

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2023-2024 Regular Session**

AB 3013 (Maienschein)  
Version: April 10, 2024  
Hearing Date: June 25, 2024  
Fiscal: Yes  
Urgency: No  
AWM

**SUBJECT**

Courts: remote court reporting

**DIGEST**

This bill authorizes specified counties to conduct pilot projects to study the potential use of remote court reporting to make the verbatim record of certain court proceedings.

**EXECUTIVE SUMMARY**

Generally speaking, only a certified shorthand court reporter may take down the verbatim record of a court proceeding for the creation of the official transcript. A court reporter may be certified to take down the proceedings through typographic or shorthand means or through voicewriting. Current law also requires the official court reporter to be present in the courtroom while taking down the record of the proceedings.

In 2019, the Legislature enacted AB 253 (M. Stone, Ch. 419, Stats. 2019), which (1) generally prohibited the use of remote court reporting in California's courts, and (2) authorized the Superior Court for the County of Santa Clara to conduct a remote court reporting pilot. Santa Clara began its pilot project in 2020; unfortunately, due to the COVID-19 pandemic and the courts' rapid switch to fully remote proceedings, the pilot project did not produce useful data on whether, and how, to adopt remote court reporting on a wider basis.

This bill authorizes a second remote court reporter pilot project, but on a larger scale than AB 253. Instead of limiting the pilot project to a single county, this bill authorizes specified 11 counties to implement remote court reporter pilot projects. Each county that elects to establish a pilot will be permitted to use remote court reporting in up to 10 percent of the courtrooms in each county. The pilot programs may commence beginning July 1, 2025, and must be completed by July 1, 2026. The bill provides for a number of safeguards regarding the use of technology for, and the experiences of the

court reporters participating in, remote court reporting. Courts that elect to conduct pilot projects are required to report to the Legislature on the results of the pilot, which will inform the Legislature's further consideration of whether to permit remote court reporting more broadly.

This bill is sponsored by SEIU California and is supported by the California Labor Federation and the Orange County Employees Association. The Committee has not received timely opposition to this bill.

### **PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Provides that an official court reporter or official court reporter pro tempore<sup>1</sup> 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:
  - a) In a civil case, on the order of the court or at the request of a party.
  - b) 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.
  - c) In a misdemeanor or infraction case, on the order of the court. (Code Civ. Proc., § 269(a).)
- 2) Requires the court to provide an official court reporter in felony, dependency, and juvenile justice proceedings. (Pen. Code, §§ 190.9, 869; Welf. & Inst. Code, §§ 347, 677.)
- 3) Provides that a superior court may appoint as many competent phonographic reporters, to be known as official reporters of such court, and such official reporters pro tempore, as are deemed necessary for the performance of the duties and the exercise of the powers conferred by law upon the court and its members. (Gov. Code, § 69941.)
- 4) Provides that no person shall be appointed to the position of official court reporter of any court unless the person has first obtained a license to practice as a certified shorthand reporter from the Court Reporters Board of California (CRB). (Gov. Code, § 69942.)
- 5) Defines the practice of shorthand reporting, for purposes of becoming a certified shorthand reporter under 3), as the making, by means of written symbols or abbreviations in shorthand or machine shorthand writing, or by voice writing, of a

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<sup>1</sup> Going forward, this analysis uses "official court reporter" to include "official court reporter pro tempore."

verbatim record of any oral court proceeding, deposition, court ordered hearing or arbitration, or proceeding before any grand jury, referee, or court commissioner and the accurate transcription thereof. (Bus. & Prof. Code, § 8017.)

- 6) Provides that, in a limited civil, misdemeanor, or infraction case, if an official court reporter is unavailable to report an action or proceeding in a court, the court may order the action or proceeding to be electronically recorded for purposes of creating the verbatim record, provided that the court has the approved equipment for doing so. (Gov. Code, § 69957(a).)
- 7) Defines “remote court reporting” as the use of a stenographic reporter who is not present in the courtroom to produce a verbatim record of court proceedings that are transmitted by audiovisual means to the reporter. (Gov. Code, § 69959(b).)
- 8) Provides that remote court reporting shall not be used by the courts to make the record of any court proceedings, and courts shall not expand any funds to purchase equipment or software to facilitate the use of remote court reporting. (Gov. Code, § 69959(a).)

This bill:

- 1) Defines “remote court reporting” as the use of a stenographic reporter who is not present in the courtroom to produce a verbatim record of court proceedings that are transmitted by audiovisual means to the reporter.
- 2) Provides that, notwithstanding existing law, the Superior Courts of the Counties of Alameda, Los Angeles, Mendocino, Monterey, Orange, San Diego, San Joaquin, San Mateo, Santa Clara, Tulare, and Ventura are authorized pilot projects, beginning on July 1, 2025, to study the potential use of remote court reporting to make the verbatim record of certain court proceedings. A superior court that elects to conduct a pilot project must comply with the requirements of 3)-8).
- 3) Provides that, in a pilot project, remote court reporting shall be performed only by full-time official court reporters employed by the participating superior court who have at least two years of courtroom experience in a California superior court; court reporters who participate in the pilot projects shall be treated in the same manner as other official reporters employed by the court, including, but not limited to, compensation, benefits, classification, seniority, job description, and bargaining units.
- 4) Provides that, in a pilot project, official reporters shall be physically located in court facilities while performing the remote court reporting; however, after six months of meaningful court reporting testing, the exclusive representatives of the official reporters of the participating superior court may, by mutual agreement reached no

later than January 1, 2026, agree to include additional offsite locations to test remote court reporting and agree on the equipment needed for these locations and how the participating court will provide that equipment.

- 5) Provides that, in a pilot project, no more than 10 percent of the total courtrooms in the participating court may be equipped to participate in the pilot project.
- 6) Requires a superior court conducting a pilot project to equip its courtrooms with necessary equipment by no later than June 30, 2025.
- 7) Defines “equipped,” for purposes of 5) and 6), to include:
  - a) Individual microphones for each participant, including the judicial officer, witnesses, jury box, counsel table, and lectern or podium or other place where participants may speak.
  - b) Permanently or semi-permanently affixed cameras with a frontal view of the judicial officer, witnesses, jury box, counsel tables, and lectern or podium or other place where participants may speak.
  - c) Studio-quality speakers that allow the court reporter to be heard clearly throughout the courtroom.
  - d) Wired speakers and microphone for the court reporter.
  - e) High-quality camera for the court reporter.
  - f) Two-way means of communication between the court reporter and the judicial officer.
- 8) Provides that, in a pilot project, remote court reporting may be used only to report proceedings in limited civil cases, civil law and motion cases, family law cases, child support cases, probate cases, and felony and misdemeanor arraignments and pleas.
- 9) Permits transcripts created through remote court reporting as part of a pilot project to be used whenever a transcript of court proceedings is required.
- 10) Provides that the fees of the official reporter and costs of transcript preparation for remote court reporting in a pilot project shall be the same as when an official reporter is present in the courtroom.
- 11) Requires the presiding judge of a participating superior court to appoint a committee to prepare a report to the Legislature on the results of the pilot project.
  - a) The committee shall include at least two judicial officials who participated in the pilot project, at least two official reporters chosen by the exclusive bargaining representative of the official reporters of the participating superior court, and at least two attorneys who regularly practice in the participating superior court.

- b) The presiding judge shall also invite the chief public defender or their designee, and the district attorney or their designee, who may, at their discretion, participate on the committee.
- c) The committee's report shall be presented to the Legislature, as specified, within six months of the conclusion of the pilot project.

12) Provides that all pilot projects authorized pursuant to 2) shall terminate no later than July 1, 2026; however, a participating superior court must terminate its pilot project earlier if the court determines that the use of remote court reporting is prejudicing the rights of litigants or the interests of justice.

13) Provides that 1)-12) will sunset on June 1, 2027.

### COMMENTS

#### 1. Author's comment

According to the author:

AB 3013 establishes a one-year pilot project in 11 counties throughout California to develop the use of remote court reporters by trial courts. Despite being a highly skilled and well-paid profession, there is a growing shortage of court reporters. Existing statutes authorize court proceedings to be conducted remotely; however, court reporters must be physically present in a courtroom. In contrast, private court reporters have the flexibility to participate remotely. By establishing a remote reporting pilot project, AB 3013 would allow for the development of successful standards for producing accurate verbatim transcripts remotely. These standards could advise statewide implementation, which would provide courts with more staffing flexibility and make court employment more attractive.

#### 2. Background on the importance of court reporters

As a general rule, the official record of a court proceeding can be made only by a shorthand reporter licensed to practice by the CRB.<sup>2</sup> To obtain a license, a person must pass a three-part exam and, generally, graduate from a state-approved school that takes four years to graduate.<sup>3</sup> Felony, dependency, and juvenile justice proceedings are automatically reported;<sup>4</sup> in civil trials, any party may request that a court reporter make a record of the proceedings.<sup>5</sup> Additionally, if a party in a civil case has a fee waiver, the

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<sup>2</sup> Code Civ. Proc., § 269; Gov. Code, §§ 69941, 69942, 69957.

<sup>3</sup> Commission on the Future of California's Court System, Report to the Chief Justice (2017), Appendix 5.1C, p. 262.

<sup>4</sup> Pen. Code, §§ 190.9, 869; Welf. & Inst. Code, §§ 347, 677.)

<sup>5</sup> Code Civ. Proc., § 369(a.)

court must make a court reporter available for that litigant, even if the court does not otherwise provide court reporters for that case type.<sup>6</sup>

There are exceptions to the rule requiring the record to be made by an official court reporter: in a limited civil, misdemeanor, or infraction case, the court may authorize the proceeding to be electronically recorded and transcribed after the fact by a person designated by the clerk of the court.<sup>7</sup> Other jurisdictions currently use electronic recording in a wide array of cases, including the federal government.<sup>8</sup>

As a matter of public policy, accurate transcripts of proceedings are vital to the administration of justice for a variety of reasons, including: establishing a record in order to subject errant rulings to the scrutiny of higher courts; enabling counsel to impeach a witness by showing that the witness made prior inconsistent statements while under oath; prosecuting a person for perjury; and ensuring that court orders accurately reflect the judge's ruling on nuanced issues such as visitation rights or division of property. If the parties later disagree on a ruling, they may be forced to re-litigate the issue – a considerable burden on the parties and courts. Moreover, as explained by the California Supreme Court:

...the absence of a court reporter at trial court proceedings and the resulting lack of a verbatim record of such proceedings will frequently be fatal to a litigant's ability to have his or her claims of trial court error resolved on the merits by an appellate court. This is so because it is a fundamental principle of appellate procedure that a trial court judgment is ordinarily presumed to be correct and the burden is on an appellant to demonstrate, on the basis of the record presented to the appellate court, that the trial court committed an error that justifies reversal of the judgment.<sup>9</sup>

### 3. Ongoing concerns about the number of official court reporters employed by the courts

Unfortunately, a variety of factors have left California's courts with fewer official court reporters than are needed to provide parties in all civil cases with a court reporter. As explained in a Senate Judiciary Committee analysis from 2019:

California does not mandate the use of court reporters in certain civil actions, and budget cuts have resulted in increasingly shallow pools of

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<sup>6</sup> *Jameson v. Desta*, 5 Cal.5th 594, 623.

<sup>7</sup> Gov. Code, § 69975(a); Cal. Rules of Ct., r. 2.952(g.)

<sup>8</sup> E.g., 28 U.S.C. § 753(b). The federal courts' Guide to Judiciary Policy sets forth extensive requirements for audio recordings, including for recording speeds, emergency backup measures, disaster recovery, and data security for digital recordings. (Guide to Judiciary Policy, Vol. 6: Court Reporting, Ch. 3 & Appx. 3B & 3C.)

<sup>9</sup> *Jameson, supra*, 5 Cal.5th at pp. 608-609.

official court reporters. This scarcity forces parties to choose between the undesirable alternatives of shouldering the costs of a private court reporter or altogether forgoing the use of a court reporter, thereby forfeiting the benefits and protections that an official transcript can provide.<sup>10</sup>

In 2023, this Committee heard testimony from judges, court staff, and court users regarding the availability of court reporters and the barriers to increasing the court reporter work force at a joint informational hearing with the Senate Public Safety Committee.<sup>11</sup> At a high level, there was a consensus that the courts have been unable to fill all of their official court reporter positions, but there were sharply diverging opinions on the cause.

#### 4. California's first attempt at a remote court reporting pilot and the subsequent debates over remote appearances

In 2019, the Legislature enacted AB 253 (M. Stone, Ch. 419, Stats. 2019), which (1) generally prohibited the use of remote court reporting in California's courts, and (2) authorized the Superior Court for the County of Santa Clara to conduct a remote court reporting pilot. AB 253's general prohibition, while also enacting a pilot on the same prohibited issue, reflected the conflicting impulses at play in the issue of remote reporting: if it's done well, it could be a boon for court reporter availability and access to justice; but if it's done poorly, the litigants whose transcripts are affected will be materially prejudiced.

AB 253 took effect at the beginning of 2020, and the Superior Court for the County of Santa Clara announced at the end of January that the pilot project had started.<sup>12</sup> Weeks later, the COVID-19 pandemic upended nearly every aspect of public life, and courts rushed to move all court operations online in order to keep the justice system moving. The Superior Court for the County of Santa Clara's report on AB 253 acknowledged that the shift to all-remote proceedings prevented the full implementation of the pilot, but believed the limited implementation still provided valuable lessons for future remote court reporting efforts.<sup>13</sup> The report set forth the participating court reporters'

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<sup>10</sup> Sen. Com. on Judiciary, Analysis of Assem. Bill. No 253 (2019-2020 Reg. Sess.) as amended June 21, 2019, p. 4.

<sup>11</sup> See Sen. Coms. on Judiciary and Public Safety, Agenda for The Judicial Branch: Protecting Access to Justice as the COVID-19 State of Emergency Expires (Mar. 7, 2023), available at <https://sjud.senate.ca.gov/hearings/2023-24-informationaloversight-hearings>. All links in this analysis are current as of June 20, 2024.

<sup>12</sup> Superior Court of California, County of Santa Clara, Press Release, AB 253: Pilot Project for Remote Court Reporting (Jan. 30, 2020), available at [https://www.sccourt.org/general\\_info/news\\_media/newspdfs/PR%20AB%20253%20Remote%20Court%20Reporting%202020.pdf](https://www.sccourt.org/general_info/news_media/newspdfs/PR%20AB%20253%20Remote%20Court%20Reporting%202020.pdf).

<sup>13</sup> Superior Court for the County of Santa Clara, Assembly Bill 253: Remote Court Reporting Evaluation (Aug. 17, 2021), p. 2.

recommendations about the equipment and procedures that would be most likely to result in a verbatim record, as well as the court's responses to those recommendations.<sup>14</sup>

The shift to remote appearances in connection with the COVID-19 pandemic also shifted the Legislature's attention to crafting policies for, and safeguards surrounding, those remote appearances. Throughout the discussions about remote appearances, stakeholders have raised concerns about the quality of the audiovisual technology provided and how poor technology can prejudice a party. Court reporters, in particular, have argued that more attention should be paid to the audiovisual technology used by the courts for remote appearances, noting that even minor audibility issues can affect the accuracy of a transcript of the proceedings, which can in turn materially prejudice a party. The current provisions authorizing parties to appear remotely require the court reporter to be physically present in the courtroom when a trial is conducted, in whole or in part, through the use of remote technology;<sup>15</sup> these provisions were added at the request of court reporter stakeholders.

5. This bill authorizes multiple superior courts to implement remote court reporting pilots, subject to specified exceptions

This bill authorizes a second remote court reporter pilot project, but on a larger scale than AB 253. Instead of limiting the pilot project to a single county, this bill authorizes 11 counties – Alameda, Los Angeles, Mendocino, Monterey, Orange, San Diego, San Joaquin, San Mateo, Santa Clara, Tulare, and Ventura – to implement remote court reporter pilot projects. Each county that elects to establish a pilot will be permitted to use remote court reporting in up to 10 percent of the courtrooms in each county. The pilot programs may commence beginning July 1, 2025, and must be completed by July 1, 2026.

The bill provides a number of limitations intended to ensure that the pilot projects are conducted with the utmost care for the integrity of official records created through remote reporting. These include minimum experience requirements for the participating court reporters, minimum technological requirements for participating courtrooms, and the requirement that, for the first six months of the pilot, remote court reporters must be physically present in a court facility while reporting remotely; if, after six months, the results indicate that offsite reporting is worth testing, the participating courts and representatives of the court reporters can negotiate that next step. Many of the technological requirements in this bill are based on the recommendations made in connection with the AB 253 pilot. Additionally, remote reporting is restricted to specified case types: limited civil cases, civil law and motion cases, family law cases, child support cases, probate cases, and felony and misdemeanor arraignments and pleas. The bill also provides protections for the court reporters who participate in the pilot.

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<sup>14</sup> *Id.* at pp. 9-11.

<sup>15</sup> *See* Code Civ. Proc., §§ 367.75, 367.76.



The bill requires the presiding judge of each court that elects to commence a pilot project to appoint a committee to prepare a report for the Legislature regarding the results of the pilot project. Each committee must include participating judicial officers and court reporters, and may include representatives from the county's public defender and district attorney's offices. The report must be presented to the Legislature within six months of the conclusion of the project.

According to the author and sponsor, discussions with stakeholders, including the Judicial Council of California, regarding the scope and details of the pilot are ongoing. The Committee has not received any timely opposition to this bill.

## 6. Arguments in support

According to SEIU California, the bill's sponsor:

Prior to the pandemic, all court proceedings were conducted in person. In an effort to make official court reporter employment more attractive and flexible, AB 253 (Chapter 419, Statutes 2019) established a one-year remote court reporting pilot program in Santa Clara Superior Court. However, the pandemic derailed the effort when courthouses shut down in late March 2020. Therefore, more testing is needed to ensure that a high-quality verbatim transcript can be produced by remote court reporting.

Current law expressly prohibits trial courts from using remote court reporting. Although existing statutes authorize court proceedings to be conducted remotely, court reporters must be physically present in a courtroom. In contrast, private court reporters have the flexibility to participate remotely. Additionally, California's trial courts are facing recruitment and retention difficulties. While there are more than enough licensed court reporters in California to cover every judicial officer, reporters opt to work in the private freelance market rather than in court.

The private market is more lucrative and offers greater job flexibility than working for a court. A March 2024 analysis on the availability of court reporters conducted by the Legislative Analyst's Office (LAO) suggests the Legislature should consider remote reporting to "improve overall court efficiency and improve working conditions for some reporters. This could improve recruitment and retention." However, the LAO cautions that consideration should be given to different case types, suggesting that some cases may not be appropriate for remote court reporting...

AB 3013 would increase access to quality transcripts for all litigants, regardless of status, by working to increase the likelihood that more reporters will work in trial courts. Court reporters who work for a court are free to litigants, and their

transcripts are required to be 100% accurate. This ensures that all people will have access to verbatim transcripts, not just those who are wealthy enough to hire a private court reporter. Verbatim transcripts are a core underpinning of a fair system of justice.

### **SUPPORT**

SEIU California (sponsor)  
California Labor Federation  
Orange County Employees Association

### **OPPOSITION**

None received

### **RELATED LEGISLATION**

Pending Legislation: None known.

Prior Legislation:

SB 662 (Rubio, 2023) would have authorized a court to electronically record any civil case, for the purpose of creating the official record, provided that no official reporter is available, as specified; and would have allowed the Court Reporters Board of California (CRB) to issue provisional certificates to shorthand reporters who meet certain criteria. SB 662 died in the Senate Appropriations Committee.

SB 133 (Committee on Budget and Fiscal Review, Ch. 34, Stats. 2023) extended the sunset on the statute authorizing remote appearances in civil cases, until January 1, 2026; established a new statute authorizing remote appearances in juvenile justice, civil commitment, competency, and civil commitment proceedings; and required Judicial Council to establish various minimum technological standards for the use of remote technology in court proceedings.

SB 241 (Umberg, Ch. 214, Stats. 2021) titled the 2021 Court Efficiency Act, among other things, authorized specified remote appearances in specified civil court proceedings, subject to, among other things, the court reporter's ability to accurately record the proceedings, and required that the court reporter in a trial conducted through remote means to be physically present in the courtroom. SB 241's remote proceedings provisions were set to sunset on July 1, 2023.

AB 253 (Mark Stone, Ch. 419, Stats. 2019) explicitly prohibited the use of remote court reporting to make the record of any court proceeding, and established a pilot program in the Superior Court for the County of Santa Clara to conduct a one-year remote court reporting pilot.

**PRIOR VOTES:**

Assembly Floor (Ayes 71, Noes 0)  
Assembly Appropriations Committee (Ayes 15, Noes 0)  
Assembly Judiciary Committee (Ayes 11, Noes 0)

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