

House File 2369 - Introduced

HOUSE FILE 2369

BY SWAIM, R. OLSON, ZIRKELBACH,
LENSING, WINCKLER, BURT,
WESSEL-KROESCHELL, STECKMAN,
RUNNING-MARQUARDT, BEARD, WILLEMS,
KEARNS, BAILEY, MERTZ, MASCHER,
BERRY, H. MILLER, THEDE, LYKAM,
BELL, COHOON, GAYMAN, BAUDLER,
WINDSCHITL, ARNOLD, HANSON,
GASKILL, FREVERT, WHITEAD, BUKTA,
D. OLSON, S. OLSON, KAUFMANN,
SANDS, GRASSLEY, SODERBERG,
TJEPKES, PETTENGILL, FORRISTALL,
HEATON, DE BOEF, L. MILLER,
SWEENEY, HUSEMAN, HORBACH, MAY,
VAN ENGELENHOVEN, CHAMBERS,
DOLECHECK, ROBERTS, SORENSON,
HAGENOW, PAULSEN, RAECKER,
TYMESON, KOESTER, LUKAN, ALONS,
STRUYK, DRAKE, SCHULTZ, HELLAND,
RAYHONS, WATTS, COWNIE, WORTHAN,
SCHULTE, KRESSIG, KUHN, REASONER,
T. OLSON, FORD, FICKEN, MAREK,
PALMER, WENTHE, ABDUL-SAMAD,
THOMAS, KELLEY, WENDT, JACOBY, and
SCHUELLER

A BILL FOR

1 An Act relating to shorthand reporters.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 68B.39, Code 2009, is amended to read as
2 follows:

3 **68B.39 Supreme court rules.**

4 1. The supreme court of this state shall prescribe rules
5 establishing a code of ethics for officials and employees of
6 the judicial branch of this state, and the immediate family
7 members of the officials and employees. Rules prescribed under
8 this paragraph shall include provisions relating to the receipt
9 or acceptance of gifts and honoraria, interests in public
10 contracts, services against the state, and financial disclosure
11 which are substantially similar to the requirements of this
12 chapter. The rules shall not require disclosure of certified
13 shorthand reporter compensation authorized pursuant to section
14 602.3202.

15 2. The supreme court of this state shall also prescribe
16 rules which relate to activities by officials and employees of
17 the judicial branch which constitute conflicts of interest.

18 Sec. 2. Section 232.41, Code 2009, is amended to read as
19 follows:

20 **232.41 ~~Reporter~~ Certified shorthand reporter required.**

21 ~~Stenographic notes or mechanical or electronic recordings~~
22 ~~shall be taken~~ A certified shorthand reporter shall take
23 stenographic notes of all court hearings held pursuant to this
24 division unless waived by the parties. The child shall not be
25 competent to waive the reporting requirement, but waiver may
26 be made for the child by the child's counsel or guardian ad
27 litem. Matters which must be reported under the provisions of
28 this section shall be reported in the same manner as required
29 in section 624.9.

30 Sec. 3. Section 232.94, Code 2009, is amended to read as
31 follows:

32 **232.94 ~~Reporter~~ Certified shorthand reporter required.**

33 ~~Stenographic notes or electronic or mechanical recordings~~
34 ~~shall be taken~~ A certified shorthand reporter shall take
35 stenographic notes of all court hearings held pursuant to this

1 division unless waived by the parties. The child shall not be
2 competent to waive the reporting requirement, but waiver may
3 be made for the child by the child's counsel or guardian ad
4 litem. Matters which must be reported under the provisions of
5 this section shall be reported in the same manner as required
6 in section 624.9.

7 Sec. 4. Section 232.115, Code 2009, is amended to read as
8 follows:

9 **232.115 Reporter Certified shorthand reporter required.**

10 ~~Stenographic notes or electronic or mechanical recordings~~
11 ~~shall be taken~~ A certified shorthand reporter shall take
12 stenographic notes of all court hearings held pursuant to this
13 division unless waived by the parties. The child shall not be
14 competent to waive the reporting requirement, but waiver may
15 be made for the child by the child's counsel or guardian ad
16 litem. Matters which must be reported under the provisions of
17 this section shall be reported in the same manner as required
18 in section 624.9.

19 Sec. 5. Section 602.1102, subsection 6, Code 2009, is
20 amended to read as follows:

21 6. ~~Court~~ Appointed certified shorthand reporters.

22 Sec. 6. Section 602.1214, subsection 4, Code 2009, is
23 amended to read as follows:

24 4. The district court administrator shall employ and
25 supervise all employees of the district court except
26 ~~court~~ certified shorthand reporters, clerks of the district
27 court, employees of the clerks of the district court, juvenile
28 court officers, and employees of juvenile court officers.

29 Sec. 7. Section 602.1301, subsection 2, paragraph a,
30 subparagraph (6), Code 2009, is amended to read as follows:

31 (6) ~~Court~~ Certified shorthand reporters.

32 Sec. 8. Section 602.1502, subsections 2 and 3, Code 2009,
33 are amended to read as follows:

34 2. ~~Court~~ Certified shorthand reporters who are employed
35 on an emergency basis in the district court shall be paid not

1 more than their usual and customary fees, while employed by the
2 court. Payments shall be made at least once each month.

3 3. ~~Court~~ Certified shorthand reporters shall be paid
4 compensation for transcribing their notes as provided in
5 section 602.3202, but shall not work on outside depositions
6 during the hours for which they are compensated as a court
7 employee.

8 Sec. 9. Section 602.1612, subsection 4, Code 2009, is
9 amended to read as follows:

10 4. A retired justice or judge may be authorized by the
11 order of assignment to appoint a temporary ~~court~~ certified
12 shorthand reporter, who shall receive the compensation
13 and expense reimbursement provided by law for a regular
14 ~~court~~ certified shorthand reporter in the court to which the
15 justice or judge is assigned.

16 Sec. 10. Section 602.2104, subsection 2, Code 2009, is
17 amended to read as follows:

18 2. In case of a hearing before the commission, written
19 notice of the charge and of the time and place of hearing shall
20 be mailed to a judicial officer or an employee of the judicial
21 branch at the person's residence at least twenty days prior to
22 the time set for hearing. Hearing shall be held in the county
23 where the judicial officer or employee of the judicial branch
24 resides unless the commission and the judicial officer or
25 employee of the judicial branch agree to a different location.
26 The judicial officer shall continue to perform judicial duties
27 during the pendency of the charge and the employee shall
28 continue to perform the employee's assigned duties, unless
29 otherwise ordered by the commission. The attorney general
30 shall prosecute the charge before the commission on behalf of
31 the state. A judicial officer or employee of the judicial
32 branch may defend and has the right to participate in person
33 and by counsel, to cross-examine, to be confronted by the
34 witnesses, and to present evidence in accordance with the
35 rules of civil procedure. A complete record shall be made

1 of the evidence by a ~~court~~ certified shorthand reporter. In
2 accordance with its findings on the evidence, the commission
3 shall dismiss the charge or make application to the supreme
4 court to retire, discipline, or remove the judicial officer or
5 to discipline or remove an employee of the judicial branch.

6 Sec. 11. Section 602.3201, Code 2009, is amended to read as
7 follows:

8 **602.3201 Requirement of certification — use of title.**

9 A person shall not engage in the profession of shorthand
10 reporting unless the person is certified pursuant to this
11 chapter, or otherwise exempted pursuant to section 602.6603,
12 subsection 4 6. Only a person who is certified by the board
13 may assume the title of certified shorthand reporter, or use
14 the abbreviation C.S.R., or any words, letters, or figures to
15 indicate that the person is a certified shorthand reporter.

16 Sec. 12. Section 602.3202, Code Supplement 2009, is amended
17 to read as follows:

18 **602.3202 Transcript fee.**

19 1. Certified shorthand reporters are entitled to receive
20 compensation for transcribing their official notes as set by
21 rule of the supreme court, to be paid for in all cases by the
22 party ordering the transcription.

23 2. This section shall not be used to offset or reduce the
24 compensation paid to a certified shorthand reporter as a court
25 employee and any effort to confiscate compensation received for
26 transcribing a certified shorthand reporter's official notes
27 pursuant to this section shall be considered a taking.

28 Sec. 13. NEW SECTION. **602.3204 Transcription delay —**
29 **unpaid leave.**

30 A party to an appeal may petition the supreme court
31 requesting the court find that an unreasonable delay in the
32 preparation of the appeal transcript has occurred. Upon a
33 finding that an unreasonable delay has occurred the court may
34 place the appointed certified shorthand reporter on unpaid
35 leave until the transcript is completed.

1 Sec. 14. NEW SECTION. 602.3205 Certified shorthand reporter
2 liaison duties.

3 1. The appointed certified shorthand reporters in each
4 judicial district shall designate an appointed certified
5 shorthand reporter in the judicial district to act as a
6 liaison with the clerk of the supreme court to ensure appeal
7 transcripts from the judicial district are handled in a timely
8 manner.

9 2. If an appointed certified shorthand reporter is placed
10 on unpaid leave pursuant to section 602.3204, the certified
11 shorthand reporter liaison or the liaison's designee for the
12 judicial district shall reassign the remaining appointed
13 certified shorthand reporters within the judicial district to
14 ensure that any proceeding requiring a stenographic record is
15 recorded.

16 Sec. 15. Section 602.6603, Code 2009, is amended to read as
17 follows:

18 **602.6603 ~~Court reporters~~ Appointment of certified shorthand**
19 **and uncertified shorthand reporters and duties.**

20 1. Each district judge shall appoint a ~~court~~ certified
21 shorthand reporter who shall, upon the request of a party in a
22 civil or criminal case, report the evidence and proceedings in
23 the case, and perform all duties as provided by law.

24 2. Each district associate judge may appoint a
25 ~~court~~ certified shorthand reporter, subject to the approval of
26 the chief judge of the judicial district. The chief judge of
27 each judicial district shall calculate the certified shorthand
28 reporter-to-district associate judge ratio in the judicial
29 district as of January 1, 2009. Any subsequent calculation of
30 the certified shorthand reporter-to-district associate judge
31 ratio in the judicial district shall not fall below the ratio
32 that existed on January 1, 2009. Certified shorthand reporters
33 appointed by a district judge or otherwise assigned to a
34 district judge shall not be included in the calculation of the
35 ratio under this subsection.

1 3. A district associate judge shall use a certified
2 shorthand reporter, upon the request of a party, for all
3 criminal trials or hearings, juvenile proceedings, and in civil
4 cases where the amount in controversy exceeds the small claims
5 jurisdictional amount pursuant to section 631.1.

6 4. An appointed certified shorthand reporter not presently
7 involved with reporting the evidence and proceedings in a case
8 with a judge may be reassigned to other judicial branch duties
9 as specified by the chief judge or certified shorthand reporter
10 liaison pursuant to section 602.3205.

11 ~~3.~~ 5. If a chief judge of a judicial district determines
12 that it is necessary to employ an additional ~~court~~ certified
13 shorthand reporter because of an extraordinary volume of work,
14 or because of the temporary illness or incapacity of a regular
15 ~~court~~ certified shorthand reporter, the chief judge may appoint
16 a temporary ~~court~~ certified shorthand reporter who shall serve
17 as required by the chief judge.

18 ~~4.~~ 6. If a regularly appointed ~~court~~ certified
19 shorthand reporter becomes disabled, or if a vacancy occurs
20 in a regularly appointed ~~court~~ certified shorthand reporter
21 position, and notwithstanding any other provision of the law
22 to the contrary, the judge may appoint a competent uncertified
23 shorthand reporter for a period of time of up to six months,
24 upon verification by the chief judge that a diligent but
25 unsuccessful search has been conducted to appoint a certified
26 shorthand reporter to the position and, in a disability case,
27 that the regularly appointed ~~court~~ certified shorthand reporter
28 is disabled. An uncertified shorthand reporter shall not be
29 reappointed to the position unless the reporter becomes a
30 certified shorthand reporter within the period of appointment
31 under this subsection. If an uncertified shorthand reporter
32 is appointed pursuant to this subsection, the uncertified
33 shorthand reporter shall be treated as a certified shorthand
34 reporter for all purposes including oaths, fees, and other
35 official duties.

1 7. If a reassignment occurs pursuant to section 602.3205 and
2 a proceeding requiring a stenographic record is unable to be
3 recorded, the chief judge, notwithstanding any other provision
4 of the law to the contrary, may contract with a certified or
5 uncertified shorthand reporter who has not been appointed as a
6 shorthand reporter for the judicial branch to ensure that any
7 proceeding requiring a stenographic record is recorded. If an
8 uncertified shorthand reporter is appointed pursuant to this
9 subsection, the uncertified shorthand reporter shall be treated
10 as a certified shorthand reporter for all purposes including
11 oaths, fees, and other official duties.

12 ~~5.~~ 8. Except as provided in ~~subsection 4~~ subsections 6
13 and 7, a person shall not be appointed to the position of
14 ~~court~~ certified shorthand reporter of the district court unless
15 the person has been certified as a shorthand reporter by the
16 board of examiners under article 3.

17 ~~6.~~ 9. Each ~~court~~ certified shorthand reporter shall take an
18 oath faithfully to perform the duties of office, which shall be
19 filed in the office of the clerk of district court.

20 ~~7.~~ 10. A ~~court~~ certified shorthand reporter may be removed
21 for cause with due process by the judicial officer making the
22 appointment.

23 ~~8.~~ 11. If a judge dies, resigns, retires, is removed
24 from office, becomes disabled, or fails to be retained in
25 office and the judicial vacancy is eligible to be filled,
26 the ~~court~~ certified shorthand reporter appointed by the
27 judge shall serve as a ~~court~~ certified shorthand reporter, as
28 directed by the chief judge or the chief judge's designee,
29 until the successor judge appoints a successor ~~court~~ certified
30 shorthand reporter. The ~~court~~ certified shorthand reporter
31 shall receive the reporter's regular salary and benefits
32 during the period of time until a successor ~~court~~ certified
33 shorthand reporter is appointed or until the currently
34 appointed ~~court~~ certified shorthand reporter is reappointed.

35 Sec. 16. Section 602.8102, subsection 99, Code 2009, is

1 amended to read as follows:

2 99. Collect jury fees and ~~court~~ certified
3 shorthand reporter fees as required by chapter 625.

4 Sec. 17. Section 602.8103, subsection 4, paragraphs g, h,
5 and j, Code 2009, are amended to read as follows:

6 g. ~~Court~~ Certified shorthand reporters' notes and certified
7 transcripts of those notes in civil cases, ten years after
8 final disposition of the case. For purposes of this section,
9 "*final disposition*" means one year after dismissal of the case,
10 after judgment or decree without appeal, or after procedendo or
11 dismissal of appeal is filed in cases where appeal is taken.

12 h. ~~Court~~ Certified shorthand reporters' notes and
13 certified transcripts of those notes in criminal cases, ten
14 years after dismissal of all charges, or ten years after the
15 expiration of all sentences imposed or the date probation
16 is granted, whichever later occurs. For purposes of this
17 subsection, "*sentences imposed*" include all sentencing options
18 pursuant to section 901.5.

19 j. ~~Court~~ Certified shorthand reporters' notes and certified
20 transcripts of those notes in mental health hearings under
21 section 229.12 and substance abuse hearings under section
22 125.82, ninety days after the respondent has been discharged
23 from involuntary custody.

24 Sec. 18. Section 602.9206, unnumbered paragraph 1, Code
25 2009, is amended to read as follows:

26 Section 602.1612 does not apply to a senior judge but does
27 apply to a retired senior judge. During the tenure of a senior
28 judge, if the judge is able to serve, the judge may be assigned
29 by the supreme court to temporary judicial duties on courts of
30 this state without salary for an aggregate of thirteen weeks
31 out of each twelve-month period, and for additional weeks with
32 the judge's consent. A senior judge shall not be assigned to
33 judicial duties on the supreme court unless the judge has been
34 appointed to serve on the supreme court prior to retirement.
35 While serving on temporary assignment, a senior judge has

1 and may exercise all of the authority of the office to which
2 the judge is assigned, shall continue to be paid the judge's
3 annuity as senior judge, shall be reimbursed for the judge's
4 actual expenses to the extent expenses of a district judge
5 are reimbursable under section 602.1509, may, if permitted
6 by the assignment order, appoint a temporary ~~court~~ certified
7 shorthand reporter, who shall be paid the remuneration and
8 reimbursement for actual expenses provided by law for a
9 reporter in the court to which the senior judge is assigned,
10 and, if assigned to the court of appeals or the supreme court,
11 shall be given the assistance of a law clerk and a secretary
12 designated by the court administrator of the judicial branch
13 from the court administrator's staff. Each order of temporary
14 assignment shall be filed with the clerks of court at the
15 places where the senior judge is to serve.

16 Sec. 19. Section 622.53, Code 2009, is amended to read as
17 follows:

18 **622.53 Judicial record — state or federal courts.**

19 A judicial record of this state, including the filed
20 certified shorthand notes of the official ~~court~~ certified
21 shorthand reporter as transcribed or of a court of the United
22 States may be proved by the production of the original judicial
23 record, or a copy of ~~it~~ the original judicial record certified
24 by the clerk or person having the legal custody of ~~it~~ the
25 original judicial record, authenticated by the custodian's
26 seal of office, if there is a seal. That of another state may
27 be proved by the attestation of the clerk and the seal of the
28 court annexed, if there is a seal, together with a certificate
29 of a judge, chief justice, or presiding magistrate that the
30 attestation is in due form of law.

31 Sec. 20. Section 624.9, Code 2009, is amended to read as
32 follows:

33 **624.9 Detailed report of trial.**

34 In all appealable actions triable by ordinary or equitable
35 proceedings, any party thereto shall be entitled to have

1 reported the whole proceedings upon the trial or hearing, and
2 the court shall direct ~~the~~ a certified shorthand reporter to
3 make such report in writing, ~~or~~ shorthand, or by stenographic
4 means which shall contain the date of the commencement of the
5 trial, the proceedings impaneling the jury, and any objections
6 thereto with the rulings thereon, the oral testimony at
7 length, and all offers thereof, all objections thereto, the
8 rulings thereon, the identification as exhibits, by letter
9 or number or other appropriate mark, of all written or other
10 evidence offered, and by sufficient reference thereto, made
11 in the report, to make certain the object or thing offered,
12 all objections to such evidence and the rulings thereon, all
13 motions or other pleas orally made and the rulings thereon,
14 the fact that the testimony was closed, the portions of
15 arguments objected to, when so ordered by the court, all
16 objections thereto with the rulings thereon, all oral comments
17 or statements of the court during the progress of the trial,
18 and any exceptions taken thereto, the fact that the jury is
19 instructed, all objections and exceptions to instructions given
20 by the court on its own motion, the fact that the case is given
21 to the jury, the return of the verdict and action thereon of
22 whatever kind, and any other proceedings before the court or
23 jury which might be preserved and made of record by bill of
24 exceptions, and shall note that exception was saved by the
25 party adversely affected to every ruling made by the court.

26 Sec. 21. Section 625.8, subsection 2, Code Supplement 2009,
27 is amended to read as follows:

28 2. The clerk of the district court shall tax as a court
29 cost a fee of forty dollars per day for the services of a
30 ~~court~~ certified shorthand reporter.

31 Sec. 22. Section 631.11, subsection 3, Code Supplement
32 2009, is amended to read as follows:

33 3. *Record.* Upon the trial, the judicial magistrate shall
34 make detailed minutes of the testimony of each witness and
35 append the exhibits or copies thereof to the record. The

1 proceedings upon trial shall not be reported by a certified
2 ~~court~~ shorthand reporter, unless the party provides the
3 reporter at such party's expense. If the proceedings are
4 not reported by a certified ~~court~~ shorthand reporter, the
5 magistrate shall cause the proceedings upon trial to be
6 recorded electronically, and both parties shall be notified
7 in advance of that recording. If the proceedings have been
8 recorded electronically, the recording shall be retained under
9 the jurisdiction of the magistrate unless appealed, and upon
10 appeal shall be transcribed only by a person designated by the
11 court under the supervision of the magistrate.

12 Sec. 23. Section 631.13, subsection 4, paragraph a,
13 unnumbered paragraph 2, Code 2009, is amended to read as
14 follows:

15 If the record, in the opinion of the deciding judge,
16 is inadequate for the purpose of rendering a judgment on
17 appeal, the judge may order that additional evidence be
18 presented relative to one or more issues, and may enter any
19 other order which is necessary to protect the rights of the
20 parties. The judge shall take minutes of any additional
21 evidence, but the hearing shall not be reported by a certified
22 ~~court~~ shorthand reporter.

23 Sec. 24. Section 908.2, subsection 2, Code 2009, is amended
24 to read as follows:

25 2. The magistrate may order the alleged parole violator
26 confined in the county jail or may order the alleged parole
27 violator released on bail under terms and conditions as the
28 magistrate may require. Admittance to bail is discretionary
29 with the magistrate and is not a matter of right. A person
30 for whom bail is set may make application for amendment of
31 bail to a district judge or district associate judge having
32 jurisdiction to amend the order. The motion shall be promptly
33 set for hearing and a stenographic record shall be made of the
34 hearing.

35

EXPLANATION

1 This bill relates to shorthand reporters.

2 The bill prohibits the Iowa supreme court from requiring, by
3 rule, disclosure of transcription compensation received by a
4 certified shorthand reporter pursuant to Code section 602.3202.

5 The bill specifies that a certified court reporter
6 shall take stenographic notes of all proceedings involving
7 delinquency, child in need of assistance, and termination of
8 parental rights.

9 The bill specifies that transcription compensation earned
10 pursuant to Code section 602.3202 shall not be used to offset
11 or reduce the compensation paid to a certified shorthand
12 reporter as a court employee and any effort to confiscate
13 compensation received for transcribing their official notes
14 shall be considered a taking.

15 The bill allows a party during the pendency of an appeal
16 to petition the Iowa supreme court requesting the court find
17 that an unreasonable delay in the preparation of the appeal
18 transcript has occurred. The bill provides that upon a finding
19 that an unreasonable delay has occurred the court may place
20 the certified shorthand reporter on unpaid leave until the
21 transcript is completed.

22 The bill provides that certified shorthand reporters in
23 each judicial district shall designate a certified shorthand
24 reporter in the judicial district to act as a liaison with the
25 clerk of the supreme court to ensure appeal transcripts from
26 the judicial district are prepared in a timely manner.

27 Under the bill, if a certified shorthand reporter is placed
28 on unpaid leave due to an unreasonable delay in the preparation
29 of an appeal transcript, the certified shorthand reporter
30 liaison or the liaison's designee for the judicial district
31 shall reassign the remaining certified shorthand reporters
32 within the judicial district to ensure that any proceeding that
33 requires a stenographic record is recorded. If a reassignment
34 occurs under the bill and a proceeding requiring a stenographic
35 record is unable to be recorded, the chief judge may contract

1 with a certified or uncertified shorthand reporter who has
2 not been appointed as a certified shorthand reporter for the
3 judicial branch to ensure that any proceeding requiring a
4 stenographic record is recorded. The bill provides that if an
5 uncertified shorthand reporter is appointed, the uncertified
6 reporter shall be treated as a certified shorthand reporter for
7 purposes of oaths, fees, and other judicial duties.

8 The bill requires the chief judge of each judicial district
9 to calculate the certified shorthand reporter-to-district
10 associate judge ratio in the judicial district as of January
11 1, 2009. The bill prohibits any subsequent calculation of the
12 certified shorthand reporter-to-district associate judge ratio
13 in the judicial district to fall below the ratio that existed
14 on January 1, 2009. The bill also prohibits a certified
15 shorthand reporter appointed by a district judge or otherwise
16 assigned to a district judge to be included in the calculation
17 of the ratio.

18 The bill specifies that a district associate judge, upon the
19 request of a party, shall use a certified shorthand reporter in
20 all criminal trials or hearings, juvenile proceedings, and in
21 civil cases where the amount in controversy exceeds the small
22 claims jurisdictional amount established under Code section
23 631.1.

24 The bill specifies that a certified shorthand reporter not
25 presently involved with reporting the evidence and proceedings
26 in a case with a judge may be reassigned to other judicial
27 branch duties as specified by the chief judge or certified
28 shorthand reporter liaison.

29 The bill changes the designation "court reporter" to
30 "certified shorthand reporter" in most places the designation
31 appears in the Code.