

Introduced by Senator Morrow

February 7, 2002

An act to amend Section 269 of, to add Section 271 to, and to repeal Section 274c of, the Code of Civil Procedure, to amend Section 69950 of, and to repeal Section 72197 of, the Government Code, and to amend Sections 190.9 and 1539 of the Penal Code, relating to court reporting.

LEGISLATIVE COUNSEL'S DIGEST

SB 1371, as introduced, Morrow. Court reporting.

Existing law requires an official court reporter to provide a transcript in plain and legible longhand to the court or either party of the transcript of a judicial proceeding originally taken in shorthand.

This bill also would require that transcript to be provided in longhand to a nonparty if he or she is entitled to receive the transcript whether or not the nonparty was entitled to attend the proceeding.

The bill would make other technical nonsubstantive changes to the state statutes which govern the production of transcripts by court reporters, including reorganizing and consolidating various code sections which make reference to the obsolete municipal courts.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 269 of the Code of Civil Procedure is
- 2 amended to read:
- 3 269. (a) ~~The official reporter of a superior court, or any of~~
- 4 ~~them, where there are two or more, shall, at the request of either~~
- 5 ~~party, or of the court in a civil case other than a limited civil case,~~



1 ~~and on the order of the court, the district attorney, or the attorney~~  
2 ~~for the defendant in a felony case, An official reporter or official~~  
3 ~~reporter pro tempore of the superior court shall take down in~~  
4 shorthand all testimony, objections made, rulings of the court,  
5 exceptions taken, ~~all~~ arraignments, pleas, ~~and~~ sentences ~~of~~  
6 ~~defendants in felony cases, arguments of the prosecuting attorney~~  
7 ~~attorneys to the jury, and all statements and remarks made and oral~~  
8 instructions given by the judge. ~~If directed or other judicial officer,~~  
9 *in the following cases:*

10 (1) *In a civil case, on the order of the court or at the request of*  
11 *a party.*

12 (2) *In a felony case, on the order of the court or at the request*  
13 *of the prosecution, the defendant, or the attorney for the defendant.*

14 (3) *In a misdemeanor or infraction case, on the order of the*  
15 *court.*

16 (b) *If a transcript is ordered by the court, or requested by either*  
17 *a party, or if a nonparty requests a transcript that the nonparty is*  
18 *entitled to receive, regardless of whether the nonparty was*  
19 *permitted to attend the proceeding to be transcribed, the official*  
20 *reporter or official reporter pro tempore shall, within such a*  
21 *reasonable time after the trial of the case as that the court may*  
22 *designate designates, write the transcripts out, or the specific*  
23 *portions thereof as may be requested, in plain and legible*  
24 *longhand, or by typewriter, or other printing machine, and certify*  
25 *that the transcripts were correctly reported and transcribed, and*  
26 *when directed by the court, file the transcripts with the clerk of the*  
27 *court.*

28 ~~(b) In any case where~~

29 (c) *If a defendant is convicted of a felony, after a trial on the*  
30 *merits, the record on appeal shall be prepared immediately after*  
31 *the verdict or finding of guilt is announced unless the court*  
32 *determines that it is likely that no appeal from the decision will be*  
33 *made. The court's determination of a likelihood of appeal shall be*  
34 *based upon standards and rules adopted by the Judicial Council.*

35 ~~(e) Any court, party, or person may request delivery of any~~  
36 ~~transcript in a computer-readable form, except that an original~~  
37 ~~transcript shall be on paper. A copy of the original transcript~~  
38 ~~ordered within 120 days of the filing or delivery of the transcript~~  
39 ~~by the official reporter shall be delivered in computer-readable~~  
40 ~~form upon request if the proceedings were produced utilizing~~



1 ~~computer-aided transcription equipment. Except as modified by~~  
2 ~~standards adopted by the Judicial Council, the computer-readable~~  
3 ~~transcript shall be on disks in standard ASCII code unless~~  
4 ~~otherwise agreed by the reporter and the court, party, or person~~  
5 ~~requesting the transcript. Each disk shall be labeled with the case~~  
6 ~~name and court number, the dates of proceedings contained on the~~  
7 ~~disk, and the page and volume numbers of the data contained on~~  
8 ~~the disk. Each disk as produced by the court reporter shall contain~~  
9 ~~the identical volume divisions, pagination, line numbering, and~~  
10 ~~text of the certified original paper transcript or any portion thereof.~~  
11 ~~Each disk shall be sequentially numbered within the series of~~  
12 ~~disks.~~

13 SEC. 2. Section 271 is added to the Code of Civil Procedure,  
14 to read:

15 271. (a) Any court, party, or other person entitled to a  
16 transcript may request that it be delivered in computer-readable  
17 form, except that an original transcript shall be on paper. A copy  
18 of the original transcript ordered within 120 days of the filing or  
19 delivery of the transcript by the official reporter or official reporter  
20 pro tempore shall be delivered in computer-readable form upon  
21 request if the proceedings were produced utilizing computer-aided  
22 transcription equipment.

23 (b) Except as modified by standards adopted by the Judicial  
24 Council, the computer-readable transcript shall be on disks in  
25 standard ASCII code, unless otherwise agreed by the reporter and  
26 the court, party, or other person requesting the transcript. Each disk  
27 shall be labeled with the case name and court number, the dates of  
28 proceedings contained on the disk, and the page and volume  
29 numbers of the data contained on the disk. Except where  
30 modifications are necessary to reflect corrections of a transcript,  
31 each disk as produced by the official reporter shall contain the  
32 identical volume divisions, pagination, line numbering, and text of  
33 the certified original paper transcript or any portion thereof. Each  
34 disk shall be sequentially numbered within the series of disks.

35 SEC. 3. Section 274c of the Code of Civil Procedure is  
36 repealed.

37 ~~274c. Official reporters shall, at the request of either party or~~  
38 ~~of the court in a limited civil case, or on the order of the court in~~  
39 ~~a misdemeanor or infraction case, take down in shorthand all the~~  
40 ~~testimony, the objections made, the rulings of the court, the~~



1 exceptions taken, all arraignments, pleas and sentences of  
2 defendants in criminal cases, the arguments of the prosecuting  
3 attorney to the jury, and all statements and remarks made and oral  
4 instructions given by the judge; and if directed by the court, or  
5 requested by either party, must, within such reasonable time after  
6 the trial of the case as the court may designate, write out the same,  
7 or such specific portions thereof as may be requested, in plain and  
8 legible longhand, or by typewriter, or other printing machine, and  
9 certify to the same as being correctly reported and transcribed, and  
10 when directed by the court, file the same with the clerk of the court.

11 SEC. 4. Section 69950 of the Government Code is amended  
12 to read:

13 69950. (a) The fee for transcription for original ribbon *or*  
14 *printed* copy is eighty-five cents (\$0.85) for each 100 words, and  
15 for each copy for the party buying the original made *purchased* at  
16 the same time *by the court, party, or other person purchasing the*  
17 *original*, fifteen cents (\$0.15) for each 100 words.

18 (b) The fee for a first copy to any *court, party, or other person*  
19 *who does not simultaneously purchase the original* shall be twenty  
20 cents (\$0.20) for each 100 words, and for each additional copy,  
21 ~~made~~ *purchased* at the same time, fifteen cents (\$0.15) for each  
22 100 words.

23 SEC. 5. Section 72197 of the Government Code is repealed.

24 ~~72197. Whenever such request has been granted and any~~  
25 ~~official reporter of the superior court has been assigned to act as~~  
26 ~~a pro tempore phonographic reporter of the municipal court, such~~  
27 ~~reporter shall, during the period of such assignment to the~~  
28 ~~municipal court, perform the duties of an official reporter of such~~  
29 ~~municipal court and during the time of any such assignment such~~  
30 ~~reporter shall be subject to the provisions of Sections 69942 to~~  
31 ~~69955, inclusive, and Sections 273 and 274e of the Code of Civil~~  
32 ~~Procedure.~~

33 SEC. 6. Section 190.9 of the Penal Code is amended to read:

34 190.9. (a) (1) In any case in which a death sentence may be  
35 imposed, all proceedings conducted in the ~~municipal and superior~~  
36 ~~courts~~ *court*, including all conferences and proceedings, whether  
37 in open court, in conference in the courtroom, or in chambers, shall  
38 be conducted on the record with a court reporter present. The court  
39 reporter shall prepare and certify a daily transcript of all  
40 proceedings commencing with the preliminary hearing.



1 Proceedings prior to the preliminary hearing shall be reported but  
2 need not be transcribed until the ~~municipal or superior~~ court  
3 receives notice as prescribed in paragraph (2) of ~~subdivision (a)~~.

4 (2) Upon receiving notification from the prosecution that the  
5 death penalty is being sought, the ~~superior court shall notify the~~  
6 ~~court in which the preliminary hearing took place. Upon this~~  
7 ~~notification, the court in which the preliminary hearing took place~~  
8 *clerk* shall order the transcription and preparation of the record of  
9 all proceedings prior to and including the preliminary hearing in  
10 the manner prescribed by the Judicial Council in the rules of court.  
11 The record of all proceedings prior to and including the  
12 preliminary hearing shall be certified by the court no later than 120  
13 days following notification ~~by the superior court~~ unless the  
14 ~~superior court grants an extension of time~~ *is extended* pursuant to  
15 rules of court adopted by the Judicial Council. Upon certification,  
16 the ~~court in which the preliminary hearing took place shall forward~~  
17 ~~the record to the superior court for incorporation~~ *record of all*  
18 *proceedings is incorporated* into the superior court record.

19 (b) (1) The court shall assign a court reporter who uses  
20 computer-aided transcription equipment to report all proceedings  
21 under this section.

22 (2) Failure to comply with the requirements of this section  
23 relating to the assignment of court reporters who use  
24 computer-aided transcription equipment ~~shall~~ *is not be* a ground  
25 for reversal.

26 (c) Any computer-readable transcript produced by court  
27 reporters pursuant to this section shall conform to the requirements  
28 of ~~subdivision (e) of Section 269~~ *Section 271* of the Code of Civil  
29 Procedure.

30 SEC. 7. Section 1539 of the Penal Code is amended to read:

31 1539. (a) If a special hearing ~~be~~ *is* held in the ~~superior court~~  
32 *a felony case* pursuant to Section 1538.5, or if the grounds on  
33 which the warrant was issued ~~be~~ *are* controverted and a motion to  
34 return property ~~be~~ *is* made (i) by a defendant on grounds not  
35 covered by Section 1538.5; (ii) by a defendant whose property  
36 has not been offered or will not be offered as evidence against ~~him~~;  
37 *the defendant*, or (iii) by a person who is not a defendant in a  
38 criminal action at the time the hearing is held, the judge or  
39 magistrate ~~must~~ *shall* proceed to take testimony in relation thereto,  
40 and the testimony of each witness ~~must~~ *shall* be reduced to writing



1 and authenticated by a shorthand reporter in the manner prescribed  
2 in Section 869.

3 (b) The reporter shall forthwith transcribe ~~his~~ *the reporter's*  
4 shorthand notes pursuant to this section if any party to a special  
5 hearing in ~~the superior court~~ *a felony case* files a written request  
6 for its preparation with the clerk of the court in which the hearing  
7 was held. The reporter shall forthwith file in the superior court an  
8 original and as many copies thereof as there are defendants (other  
9 than a fictitious defendant) or persons aggrieved. The reporter  
10 ~~shall be~~ *is* entitled to compensation in accordance with the  
11 provisions of Section 869. In every case in which a transcript is  
12 filed as provided in this section, the ~~county~~ *clerk of the court* shall  
13 deliver the original of ~~such~~ *the* transcript so filed ~~with him~~  
14 district attorney immediately upon receipt thereof and shall deliver  
15 a copy of ~~such~~ *the* transcript to each defendant (other than a  
16 fictitious defendant) upon demand ~~by him~~ without cost to ~~him~~ *the*  
17 *defendant*.

18 (c) Upon a motion by a defendant pursuant to this chapter, the  
19 defendant ~~shall be~~ *is* entitled to discover any previous application  
20 for a search warrant in the case which was refused by a magistrate  
21 for lack of probable cause.

22 SEC. 8. Nothing in this act is intended to change the extent to  
23 which official reporter services or electronic reporting may be  
24 used in the courts.

