

## Senate Bill No. 1371

### CHAPTER 71

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.

[Approved by Governor June 20, 2002. Filed with  
Secretary of State June 21, 2002.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1371, 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.

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

SECTION 1. Section 269 of the Code of Civil Procedure is amended to read:

269. (a) An official reporter or official reporter pro tempore of the superior court shall take down in shorthand all testimony, objections made, rulings of the court, exceptions taken, arraignments, pleas, sentences, arguments of the attorneys to the jury, and statements and remarks made and oral instructions given by the judge or other judicial officer, in the following cases:

- (1) In a civil case, on the order of the court or at the request of a party.
- (2) In a felony case, on the order of the court or at the request of the prosecution, the defendant, or the attorney for the defendant.
- (3) In a misdemeanor or infraction case, on the order of the court.

(b) If a transcript is ordered by the court or requested by a party, or if a nonparty requests a transcript that the nonparty is entitled to receive, regardless of whether the nonparty was permitted to attend the proceeding to be transcribed, the official reporter or official reporter pro



tempore shall, within a reasonable time after the trial of the case that the court designates, write the transcripts out, or the specific portions thereof as may be requested, in plain and legible longhand, or by typewriter, or other printing machine, and certify that the transcripts were correctly reported and transcribed, and when directed by the court, file the transcripts with the clerk of the court.

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

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

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

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

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

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

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

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

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

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



190.9. (a) (1) In any case in which a death sentence may be imposed, all proceedings conducted in the superior court, including all conferences and proceedings, whether in open court, in conference in the courtroom, or in chambers, shall be conducted on the record with a court reporter present. The court reporter shall prepare and certify a daily transcript of all proceedings commencing with the preliminary hearing. Proceedings prior to the preliminary hearing shall be reported but need not be transcribed until the court receives notice as prescribed in paragraph (2).

(2) Upon receiving notification from the prosecution that the death penalty is being sought, the clerk shall order the transcription and preparation of the record of all proceedings prior to and including the preliminary hearing in the manner prescribed by the Judicial Council in the rules of court. The record of all proceedings prior to and including the preliminary hearing shall be certified by the court no later than 120 days following notification unless the time is extended pursuant to rules of court adopted by the Judicial Council. Upon certification, the record of all proceedings is incorporated into the superior court record.

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

(2) Failure to comply with the requirements of this section relating to the assignment of court reporters who use computer-aided transcription equipment is not a ground for reversal.

(c) Any computer-readable transcript produced by court reporters pursuant to this section shall conform to the requirements of Section 271 of the Code of Civil Procedure.

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

1539. (a) If a special hearing is held in a felony case pursuant to Section 1538.5, or if the grounds on which the warrant was issued are controverted and a motion to return property is made (i) by a defendant on grounds not covered by Section 1538.5, (ii) by a defendant whose property has not been offered or will not be offered as evidence against the defendant, or (iii) by a person who is not a defendant in a criminal action at the time the hearing is held, the judge or magistrate shall proceed to take testimony in relation thereto, and the testimony of each witness shall be reduced to writing and authenticated by a shorthand reporter in the manner prescribed in Section 869.

(b) The reporter shall forthwith transcribe the reporter's shorthand notes pursuant to this section if any party to a special hearing in a felony case files a written request for its preparation with the clerk of the court in which the hearing was held. The reporter shall forthwith file in the superior court an original and as many copies thereof as there are



defendants (other than a fictitious defendant) or persons aggrieved. The reporter is entitled to compensation in accordance with the provisions of Section 869. In every case in which a transcript is filed as provided in this section, the clerk of the court shall deliver the original of the transcript so filed to the district attorney immediately upon receipt thereof and shall deliver a copy of the transcript to each defendant (other than a fictitious defendant) upon demand without cost to the defendant.

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

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

