

Senate File 2301 - Introduced

SENATE FILE 2301
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2257)

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 5. 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 court~~
25 ~~reporter, subject to the approval of the chief judge of the~~
26 ~~judicial district.~~

27 2. Each district associate judge shall appoint a certified
28 shorthand reporter who shall, upon the request of a party in
29 a civil or criminal case, report the evidence and proceedings
30 in the case, and perform all duties as provided in this
31 subsection. A district associate judge shall use a certified
32 shorthand reporter, upon the request of a party, for all
33 criminal trials or hearings, juvenile proceedings, and in civil
34 cases where the amount in controversy exceeds the small claims
35 jurisdictional amount pursuant to section 631.1.

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

6 ~~3.~~ 4. If a chief judge of a judicial district determines
7 that it is necessary to employ an additional ~~court~~ certified
8 shorthand reporter because of an extraordinary volume of work,
9 or because of the temporary illness or incapacity of a regular
10 ~~court~~ certified shorthand reporter, the chief judge may appoint
11 a temporary ~~court~~ certified shorthand reporter who shall serve
12 as required by the chief judge.

13 ~~4.~~ 5. If a regularly appointed ~~court~~ certified
14 shorthand reporter becomes disabled, or if a vacancy occurs
15 in a regularly appointed ~~court~~ certified shorthand reporter
16 position, and notwithstanding any other provision of the law
17 to the contrary, the judge may appoint a competent uncertified
18 shorthand reporter for a period of time of up to six months,
19 upon verification by the chief judge that a diligent but
20 unsuccessful search has been conducted to appoint a certified
21 shorthand reporter to the position and, in a disability case,
22 that the regularly appointed ~~court~~ certified shorthand reporter
23 is disabled. An uncertified shorthand reporter shall not be
24 reappointed to the position unless the reporter becomes a
25 certified shorthand reporter within the period of appointment
26 under this subsection. If an uncertified shorthand reporter
27 is appointed pursuant to this subsection, the uncertified
28 shorthand reporter shall be treated as a certified shorthand
29 reporter for all purposes including oaths, fees, and other
30 official duties.

31 6. If a reassignment occurs pursuant to section 602.3205 and
32 a proceeding requiring a stenographic record is unable to be
33 recorded, the chief judge, notwithstanding any other provision
34 of the law to the contrary, may contract with a certified or
35 uncertified shorthand reporter who has not been appointed as a

1 shorthand reporter for the judicial branch to ensure that any
2 proceeding requiring a stenographic record is recorded. If an
3 uncertified shorthand reporter is appointed pursuant to this
4 subsection, the uncertified shorthand reporter shall be treated
5 as a certified shorthand reporter for all purposes including
6 oaths, fees, and other official duties.

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

12 ~~6.~~ 8. Each ~~court~~ certified shorthand reporter shall take an
13 oath faithfully to perform the duties of office, which shall be
14 filed in the office of the clerk of district court.

15 ~~7.~~ 9. A ~~court~~ certified shorthand reporter may be removed
16 for cause with due process by the judicial officer making the
17 appointment.

18 ~~8.~~ 10. If a judge dies, resigns, retires, is removed
19 from office, becomes disabled, or fails to be retained in
20 office and the judicial vacancy is eligible to be filled,
21 the ~~court~~ certified shorthand reporter appointed by the
22 judge shall serve as a ~~court~~ certified shorthand reporter, as
23 directed by the chief judge or the chief judge's designee,
24 until the successor judge appoints a successor ~~court~~ certified
25 shorthand reporter. The ~~court~~ certified shorthand reporter
26 shall receive the reporter's regular salary and benefits
27 during the period of time until a successor ~~court~~ certified
28 shorthand reporter is appointed or until the currently
29 appointed ~~court~~ certified shorthand reporter is reappointed.

30 Sec. 16. Section 602.8102, subsection 99, Code 2009, is
31 amended to read as follows:

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

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

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

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

14 ~~j.~~ Court Certified shorthand reporters' notes and certified
15 transcripts of those notes in mental health hearings under
16 section 229.12 and substance abuse hearings under section
17 125.82, ninety days after the respondent has been discharged
18 from involuntary custody.

19 Sec. 18. Section 602.9206, unnumbered paragraph 1, Code
20 2009, is amended to read as follows:

21 Section 602.1612 does not apply to a senior judge but does
22 apply to a retired senior judge. During the tenure of a senior
23 judge, if the judge is able to serve, the judge may be assigned
24 by the supreme court to temporary judicial duties on courts of
25 this state without salary for an aggregate of thirteen weeks
26 out of each twelve-month period, and for additional weeks with
27 the judge's consent. A senior judge shall not be assigned to
28 judicial duties on the supreme court unless the judge has been
29 appointed to serve on the supreme court prior to retirement.
30 While serving on temporary assignment, a senior judge has
31 and may exercise all of the authority of the office to which
32 the judge is assigned, shall continue to be paid the judge's
33 annuity as senior judge, shall be reimbursed for the judge's
34 actual expenses to the extent expenses of a district judge
35 are reimbursable under section 602.1509, may, if permitted

1 by the assignment order, appoint a temporary ~~court~~ certified
2 shorthand reporter, who shall be paid the remuneration and
3 reimbursement for actual expenses provided by law for a
4 reporter in the court to which the senior judge is assigned,
5 and, if assigned to the court of appeals or the supreme court,
6 shall be given the assistance of a law clerk and a secretary
7 designated by the court administrator of the judicial branch
8 from the court administrator's staff. Each order of temporary
9 assignment shall be filed with the clerks of court at the
10 places where the senior judge is to serve.

11 Sec. 19. Section 622.53, Code 2009, is amended to read as
12 follows:

13 **622.53 Judicial record — state or federal courts.**

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

26 Sec. 20. Section 624.9, Code 2009, is amended to read as
27 follows:

28 **624.9 Detailed report of trial.**

29 In all appealable actions triable by ordinary or equitable
30 proceedings, any party thereto shall be entitled to have
31 reported the whole proceedings upon the trial or hearing, and
32 the court shall direct ~~the~~ a certified shorthand reporter to
33 make such report in writing, ~~or~~ shorthand, or by stenographic
34 means which shall contain the date of the commencement of the
35 trial, the proceedings impaneling the jury, and any objections

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

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

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

26 Sec. 22. Section 631.11, subsection 3, Code Supplement
27 2009, is amended to read as follows:

28 3. *Record.* Upon the trial, the judicial magistrate shall
29 make detailed minutes of the testimony of each witness and
30 append the exhibits or copies thereof to the record. The
31 proceedings upon trial shall not be reported by a certified
32 ~~court~~ shorthand reporter, unless the party provides the
33 reporter at such party's expense. If the proceedings are
34 not reported by a certified ~~court~~ shorthand reporter, the
35 magistrate shall cause the proceedings upon trial to be

1 recorded electronically, and both parties shall be notified
2 in advance of that recording. If the proceedings have been
3 recorded electronically, the recording shall be retained under
4 the jurisdiction of the magistrate unless appealed, and upon
5 appeal shall be transcribed only by a person designated by the
6 court under the supervision of the magistrate.

7 Sec. 23. Section 631.13, subsection 4, paragraph a,
8 unnumbered paragraph 2, Code 2009, is amended to read as
9 follows:

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

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

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

30 EXPLANATION

31 This bill relates to shorthand reporters.

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

35 The bill specifies that a certified court reporter

1 shall take stenographic notes of all proceedings involving
2 delinquency, child in need of assistance, and termination of
3 parental rights.

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

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

17 The bill provides that certified shorthand reporters in
18 each judicial district shall designate a certified shorthand
19 reporter in the judicial district to act as a liaison with the
20 clerk of the supreme court to ensure appeal transcripts from
21 the judicial district are prepared in a timely manner.

22 Under the bill, if a certified shorthand reporter is placed
23 on unpaid leave due to an unreasonable delay in the preparation
24 of an appeal transcript, the certified shorthand reporter
25 liaison or the liaison's designee for the judicial district
26 shall reassign the remaining certified shorthand reporters
27 within the judicial district to ensure that any proceeding that
28 requires a stenographic record is recorded. If a reassignment
29 occurs under the bill and a proceeding requiring a stenographic
30 record is unable to be recorded, the chief judge may contract
31 with a certified or uncertified shorthand reporter who has
32 not been appointed as a certified shorthand reporter for the
33 judicial branch to ensure that any proceeding requiring a
34 stenographic record is recorded. The bill provides that if an
35 uncertified shorthand reporter is appointed, the uncertified

1 reporter shall be treated as a certified shorthand reporter for
2 purposes of oaths, fees, and other judicial duties.

3 The bill strikes a provision allowing a district associate
4 judge to appoint a court reporter upon approval of the chief
5 judge and permits each district associate judge to appoint a
6 certified shorthand reporter who shall, upon the request of
7 a party in a civil or criminal case, report the evidence and
8 proceedings in a case before the district associate judge.

9 The bill specifies that a district associate judge, upon the
10 request of a party, shall use a certified shorthand reporter in
11 all criminal trials or hearings, juvenile proceedings, and in
12 civil cases where the amount in controversy exceeds the small
13 claims jurisdictional amount established under Code section
14 631.1.

15 The bill specifies that a certified shorthand reporter not
16 presently involved with reporting the evidence and proceedings
17 in a case with a judge may be reassigned to other judicial
18 branch duties as specified by the chief judge or certified
19 shorthand reporter liaison.

20 The bill changes the designation "court reporter" to
21 "certified shorthand reporter" in most places the designation
22 appears in the Code.