

AMENDED IN SENATE JUNE 20, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2801

Introduced by Assembly Member Shelley

February 28, 2000

An act to add Section 2025.2 to the Code of Civil Procedure, and to amend Section 69955 of the Government Code, relating to deposition officers and court reporters.

LEGISLATIVE COUNSEL'S DIGEST

AB 2801, as amended, Shelley. Deposition officers and court reporters.

Existing law provides that a deposition officer shall record a deponent's testimony stenographically, unless the parties agree or the court orders otherwise. Existing law also provides comprehensive procedures that a deposition officer shall follow if a deposition is recorded by audiotape or videotape.

This bill would provide that any nonstenographic recordings that a deposition officer uses solely for his or her own convenience, and not otherwise required, as specified, shall be the exclusive property of the deposition officer. *This bill would prohibit the use of the above-described recordings and any reproductions of them for the personal benefit of the deposition officer, and would require that any of these recordings or reproductions be destroyed or erased, except as specified.*

Existing law provides that a court reporter's reporting notes are official records of the court, and that the court reporter is

to keep them in a place designated by the court, and shall deliver them to the court clerk upon court order. Existing law further provides a comprehensive set of procedures regarding, among other things, how reporting notes are to be kept and for how long.

This bill would provide that any nonstenographic recordings that a court reporter uses solely for his or her own convenience, and not otherwise required, as specified, are not considered reporting notes and shall be the exclusive property of the court reporter. *This bill would prohibit the use of the above-described recordings and any reproductions of them for the personal benefit of the court reporter, and would require that any of these recordings or reproductions be destroyed or erased, except as specified.*

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 2025.2 is added to the Code of
2 Civil Procedure, to read:

3 2025.2. (a) Any nonstenographic recordings that a
4 deposition officer uses solely for his or her own
5 convenience, and that are not required by statute, rule of
6 court, court order, or agreement of the parties, shall be
7 the exclusive property of the deposition officer.

8 (b) *A nonstenographic recording described in
9 subdivision (a) and any reproduction of it may not be
10 used by a deposition officer for his or her personal benefit.
11 The nonstenographic recording and any reproduction of
12 it shall be destroyed or erased upon completion of the
13 official transcript of the proceeding, unless otherwise
14 required by law or court order. If a nonstenographic
15 recording or reproduction of it is not destroyed or erased
16 upon completion of the official transcript, it shall be kept
17 as provided in Section 69955 of the Government Code.*

18 SEC. 2. Section 69955 of the Government Code is
19 amended to read:

20 69955. (a) As used in this section, “reporting notes”
21 are the reporting notes of all court reporters employed to



1 report in the courts of California, who may be known as
2 official and pro tempore court reporters. Reporting notes
3 are official records of the court. Reporting notes shall be
4 kept by the reporter taking the notes in a place
5 designated by the court, or, upon order of the court,
6 delivered to the clerk of the court.

7 (b) The reporting notes may be kept in any form of
8 communication or representation including paper,
9 electronic, or magnetic media or other technology
10 capable of reproducing for transcription the testimony of
11 the proceedings according to standards or guidelines for
12 the preservation and reproduction of the medium
13 adopted by the American National Standards Institute or
14 the Association for Information and Image Management.
15 Reporting notes shall be stored in an environment free
16 from excessive moisture, temperature variation, and
17 electromagnetic fields if stored on a medium other than
18 paper.

19 (c) The reporting notes shall be labeled with the date
20 recorded, the department number of the court, and the
21 name of the court reporter. The reporting notes shall be
22 indexed for convenient retrieval and access. Instructions
23 for access to data stored on a medium other than paper
24 shall be documented.

25 (d) If the reporting notes are kept in any form other
26 than paper, one duplicate backup copy of the notes shall
27 be stored in a manner and place that reasonably assures
28 its preservation.

29 (e) Reporting notes produced under subdivision (b)
30 may be destroyed upon the order of the court after 10
31 years from the taking of the notes in criminal proceedings
32 and after five years from the taking of the notes in all
33 other proceedings, unless the notes report proceedings in
34 capital felony cases including the preliminary hearing. No
35 reporting notes in a capital felony case proceeding shall
36 be destroyed until such time as the Supreme Court on
37 request by the court clerk authorizes the destruction.

38 (f) A periodic review of the media on which the
39 reporting notes are stored shall be conducted to assure
40 that a storage medium is not obsolete and that current



1 technology is capable of accessing and reproducing the
2 records for the required retention period.

3 (g) If the reporting notes of an official or pro tempore
4 court reporter have not been delivered to the clerk of the
5 court, the notes shall be delivered by the reporter to the
6 clerk of the court upon the reporter's retirement,
7 resignation, dismissal, termination of appointment, or in
8 the case of any other absence for a period of more than
9 30 days or longer as designated by the court. Upon the
10 order of the court, the notes shall be returned to the
11 reporter upon the reporter's return from such absence.
12 In the event of the reporter's death, the notes shall be
13 delivered to the clerk of the court by the reporter's
14 personal representative.

15 (h) If reporting notes delivered to the clerk of the
16 court are to be transcribed, the court reporter who took
17 the notes shall be given the first opportunity to make the
18 transcription, unless the reporter cannot be located,
19 refuses to transcribe the notes, or is found to be
20 incompetent to transcribe the notes.

21 (i) A court reporter shall be reimbursed for the actual
22 cost of the medium on which the reporting notes are kept,
23 whether on paper, diskette, or other media in compliance
24 with this section.

25 (j) (1) Any nonstenographic recordings that a court
26 reporter uses solely for his or her own convenience, and
27 that are not required by statute, rule of court, or court
28 order, shall not be considered reporting notes and shall be
29 the exclusive property of the court reporter.

30 (2) *A nonstenographic recording described in*
31 *paragraph (1) and any reproduction of it may not be used*
32 *by a court reporter for his or her personal benefit. The*
33 *nonstenographic recording and any reproduction of it*
34 *shall be destroyed or erased upon completion of the*
35 *official transcript of the proceeding, unless otherwise*
36 *required by law or court order. If a nonstenographic*
37 *recording or reproduction of it is not destroyed or erased*



1 *upon completion of the official transcript, it shall be kept*
2 *as provided in Section 69955.*

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