restrictions on the court's ability to utilize that authority, including an outright prohibition on purchasing or leasing electronic recording equipment to make a court record under this authority. The bill further violates the principle of separation of powers by requiring the issuance of a general order containing specified components before using electronic recording and to revoke any such general order under specified conditions, as well as by seeking to dictate court administrative practices and procedures, including collective bargaining and personnel practices. In addition, AB 882 prohibits courts from purchasing electronic recording equipment when the sole purpose of the purchase is for the monitoring of subordinate judicial officers thereby interfering with the ability of the courts to monitor the performance and demeanor of subordinate judicial officers.

Pursuant to California Rule of Court, rule [10.12\(a\)](#), positions on legislation are taken by the internal Legislation Committee on behalf of the Judicial Council. Chief Justice Guerrero and Justice Corrigan took no part in any deliberation or discussions of this decision, and have both recused themselves on any electronic recording issues that may come before the council.

The bill raises serious separation of powers issues as under the proposed language, a court would be required to issue a general order containing specified components before using electronic recording in certain case types, and to revoke any such general order under specified conditions. “[T]he issuance of orders is a quintessential judicial act.” (*Wright-Bolton v. Andress-Tobiasson* (9th Cir. 2017) 696 Fed.Appx. 258, 259.) By dictating that a court must issue a general order of

specified content, and rescind such order under specified conditions, this provision unduly assumes a judicial function for itself, defeating, or at least materially impairing, the court's judicial discretion in this realm.

AB 882 encroaches on the independence of the judicial branch by limiting the right of trial courts to exercise discretion in hiring decisions, interfering with [existing provisions](#) of the Trial Court Employment Protection and Governance Act, and conflicting with ongoing memorandums of understanding between courts and employee organizations. Court reporters are essential court professionals who ensure that a verbatim record of court proceedings is available to court users. The provisions in AB 882, however, blur the line of judicial independence and undermine collective bargaining by forcing burdensome hiring practices on the courts, including the ability of the courts to assign court reporters where the court determines they are needed. This language strips courts of important discretion in hiring court reporters, unless the court was able to articulate reasons that would amount to an undefined "good cause" standard. It is contrary to a court's independence and integrity to statutorily require that a court must hire essentially any certified candidate who applies, leaving little discretion, and placing the burden on the court to prove "good cause" for rejecting an applicant—setting up litigation against any court that declines to hire any certified applicant. This is untenable in many ways.

The courts have a responsibility to monitor subordinate judicial officers and the court proceedings over which they preside. Presiding and supervising judges utilize electronic recordings of subordinate judicial officers to determine if appropriate courtroom demeanor and decorum were present throughout proceedings. Over time as equipment needs to be replaced, the courts could be prevented from using this necessary tool to monitor performance and ensure due process rights were provided to all court users, regardless of their case type and court reporter availability.

The judicial branch has taken many steps to recruit and retain enough court reporters to ensure that all proceedings can have verbatim records, but is facing a court reporter shortage and must look to alternative methods when court reporters are unavailable to ensure all court users have a record of their case. As documented on the [Judicial Council's Court Reporter Shortage data dashboard](#), since April 2023 more than 1.5 million family, probate, and unlimited civil hearings were held in California with no verbatim record and the affected court users are thus unable to seek meaningful appellate review of their cases. Ironically, thousands of these proceedings take place in high tech court rooms fully equipped with approved electronic recording equipment that cannot be used pursuant to current statutory restrictions that have been in place since 1975.

Court reporters are the preferred way to provide a record; however, the number of court reporters licensed by the California Court Reporters Board is not keeping pace with the need.

Year	New Licenses Issued
FY 2015-16	72
FY 2016-17	75
FY 2017-18	86

FY 2018-19	32
FY 2019-20	66
FY 2020-21	39
FY 2021-22	35
FY 2022-23	68
FY 2023-24	123

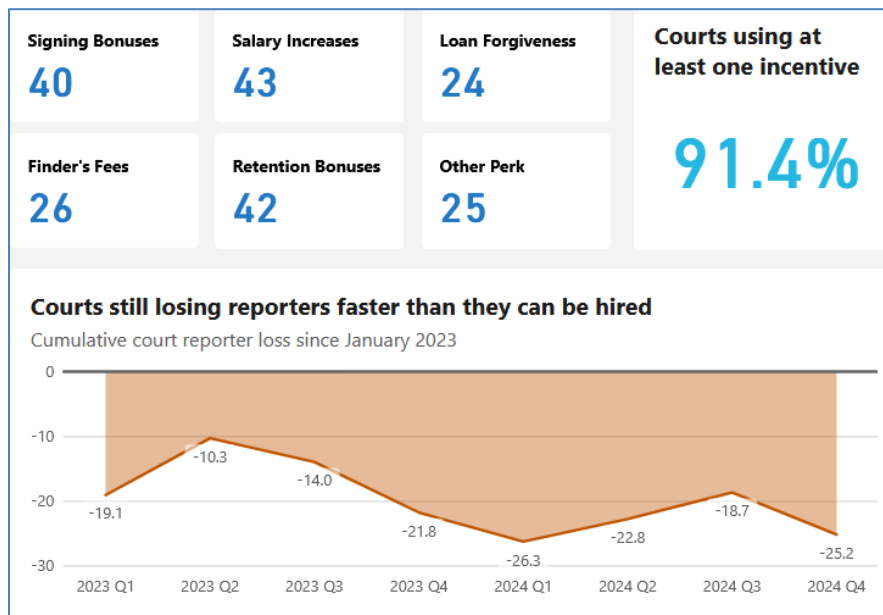
While last year's number is up from prior years—likely due to the 2022 authorization for voice writers to be licensed—it does not address the steady decline (20 percent) in the total number of licensees since 2013 (a loss of over 1,300 reporters) or the estimated need for 691 additional full-time court reporters identified by the Legislative Analyst's Office in their [2024 report](#) to cover all non-mandated case types where electronic recording is not allowed. The LAO also highlighted that approximately two-thirds of active in-state licensees received their initial license prior to 2001 and could be approaching retirement.

Net Loss of Court Reporters

Despite widespread use of incentives, courts continue to lose reporters faster than they can hire them and faster than the state can license new reporters. Los Angeles Superior Court alone currently has over 100 court reporter vacancies—the state is not licensing enough new reporters to staff L.A., let alone the rest of the state.

From January 1, 2023 to December 31, 2024, California courts reported that 187.5 (FTE) court reporters were hired, but 40.0 of those new hires came from other courts (21% of all hires) and 212.7 court reporters left positions at the courts, resulting in a **net loss of -25.2 (FTE) reporters**.

Number of courts using each type of incentive¹



¹ Court reporter data and charts can be found on the [Judicial Council's Court Reporter Shortage data dashboard](#).

Fiscal Impact

The proposed language seems designed to thwart the use of electronic recording to the fullest extent possible. Specifically, the parties must request it under strict timeframes and with detailed showings. The statute provides the courts with no authority to excuse noncompliance with these requirements and allow electronic recording. The onerous requirements on allowing electronic recording in otherwise authorized cases prevents a court from ensuring that justice is served and could lead to increased litigation.

Further, labor issues abound in the proposed language, and the union will have the right to file a grievance for any violation. These grievances would be resolved by binding arbitration, which will impose taxpayer costs for outside counsel, transcripts, and arbitrator's fees. Given the burden of proof is placed solely on the court for the various labor issues listed below, it is anticipated that the bill will create a potentially significant impact on arbitration activity. Each arbitration typically costs the Judicial Council between \$10,000 to \$50,000, depending on the length and complexity of the claim and associated issues.

In addition to the increased likelihood of grievances and related costs, there likely would also be increased civil liability exposure. In addition to general employment law basis for failure to hire based on protected categories (age, race, gender, etc.), the bill shifts the burden to the courts to show good cause for not hiring a certified applicant. This exposes the courts to even greater liability. The cost of civil litigation is significantly higher than the cost of grievances because the parties are entitled to engage in legal discovery (including depositions) and motion practice. The cost to the Judicial Council for employment litigation can vary widely depending on complexity, the likelihood of conducting legal discovery, and the time to resolution, but the typical cost range is between \$100,000 and \$300,000 per lawsuit.

The various labor provisions that would lead to additional grievances and litigation include:

- The court “*shall offer employment to all certified shorthand reporters who apply for official reporter positions unless there is good cause for rejecting the applicant.*” Labor would be newly empowered to file a grievance and subject the court to binding arbitration whenever any certified shorthand reporter is not hired. Given that the bill's language places the burden of proof solely on the court, it is anticipated that grievances will increase, and lead to more litigated arbitrations where the courts will be at a significant disadvantage.
- The court “*shall not adopt any unreasonable barriers to applications or to hiring applicants. In the event of a dispute, the court shall have the burden of showing that its requirements are reasonable.*” Placing this burden on the courts is unreasonable and foreshadows litigation.
- The court “*shall make all reasonable efforts, consistent with the court's budget, to retain official reporters pro tempore to supplement the work of official reporters. In the event of a dispute, the court shall have the burden of showing that its efforts were reasonable.*” Again, this invites lawsuits and is an unreasonable burden on the courts.

Disputes about recruitment and use of electronic recording are not related to the terms and conditions of employment and should not be subject to grievance and binding arbitration.

Hon. Buffy Wicks

April 23, 2025

Page 5

Arbitration is usually agreed upon by both parties, it is unusual for this to be imposed via statute. It also seems unlikely that the California State Mediation & Conciliation Service (SMCS) has the resources to oversee such a process as they do not provide arbitration services, binding or otherwise. The only service SMCS currently provides is that for \$50 they will generate a [random list of arbitrators](#) and provide a copy of their resumes.

In closing, we share a mutual commitment to maintaining the integrity of, and access to the judicial record and want to work in collaboration with the Legislature and all interested stake holders to increase the number of qualified licensed court reporters. In its 2018 *Jameson v Desta* ruling, the California Supreme Court 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. This is a critical access to justice issue in the courts that must be addressed.

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

Sincerely,



Cory T. Jaspersen
Director
Governmental Affairs

Enclosure

CTJ/ML/

cc: Members, Assembly Appropriations Committee
Hon. Diane Papan, Member of the Assembly, 21st District
Annika Carlson, Principal Consultant, Assembly Appropriations Committee
Daryl Thomas, Consultant, Assembly Republican Office of Policy
Jith Meganathan, Deputy Legislative Secretary, Office of the Governor
Michelle Curran, Administrative Director, Judicial Council of California

AB 882 (Papan) Electronic court reporting.

As Amends the Law on April 9, 2025 [amendments are in *blue italics*]

SECTION 1. Section 69957 of the Government Code is amended to read:

69957. (a) If an official reporter or an official reporter pro tempore is unavailable to report an action or proceeding in a court, subject to the availability of approved equipment and equipment monitors, the court may order that, in a limited civil case, or a misdemeanor or infraction case, the action or proceeding be electronically recorded, including all the testimony, the objections made, the ruling of the court, the exceptions taken, all arraignments, pleas, and sentences of defendants in criminal cases, the arguments of the attorneys to the jury, and all statements and remarks made and oral instructions given by the judge. A transcript derived from an electronic recording may be utilized whenever a transcript of court proceedings is required. Transcripts derived from electronic recordings shall include a designation of “inaudible” or “unintelligible” for those portions of the recording that contain no audible sound or are not discernible. The electronic recording device and appurtenant equipment shall be of a type approved by the Judicial Council for courtroom use and shall only be purchased for use as provided by this section. A court shall not expend funds for or use electronic recording technology or equipment to make an unofficial record of an action or proceeding, including for purposes of judicial notetaking, or to make the official record of an action or proceeding in circumstances not authorized by this section.

(b) Notwithstanding subdivision (a), a court may use electronic recording equipment for the internal personnel purpose of monitoring the performance of subordinate judicial officers, as defined in Section 71601 of the Government Code, hearing officers, and temporary judges while proceedings are conducted in the courtroom, if notice is provided to the subordinate judicial officer, hearing officer, or temporary judge, and to the litigants, that the proceeding may be recorded for that purpose. An electronic recording made for the purpose of monitoring that performance shall not be used for any other purpose and shall not be made publicly available. Any recording made pursuant to this subdivision shall be destroyed two years after the date of the proceeding unless a personnel matter is pending relating to performance of the subordinate judicial officer, hearing officer, or temporary judge.

(c) Prior to purchasing or leasing any electronic recording technology or equipment, a court shall obtain advance approval from the Judicial Council, which may grant that approval only if the use of the technology or equipment will be consistent with this section. *The Judicial Council shall not grant approval for the purchase or lease of electronic recording technology or equipment solely for the purposes described in subdivision (b).*

[Comments:

The language in the bill is a non-starter from an access to justice perspective.

In its 2018 *Jameson v Desta* ruling, the California Supreme Court 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.

JUDICIAL COUNCIL staff comments 04-23-2025;
Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

The court reporter shortage threatens access to justice for court users, especially Californians who cannot afford to pay for their own reporter in cases where an official court reporter is not available.

From April 2023 through December 2024, an estimated 1.5 million family, probate, and unlimited civil hearings were held in California with no verbatim record.

We share a mutual commitment to maintaining the integrity of, and access to the judicial record. This is a critical access to justice issue in the courts.

The language undermines access to justice and the expansion of electronic recording (ER) by prohibiting the Judicial Council from granting approval for the purchase or lease of ER equipment solely for the purposes of monitoring subordinate judicial officers (69957(c)) and prohibiting courts from purchasing or leasing ER to make records pursuant to the amended statute (69957.5(e)).

Prohibiting the purchase or lease of ER equipment is unworkable as this arbitrarily reduces accountability and oversight of subordinate judicial officers (SJOs), including court commissioners. This is a Separation of Powers (SoP) issue as courts have inherent power to control “the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter pertaining thereto.” (*Peat, Marwick, Mitchell & Co. v. Superior Court* (1988) 200 Cal.App.3d 272, 287 [supervisory and administrative powers have been “recognized by the Legislature in Code of Civil Procedure section 128, [but] exist[] apart from express statutory authority”], internal quotations omitted.)

Due to the well documented shortage of court reporters and the growing numbers of proceedings with no verbatim record, it is critical for supervising judges to be able to utilize ER to make sure SJOs are effective in assisting the court to carry out its constitutional duties under [Article VI, Section 22](#) of the California Constitution. Eliminating a court’s ability to assess SJO performance through a mechanism that allows the court to gain insight on qualities such as demeanor substantially interferes with the court’s ability to carry out its core constitutional functions in the most appropriate manner.

Even if a verbatim transcript is available, a recording is critical in understanding the tone and nuance of what was said and the manner in which it was spoken during the proceeding. Also, in proceedings using an interpreter, a recording is the only way to accurately capture the complete record of what was said and whether it was interpreted correctly.]

SEC. 2. Section 69957.5 is added to the Government Code, to read:

JUDICIAL COUNCIL staff comments 04-23-2025;
Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

69957.5. (a) Notwithstanding Section 69957, if a court is unable, after due diligence, to hire sufficient official reporters or official pro tempore reporters, the court may issue a general order authorizing the use of electronic recording on a temporary basis in family law, probate, and civil contempt proceedings, subject to the requirements of subdivision (d). Electronic recording shall not be used in dependency proceedings. A transcript derived from such an electronic recording may be utilized whenever a transcript of court proceedings is required. Transcripts derived from electronic recordings shall include a designation of "inaudible" or "unintelligible" for those portions of the recording that contain no audible sound or are not discernable.

[Comments:

[SoP] Under the proposed legislation, a court would be required to issue a general order containing specified components before using electronic recording in certain case types, and to revoke any such general order under specified conditions. "[T]he issuance of orders is a quintessential judicial act." (*Wright-Bolton v. Andress-Tobiasson* (9th Cir. 2017) 696 Fed.Appx. 258, 259.) By dictating that a court must issue a general order of specified content, and rescind such order under specified conditions, this provision arrogates a judicial function for itself, defeating, or at least materially impairing, the court's judicial discretion in this realm.

In order to even issue a general order, a court must show that after "due diligence" it was not able to hire "sufficient" court reporters, but those terms are not defined.

The bill would allow ER in fewer case types than the existing general orders as it would apply only to family law, probate, and civil contempt, and exclude juvenile dependency proceedings. By contrast, the general orders contemplate ER use in family law, probate, civil proceedings, and Alameda and Santa Clara's general orders apply to felony criminal proceedings as well.

Any reference to dependency proceedings should be replaced with juvenile proceedings to include both dependency and justice/delinquency proceedings.]

(b) Electronic recording may be utilized pursuant to this section only if the judicial officer presiding over the proceeding finds that all of the following requirements are satisfied:

- (1) The proceeding concerns matters that implicate fundamental rights or liberty interests.*
- (2) One or more parties wishes to preserve the possibility of ordering a verbatim transcript of the proceeding.*
- (3) No official reporter or official reporter pro tempore retained by the court, including reporters generally assigned to other departments, is reasonably available to report the proceeding.*
- (4) The party requesting a verbatim record has been unable to secure the presence of a private certified shorthand reporter to report the proceeding as an official reporter pro tempore because either of the following requirements is satisfied:*
 - (A) Despite the party's reasonable effort to retain a private certified shorthand reporter, no reporter was reasonably available.*
 - (B) The party qualifies for a waiver of court filing fees because of an inability to pay and the court is unable to provide an official reporter or official reporter pro tempore for the proceeding.*

JUDICIAL COUNCIL staff comments 04-23-2025;
Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

(5) The proceeding involves significant legal or factual issues such that a verbatim record is likely necessary to create a record of sufficient completeness for review on appeal.

[Comments:

The language permits ER only for litigants who are either unable to secure/pay for a private court reporter because a court reporter was not available or have a fee waiver, while the general orders more broadly reference litigants' "reasonable inability to pay". Most self-represented litigants cannot afford to pay a reporter and so would never attempt to attain one but do not qualify for a fee waiver.

Reasonably available and reasonable effort are not defined.]

(6) In the interests of justice, the proceeding should not be delayed.

(c) A judicial officer shall not find that a party has satisfied the requirements of paragraph (4) of subdivision (b) unless the party notified the court at least five court days prior to the hearing that the party seeks to have a record of the hearing and that the party has been unable to retain a private court reporter or that the party has been granted a fee waiver and is unable to pay for a private court reporter. If the official reporters employed by the court are represented by a recognized employee organization, the court shall forward a copy of such notice to the recognized employee organization on the same day it was submitted to the court. If a party has fewer than five court days' advance notice of the hearing, the party shall provide the court with reasonable advance notice that the party seeks to have a record of the hearing and that the party has been unable to retain a private court reporter or that the party has been granted a fee waiver and is unable to pay for a private court reporter. The court shall forward such notice to the exclusive representative, if any, on the same day it was submitted.

[Comments:

Imposes onerous and unnecessary notice requirements. Explicitly requires a litigant to provide 5 days' notice prior to a hearing in order for a judicial officer to make the requisite findings for ER to be used but later contemplates a party providing "reasonable advance notice." Parties (particularly pro pers) may not understand the need for a request and the requirement is an unnecessary logistical barrier that impedes access to justice.

[SoP] The proposed language seems designed to thwart the use of ER to the fullest extent possible. The parties must request it under strict timeframes and with detailed showings, and the statute does not authorize a court to excuse noncompliance and allow electronic recording. However, courts have the authority to preserve and promote the administration of justice and to protect the dignity and respect of the court. (See *People v. Shelley* (1984) 156 Cal.App.3d 521, 530.) There will be plenty of circumstances where a party does not strictly comply with the statute, but the administration of justice mandates that a record on appeal be available. The onerous requirements restricting ER in otherwise authorized cases creates litigation traps and prevents a court from ensuring that justice is served.

**JUDICIAL COUNCIL staff comments 04-23-2025;
Not reviewed or approved by the Judicial Council; For Discussion Purposes Only**

Moreover, the section requires the court to forward the notice to the union the same day it's submitted. Requiring the court to notify the union creates an administrative burden that may be impossible to satisfy when requests are received late in a business day. As a non-party to any litigation, the union would not have a procedurally proper way to challenge the use of ER. However, even though the union would not have a procedurally proper way to object, the fact that there is a statutory notice provision that impliedly creates union involvement would risk creating confusion for judges and parties about the union's ability to object to the use of ER.]

(d) If a court has issued a general order authorizing the use of electronic recording, all of the following requirements shall apply while the general order is in effect:

(1) The court shall provide public notice that the court is accepting applications from certified shorthand reporters for positions as official court reporters. The court shall provide such notice to major court reporter job boards and to court reporting schools in California. The court shall maintain records of its outreach and recruitment activities.

(2) The court shall offer employment to all certified shorthand reporters who apply for official reporter positions unless there is good cause for rejecting the applicant. In the event of a dispute, the court shall have the burden of showing that an applicant was rejected for good cause. The court shall maintain records of applications received, interviews conducted, and reasons for hiring decisions.

(3) The court shall not adopt any unreasonable barriers to applications or to hiring applicants. In the event of a dispute, the court shall have the burden of showing that its requirements are reasonable.

(4) In addition to hiring official reporters, the court shall make all reasonable efforts, consistent with the court's budget, to retain official reporters pro tempore to supplement the work of official reporters. In the event of a dispute, the court shall have the burden of showing that its efforts were reasonable.

(5) If the official reporters in the court are represented by a recognized employee organization, the court shall, upon request of the employee organization, meet and confer with the employee organization about the court's efforts to recruit official court reporters and provide the employee organization with the records that the court is required by this section to maintain.

[Comments:

This entire section is highly problematic. No other public sector employment statute, including both the Trial Court Employment Protection and Governance Act (Trial Court Act) and the Trial Court Interpreter Employment and Labor Relations Act (Interpreter Act), have such detailed language regarding the recruitment and hiring process.

[SoP] Court reporters are professionals upon whom the court relies in exercising judicial functions. They are court employees who play a key role in enabling a court to carry out its constitutional functions, including but not limited to enabling a court to fulfill its obligation of ensuring the availability of a verbatim record on appeal. The hiring and firing of all court employees is left to the discretion of each individual court, consistent with the provisions of the Trial Court Act, the Interpreter Act, the MOU between the court and union, and any applicable court personnel policies. This language would strip

JUDICIAL COUNCIL staff comments 04-23-2025;
Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

courts of important discretion in hiring court reporters, unless the court was able to articulate reasons that would amount to an undefined “good cause” standard. It is contrary to a court’s independence and integrity to require that a court must hire essentially any licensed candidate that applies and leave the court with little discretion to reject an applicant whom the court does not find to be an appropriate fit for this sensitive and crucial position.

Labor issues abound in this section, and the union will have the right to file a grievance for any violations.

Is it really the intent to mandate that courts must hire anyone with a certificate? Some applicants demand higher pay than can be granted. Some demand remote work. Some show themselves to be unreliable during the recruitment process.

Places the burden on the court to prove “good cause” for rejecting a certified shorthand reporter applicant—setting up litigation against any court that declines to hire any certified applicant. This is untenable in many ways and will likely result in increased civil liability exposure. In addition to general employment law basis for failure to hire based on protected categories (age, race, gender, etc.), the burden shifting to the courts to show good cause for not hiring a certified applicant exposes the courts to even greater liability. The cost of civil litigation is significantly higher than the cost of grievances because the parties are entitled to engage in legal discovery (including depositions) and motion practice.

The suggestion that courts are not hiring “available” reporters likely stems from isolated examples, which are insufficient to justify imposing new statutory requirements on courts’ recruitment and hiring processes. For example, we are aware of an instance where a court determined that a pro tem reporter with a long history of disciplinary issues was not “available” even though they wanted to work, given their history of misconduct.

Provides that courts “shall not adopt any unreasonable barriers to applications or to hiring applicants. In the event of a dispute, the court shall have the burden of showing that its requirements are reasonable.” Placing this burden on the courts is unreasonable and foreshadows lawsuits.

Courts “shall make all reasonable efforts, consistent with the court’s budget, to retain official reporters pro tempore to supplement the work of official reporters. In the event of a dispute, the court shall have the burden of showing that its efforts were reasonable.” Again, this invites lawsuits and is an unreasonable burden on the courts.

Courts have a duty to get cases heard with a verifiable record—all of this adds more administrative burden to a court reporter crisis that directly impacts access to justice.

**JUDICIAL COUNCIL staff comments 04-23-2025;
Not reviewed or approved by the Judicial Council; For Discussion Purposes Only**

These are collective bargaining issues, and should be left for the parties to resolve through the meet and confer process.

PERB is supportive of a robust bargaining process ... dictating terms and requirements with this level of detail in statute is inconsistent with this.

As mentioned above, labor issues abound in the bill, and the union will have the right to file a grievance for any violations. These grievances would be resolved by binding arbitration, which will have a cost for outside counsel, transcripts, and arbitrator's fees. Given the burden of proof is placed solely on the court for the various labor issues listed below, it is anticipated that the bill's labor provisions will create a potentially significant impact on arbitration activity. Each arbitration typically costs the Judicial Council between \$10,000 to \$50,000, depending on the length and complexity of the claim and associated issues.

The various labor provisions that would lead to additional grievances and litigation include:

- The court *"shall offer employment to all certified shorthand reporters who apply for official reporter positions unless there is good cause for rejecting the applicant."* Labor would be newly empowered to file a grievance and subject the court to binding arbitration whenever any certified shorthand reporter is not hired. Given that the bill's language places the burden of proof solely on the court, it is anticipated that grievances will increase, and lead to more litigated arbitrations where the courts will be at a significant disadvantage.
- The court *"shall not adopt any unreasonable barriers to applications or to hiring applicants. In the event of a dispute, the court shall have the burden of showing that its requirements are reasonable."* Placing this burden on the courts is unreasonable and foreshadows litigation.
- The court *"shall make all reasonable efforts, consistent with the court's budget, to retain official reporters pro tempore to supplement the work of official reporters. In the event of a dispute, the court shall have the burden of showing that its efforts were reasonable."* Again, this invites lawsuits and is an unreasonable burden on the courts.]

(6) If the official reporters in the court are represented by a recognized employee organization, the employee organization may file a grievance with the court if the employee organization contends that the court has violated this section. Unless the parties to the dispute agree upon other procedures after the dispute arises, or other procedures are provided in a memorandum of understanding or agreement with a recognized employee organization, unresolved disputes between the recognized employee organization and the court concerning a violation of this section shall be submitted for binding arbitration to the California State Mediation and Conciliation Service.

[Comments:

JUDICIAL COUNCIL staff comments 04-23-2025;
Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

Disputes about recruitment and use of ER are not related to the terms and conditions of employment and should not be subject to grievance and binding arbitration. It seems unlikely that the California State Mediation & Conciliation Service (SMCS) would oversee such a process as they do not provide arbitration services, binding or otherwise. The only service SMCS provides is that for \$50 they will generate a [random list of arbitrators](#) and provide a copy of their resumes.

What is the position of SMCS on this proposal?

Arbitration is usually agreed upon by both parties. It is unusual for arbitration to be imposed via statute.]

(e) Courts shall not purchase or lease electronic recording technology or equipment to make records pursuant to this section.

[Comments:

[SoP] Courts would have inherent authority to do what was needed to secure the right to record, including by purchasing necessary equipment. If there's a right to record new types of cases, as proposed here, telling the courts they cannot then buy the needed equipment undermines separation of powers and it absolutely defeats a court's ability to carry out the judicial function of ensuring that a verbatim record exists in family law, probate, and civil contempt.]

(f) Courts shall not, without the consent of the official reporter, displace existing official reporters from their assignments in family law, probate, and civil contempt departments in order to make records pursuant to this section.

[Comments:

Why is this necessary? This is problematic as this is a management right, excluded from bargaining.]

(g) The court shall revoke a general order authorized by this section when the conditions set forth in subdivision (a) no longer exist.

(h) This section shall remain in effect only until January 1, 2028, and as of that date is repealed. The repeal of this section shall automatically revoke any general order authorized by this section.

[Comments:

The court reporter shortage is only expected to worsen. Why repeal the statute on January 1, 2028?

The number of court reporters licensed by the California Court Reporters Board is not keeping pace with the need. There has been a steady decline (20 percent) in the total number of licensees since 2013 (a loss of over 1,300 reporters) and the courts, [according](#)

JUDICIAL COUNCIL staff comments 04-23-2025;
Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

[to the LAO in their 2024 report](#), have an estimated need for 691 additional full-time court reporters to cover all non-mandated case types where electronic recording is not allowed.

Year	New Licenses Issued
FY 2015-16	72
FY 2016-17	75
FY 2017-18	86
FY 2018-19	32
FY 2019-20	66
FY 2020-21	39
FY 2021-22	35
FY 2022-23	68
FY 2023-24	123

Despite widespread use of incentives, courts continue to lose reporters faster than they can hire them and faster than the state can license them. Los Angeles Superior Court currently has over 100 court reporter vacancies—the state isn’t licensing enough new reporters to staff LA, let alone the rest of the state.

Between January 1, 2023 and December 31, 2024, California courts reported that 187.5 (FTE) court reporters were hired; however, 40.0 (FTE) of those new hires came from other courts (21% of all hires) and 212.7 (FTE) court reporters left positions at the courts, resulting in a **net loss of -25.2 (FTE) reporters**.

And to make the shortage worse, over half of current official court reporters were licensed more than 30 years ago and are currently eligible to retire. See the newly revamped court reporter shortage [dashboard](#) for additional facts and statistics.]

***SEC. 3.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:*

Some superior courts have stated that there is an immediate crisis caused by a shortage of court reporters, and this legislation is necessary to provide temporary authority for the use of electronic recording while those superior courts hire more court reporters.



Judicial Council of California

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

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

PATRICIA GUERRERO
Chief Justice of California
Chair of the Judicial Council

MICHELLE CURRAN
Administrative Director

April 1, 2025

Hon. Ash Kalra
Chair, Assembly Judiciary Committee
1020 N Street, Room 104
Sacramento, California 95814

Subject: Assembly Bill 882 (Papan), as introduced—Oppose
Hearing: Assembly Judiciary Committee April 8, 2025

Dear Assembly Member Kalra:

The Judicial Council must regretfully oppose Assembly Bill 882 which prohibits the courts from purchasing electronic recording equipment when the sole purpose of the purchase is for the monitoring of subordinate judicial officers because it would interfere with the ability of the courts to monitor the performance and demeanor of subordinate judicial officers. Pursuant to California Rule of Court, rule [10.12\(a\)](#), positions on legislation are taken by the internal Legislation Committee on behalf of the Judicial Council. Chief Justice Guerrero and Justice Corrigan took no part in any deliberation or discussions of this decision, and have both recused themselves on any electronic recording issues that may come before the Judicial Council.

The council also has serious concerns about the March 20, 2025 amendments (see attached) which would minimally expand electronic reporting authority to some additional cases through January 1, 2028 but at the same time place overly burdensome restrictions on the court's ability to utilize that authority, including a prohibition on purchasing or leasing electronic recording equipment to make a court record under this authority. The bill further violates the principle of separation of powers by seeking to dictate court administrative practices and procedures, including collective bargaining and personnel practices.

The courts have a responsibility to monitor subordinate judicial officers and the court proceedings over which they preside. Presiding and supervising judges utilize electronic

recordings of subordinate judicial officers to determine if appropriate courtroom demeanor and decorum were present throughout proceedings. Over time as equipment needs to be replaced, the courts could be prevented from using this necessary tool to monitor performance and ensure due process rights were provided to all court users, regardless of their case type and court reporter availability.

The judicial branch has taken many steps to recruit and retain a sufficient number of court reporters to ensure that all proceedings can have verbatim records, but is facing a court reporter shortage and must look to alternative methods when court reporters are unavailable to ensure all court users have a record of their case. As documented on the [Judicial Council's Court Reporter Shortage data dashboard](#), since April 2023 more than 1.5 million family, probate, and unlimited civil hearings were held in California with no verbatim record and the affected court users are thus unable to seek meaningful appellate review of their cases. Ironically, thousands of these proceedings take place in high tech court rooms fully equipped with approved electronic recording equipment that cannot be used pursuant to current statutory restrictions that have been in place since 1975.

Court reporters are the preferred way to provide a record; however, the number of court reporters licensed by the California Court Reporters Board is not keeping pace with the need.

Year	New Licenses Issued
FY 2015-16	72
FY 2016-17	75
FY 2017-18	86
FY 2018-19	32
FY 2019-20	66
FY 2020-21	39
FY 2021-22	35
FY 2022-23	68
FY 2023-24	123

While last year's number is up from the last few years—likely due to the 2022 authorization for voice writers to be licensed—it does not address the steady decline (20 percent) in the total number of licensees since 2013 (a loss of over 1,300 reporters) or the estimated need for 691 additional full-time court reporters identified by the Legislative Analyst's Office in their [2024 report](#) to cover all non-mandated case types where electronic recording is not allowed. The LAO also highlighted that approximately two-thirds of active in-state licensees received their initial license prior to 2001 and could be approaching retirement.

Hon. Ash Kalra

April 1, 2025

Page 3

Despite widespread use of incentives, courts continue to lose reporters faster than they can hire them and faster than the state can license them. Los Angeles Superior Court alone currently has over 100 court reporter vacancies—the state isn't licensing enough new reporters to staff LA, let alone the rest of the state.

AB 882 intrudes on the independence of the judicial branch by limiting the right of trial courts to exercise discretion in hiring decisions, interfering with [existing provisions](#) of the Trial Court Employment Protection and Governance Act, and conflicting with ongoing memorandums of understanding between courts and employee organizations. Court reporters are essential court professionals who ensure that a verbatim record of court proceedings is available to court users. The recently amended language, however, blurs the line of judicial independence and undermines collective bargaining by forcing burdensome hiring practices on the courts, including the ability of the courts to assign court reporters where the court determines they are needed.

We share a mutual commitment to maintaining the integrity of, and access to the judicial record and want to work in collaboration with the Legislature and all interested stake holders to increase the number of qualified licensed court reporters. This is a critical access to justice issue in the courts.

In closing, the Judicial Council is actively working with Assemblymember Papan and stakeholders to address concerns and we look forward to continuing these productive conversations.

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

Sincerely,



Cory T. Jasperson
Director
Governmental Affairs

CTJ/ML/lmm

cc: Members, Assembly Judiciary Committee
Hon. Diane Papan, Member of the Assembly, 21st District
Alison Merrilees, Chief Counsel, Assembly Judiciary Committee
Daryl Thomas, Consultant, Assembly Republican Office of Policy
Jith Meganathan, Deputy Legislative Secretary, Office of the Governor
Michelle Curran, Administrative Director, Judicial Council of California

AB 882 (Papan) Electronic court reporting.

As Amends the Law on March 20, 2025 [amendments are in blue]

SECTION 1. Section 69957 of the Government Code is amended to read:

69957. (a) If an official reporter or an official reporter pro tempore is unavailable to report an action or proceeding in a court, subject to the availability of approved equipment and equipment monitors, the court may order that, in a limited civil case, or a misdemeanor or infraction case, the action or proceeding be electronically recorded, including all the testimony, the objections made, the ruling of the court, the exceptions taken, all arraignments, pleas, and sentences of defendants in criminal cases, the arguments of the attorneys to the jury, and all statements and remarks made and oral instructions given by the judge. A transcript derived from an electronic recording may be utilized whenever a transcript of court proceedings is required. Transcripts derived from electronic recordings shall include a designation of “inaudible” or “unintelligible” for those portions of the recording that contain no audible sound or are not discernible. The electronic recording device and appurtenant equipment shall be of a type approved by the Judicial Council for courtroom use and shall only be purchased for use as provided by this section. A court shall not expend funds for or use electronic recording technology or equipment to make an unofficial record of an action or proceeding, including for purposes of judicial notetaking, or to make the official record of an action or proceeding in circumstances not authorized by this section.

(b) Notwithstanding subdivision (a), a court may use electronic recording equipment for the internal personnel purpose of monitoring the performance of subordinate judicial officers, as defined in Section 71601 of the Government Code, hearing officers, and temporary judges while proceedings are conducted in the courtroom, if notice is provided to the subordinate judicial officer, hearing officer, or temporary judge, and to the litigants, that the proceeding may be recorded for that purpose. An electronic recording made for the purpose of monitoring that performance shall not be used for any other purpose and shall not be made publicly available. Any recording made pursuant to this subdivision shall be destroyed two years after the date of the proceeding unless a personnel matter is pending relating to performance of the subordinate judicial officer, hearing officer, or temporary judge.

(c) Prior to purchasing or leasing any electronic recording technology or equipment, a court shall obtain advance approval from the Judicial Council, which may grant that approval only if the use of the technology or equipment will be consistent with this section. *The Judicial Council shall not grant approval for the purchase or lease of electronic recording technology or equipment solely for the purposes described in subdivision (b).*

[Comments:

The newly amended language in the bill is a non-starter from an access to justice perspective.

**JUDICIAL COUNCIL staff comments 03-28-2025;
Not reviewed or approved by the Judicial Council; For Discussion Purposes Only**

In its 2018 *Jameson v Desta* ruling, the California Supreme Court 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.

The court reporter shortage threatens access to justice for court users, especially Californians who cannot afford to pay for their own reporter in cases where an official court reporter is not available.

From April 2023 through December 2024, an estimated 1.5 million family, probate, and unlimited civil hearings were held in California with no verbatim record.

We share a mutual commitment to maintaining the integrity of, and access to the judicial record. This is a critical access to justice issue in the courts.

The language undermines access to justice and the expansion of electronic recording (ER) by prohibiting the Judicial Council from granting approval for the purchase or lease of ER equipment solely for the purposes of monitoring subordinate judicial officers (69957(c)) and prohibiting courts from purchasing or leasing ER to make records pursuant to the amended statute (69957.5(e)).

Prohibiting the purchase or lease of ER equipment is unworkable as this arbitrarily reduces accountability and oversight of subordinate judicial officers (SJOs), including court commissioners. This is a Separation of Powers (SoP) issue as courts have inherent power to control “the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter pertaining thereto.” (*Peat, Marwick, Mitchell & Co. v. Superior Court* (1988) 200 Cal.App.3d 272, 287 [supervisory and administrative powers have been “recognized by the Legislature in Code of Civil Procedure section 128, [but] exist[] apart from express statutory authority”], internal quotations omitted.)

Due to the well documented shortage of court reporters and the growing numbers of proceedings with no verbatim record, it is critical for supervising judges to be able to utilize ER to make sure SJOs are effective in assisting the court to carry out its constitutional duties under [Article VI, Section 22](#) of the California Constitution. Eliminating a court’s ability to assess SJO performance through a mechanism that allows the court to gain insight on qualities such as demeanor substantially interferes with the court’s ability to carry out its core constitutional functions in the most appropriate manner.

Even if a verbatim transcript is available, a recording is critical in understanding the tone and nuance of what was said and the manner in which it was spoken during the proceeding. Also, in proceedings using an interpreter, a recording is the only way to accurately capture the complete record of what was said and whether it was interpreted correctly.]

JUDICIAL COUNCIL staff comments 03-28-2025;
Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

SEC. 2. Section 69957.5 is added to the Government Code, to read:

69957.5. (a) Notwithstanding Section 69957, if a court is unable, after due diligence, to hire sufficient official reporters or official pro tempore reporters, the court may issue a general order authorizing the use of electronic recording on a temporary basis in family law, probate, and civil contempt proceedings, subject to the requirements of subdivision (d). Electronic recording shall not be used in dependency proceedings. A transcript derived from such an electronic recording may be utilized whenever a transcript of court proceedings is required. Transcripts derived from electronic recordings shall include a designation of "inaudible" or "unintelligible" for those portions of the recording that contain no audible sound or are not discernable.

[Comments:

[SoP] Under the proposed legislation, a court would be required to issue a general order containing specified components before using electronic recording in certain case types, and to revoke any such general order under specified conditions. "[T]he issuance of orders is a quintessential judicial act." (*Wright-Bolton v. Andress-Tobiasson* (9th Cir. 2017) 696 Fed.Appx. 258, 259.) By dictating that a court must issue a general order of specified content, and rescind such order under specified conditions, this provision arrogates a judicial function for itself, defeating, or at least materially impairing, the court's judicial discretion in this realm.

In order to even issue a general order, a court must show that after "due diligence" it was not able to hire "sufficient" court reporters, but those terms are not defined.

The language would allow ER in fewer case types than the existing general orders as it would apply only to family law, probate, and civil contempt, and exclude juvenile dependency proceedings. By contrast, the general orders contemplate ER use in family law, probate, civil proceedings, and Alameda and Santa Clara's general orders apply to felony criminal proceedings as well.

Any reference to dependency proceedings should be replaced with juvenile proceedings to include both dependency and justice/delinquency proceedings.]

(b) Electronic recording may be utilized pursuant to this section only if the judicial officer presiding over the proceeding finds that all of the following requirements are satisfied:

- (1) The proceeding concerns matters that implicate fundamental rights or liberty interests.*
- (2) One or more parties wishes to preserve the possibility of ordering a verbatim transcript of the proceeding.*
- (3) No official reporter or official reporter pro tempore retained by the court, including reporters generally assigned to other departments, is reasonably available to report the proceeding.*
- (4) The party requesting a verbatim record has been unable to secure the presence of a private certified shorthand reporter to report the proceeding as an official reporter pro tempore because either of the following requirements is satisfied:*
 - (A) Despite the party's reasonable effort to retain a private certified shorthand reporter, no reporter was reasonably available.*

JUDICIAL COUNCIL staff comments 03-28-2025;
Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

- (B) The party qualifies for a waiver of court filing fees because of an inability to pay and the court is unable to provide an official reporter or official reporter pro tempore for the proceeding.*
- (5) The proceeding involves significant legal or factual issues such that a verbatim record is likely necessary to create a record of sufficient completeness for review on appeal.*

[Comments:

The language permits ER only for litigants who are either unable to secure/pay for a private court reporter because a court reporter was not available or have a fee waiver, while the general orders more broadly reference litigants' "reasonable inability to pay". Most self-represented litigants cannot afford to pay a reporter and so would never attempt to attain one but do not qualify for a fee waiver.

Reasonably available and reasonable effort are not defined.]

- (6) In the interests of justice, the proceeding should not be delayed.*

(c) A judicial officer shall not find that a party has satisfied the requirements of paragraph (4) of subdivision (b) unless the party notified the court at least five court days prior to the hearing that the party seeks to have a record of the hearing and that the party has been unable to retain a private court reporter or that the party has been granted a fee waiver and is unable to pay for a private court reporter. If the official reporters employed by the court are represented by a recognized employee organization, the court shall forward a copy of such notice to the recognized employee organization on the same day it was submitted to the court. If a party has fewer than five court days' advance notice of the hearing, the party shall provide the court with reasonable advance notice that the party seeks to have a record of the hearing and that the party has been unable to retain a private court reporter or that the party has been granted a fee waiver and is unable to pay for a private court reporter. The court shall forward such notice to the exclusive representative, if any, on the same day it was submitted.

[Comments:

Imposes onerous and unnecessary notice requirements. Explicitly requires a litigant to provide 5 days' notice prior to a hearing in order for a judicial officer to make the requisite findings for ER to be used but later contemplates a party providing "reasonable advance notice." Parties (particularly pro pers) may not understand the need for a request and the requirement is an unnecessary logistical barrier that impedes access to justice.

[SoP] The proposed language seems designed to thwart the use of ER to the fullest extent possible. The parties must request it under strict timeframes and with detailed showings, and the statute does not authorize a court to excuse noncompliance and allow electronic recording. However, courts have the authority to preserve and promote the administration of justice and to protect the dignity and respect of the court. (See *People v. Shelley* (1984) 156 Cal.App.3d 521, 530.) There will be plenty of circumstances where a party does not strictly comply with the statute, but the administration of justice mandates that a record on appeal be available. The onerous requirements on allowing ER in otherwise

**JUDICIAL COUNCIL staff comments 03-28-2025;
Not reviewed or approved by the Judicial Council; For Discussion Purposes Only**

authorized cases creates litigation traps and prevents a court from ensuring that justice is served.

Moreover, the section requires the court to forward the notice to the union the same day it's submitted. Requiring the court to notify the union creates an administrative burden that may be impossible to satisfy when requests are received late in a business day. As a non-party to any litigation, the union would not have a procedurally proper way to challenge the use of ER. However, even though the union would not have a procedurally proper way to object, the fact that there is a statutory notice provision that impliedly creates union involvement would risk creating confusion for judges and parties about the union's ability to object to the use of ER.]

(d) If a court has issued a general order authorizing the use of electronic recording, all of the following requirements shall apply while the general order is in effect:

(1) The court shall provide public notice that the court is accepting applications from certified short reporters for positions as official court reporters. The court shall provide such notice to major court reporter job boards and to court reporting schools in California. The court shall maintain records of its outreach and recruitment activities.

(2) The court shall offer employment to all certified shorthand reporters who apply for official reporter positions unless there is good cause for rejecting the applicant. In the event of a dispute, the court shall have the burden of showing that an applicant was rejected for good cause. The court shall maintain records of applications received, interviews conducted, and reasons for hiring decisions.

(3) The court shall not adopt any unreasonable barriers to applications or to hiring applicants. In the event of a dispute, the court shall have the burden of showing that its requirements are reasonable.

(4) In addition to hiring official reporters, the court shall make all reasonable efforts, consistent with the court's budget, to retain official reporters pro tempore to supplement the work of official reporters. In the event of a dispute, the court shall have the burden of showing that its efforts were reasonable.

(5) If the official reporters in the court are represented by a recognized employee organization, the court shall, upon request of the employee organization, meet and confer with the employee organization about the court's efforts to recruit official court reporters and provide the employee organization with the records that the court is required by this section to maintain.

[Comments:

This entire section is highly problematic. No other public sector employment statute, including both the Trial Court Employment Protection and Governance Act (Trial Court Act) and the Trial Court Interpreter Employment and Labor Relations Act (Interpreter Act), have such detailed language regarding the recruitment and hiring process.

[SoP] Court reporters are professionals upon whom the court relies in exercising judicial functions. They are court employees who play a key role in enabling a court to carry out its constitutional functions, including but not limited to enabling a court to fulfill its obligation of ensuring the availability of a verbatim record on appeal. The hiring and

JUDICIAL COUNCIL staff comments 03-28-2025;
Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

firing of all court employees is left to the discretion of each individual court, consistent with the provisions of the Trial Court Act, the Interpreter Act, the MOU between the court and union, and any applicable court personnel policies. This language would strip courts of important discretion in hiring court reporters, unless the court was able to articulate reasons that would amount to an undefined “good cause” standard. It is contrary to a court’s independence and integrity to require that a court must hire essentially any licensed candidate that applies and leave the court with little discretion to reject an applicant whom the court does not find to be an appropriate fit for this sensitive and crucial position.

Labor issues abound in this section, and the union will have the right to file a grievance for any violations.

Is it really the intent to mandate that courts must hire anyone with a certificate? Some applicants demand higher pay than can be granted. Some demand remote work. Some show themselves to be unreliable during the recruitment process.

Places the burden on the court to prove “good cause” for rejecting an applicant—setting up litigation against any court that declines to hire any applicant. This is untenable in many ways.

The suggestion that courts are not hiring “available” reporters likely stems from isolated examples, which are insufficient to justify imposing new statutory requirements on courts’ recruitment and hiring processes. For example, we are aware of an instance where a court determined that a pro tem reporter with a long history of disciplinary issues was not “available” even though they wanted to work, given their history of misconduct.

Provides that courts “shall not adopt any unreasonable barriers to applications or to hiring applicants. In the event of a dispute, the court shall have the burden of showing that its requirements are reasonable.” Placing this burden on the courts is unreasonable and foreshadows lawsuits.

Courts “shall make all reasonable efforts, consistent with the court’s budget, to retain official reporters pro tempore to supplement the work of official reporters. In the event of a dispute, the court shall have the burden of showing that its efforts were reasonable.” Again, this invites lawsuits and is an unreasonable burden on the courts.

Courts have a duty to get cases heard with a verifiable record—all of this adds more administrative burden to a court reporter crisis that directly impacts access to justice.

These are collective bargaining issues, and should be left for the parties to resolve through the meet and confer process.

PERB is supportive of a robust bargaining process ... dictating terms and requirements with this level of detail in statute is inconsistent with this.]

JUDICIAL COUNCIL staff comments 03-28-2025;
Not reviewed or approved by the Judicial Council; For Discussion Purposes Only

(6) If the official reporters in the court are represented by a recognized employee organization, the employee organization may file a grievance with the court if the employee organization contends that the court has violated this section. Unless the parties to the dispute agree upon other procedures after the dispute arises, or other procedures are provided in a memorandum of understanding or agreement with a recognized employee organization, unresolved disputes between the recognized employee organization and the court concerning a violation of this section shall be submitted for binding arbitration to the California State Mediation and Conciliation Service.

[Comments:

Disputes about recruitment and use of ER are not related to the terms and conditions of employment and should not be subject to grievance and binding arbitration. It seems unlikely that the California State Mediation & Conciliation Service (SMCS) would oversee such a process as they do not provide arbitration services, binding or otherwise. The only service SMCS provides is that for \$50 they will generate a [random list of arbitrators](#) and provide a copy of their resumes.

What is the position of SMCS on this proposal?

Arbitration is usually agreed upon by both parties. It is unusual for arbitration to be imposed via statute.]

(e) Courts shall not purchase or lease electronic recording technology or equipment to make records pursuant to this section.

[Comments:

[SoP] Courts would have inherent authority to do what was needed to secure the right to record, including by purchasing necessary equipment. If there's a right to record new types of cases, as proposed here, telling the courts they cannot then buy the needed equipment undermines separation of powers and it absolutely defeats a court's ability to carry out the judicial function of ensuring that a verbatim record exists in family law, probate, and civil contempt.]

(f) Courts shall not, without the consent of the official reporter, displace existing official reporters from their assignments in family law, probate, and civil contempt departments in order to make records pursuant to this section.

[Comments:

Why is this necessary? This is problematic as this is a management right, excluded from bargaining.]

(g) The court shall revoke a general order authorized by this section when the conditions set forth in subdivision (a) no longer exist.

**JUDICIAL COUNCIL staff comments 03-28-2025;
Not reviewed or approved by the Judicial Council; For Discussion Purposes Only**

(h) This section shall remain in effect only until January 1, 2028, and as of that date is repealed. The repeal of this section shall automatically revoke any general order authorized by this section.

[Comments:

The court reporter shortage is only expected to worsen. Why repeal the statute on January 1, 2028?

The number of court reporters licensed by the California Court Reporters Board is not keeping pace with the need. There has been a steady decline (20 percent) in the total number of licensees since 2013 (a loss of over 1,300 reporters) and the courts, [according to the LAO in their 2024 report](#), have an estimated need for 691 additional full-time court reporters to cover all non-mandated case types where electronic recording is not allowed.

Year	New Licenses Issued
FY 2015-16	72
FY 2016-17	75
FY 2017-18	86
FY 2018-19	32
FY 2019-20	66
FY 2020-21	39
FY 2021-22	35
FY 2022-23	68
FY 2023-24	123

Despite widespread use of incentives, courts continue to lose reporters faster than they can hire them and faster than the state can license them. Los Angeles Superior Court currently has over 100 court reporter vacancies—the state isn’t licensing enough new reporters to staff LA, let alone the rest of the state. And to make the shortage worse, over half of current official court reporters were licensed more than 30 years ago and are currently eligible to retire. See the newly revamped court reporter shortage [dashboard](#) for additional facts and statistics.]