

1 ENGROSSED HOUSE
2 BILL NO. 1099

By: Kannady of the House

and

Holt of the Senate

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7 An Act relating to court reporters; amending 20 O.S.
8 2011, Sections 106.4, 106.4a, 1006, 1010 and 1011,
9 which relate to court clerk records; deleting method
10 of steno-mask reporting; authorizing modification of
11 transcript fee; specifying delivery of electronic
12 copies; directing filing of electronic transcripts;
13 providing for delivery via electronic mail of
14 electronic transcripts; authorizing court reporter to
15 destroy exhibits; permitting destruction of certain
16 materials after specified time period; stating
17 exception; specifying procedures for transcripts upon
18 the death of a court reporter; stating applicability;
19 authorizing trial court administrator to destroy
20 materials after specified time period; setting forth
21 delivery procedures when the court reporter is
22 terminated; clarifying applicability; declaring
23 Supreme Court rules govern electronic exhibits; and
24 providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 20 O.S. 2011, Section 106.4, is
amended to read as follows:

Section 106.4 A. The court reporter shall make a full
reporting by means of stenographic hand, ~~steno-mask~~ or machine
notes, or a combination thereof, of all proceedings, including the
statements of counsel and the court and the evidence, in trials and

1 other judicial proceedings to which the court reporter is assigned
2 by the appointing judge unless excused by the judge who is trying
3 the case with the consent of the parties to the action. ~~Nothing~~
4 ~~herein contained shall be construed to authorize the certification~~
5 ~~of persons as certified shorthand reporters who rely exclusively~~
6 ~~upon the steno-mask for reporting judicial proceedings, except as~~
7 ~~provided by law.~~ A refusal of the court to permit or to require any
8 statement to be taken down by the court reporter or transcribed
9 after being taken down, upon the same being shown by affidavit or
10 other direct and competent evidence, to the Supreme Court, or other
11 appellate court, shall constitute a denial of due process of law.
12 The court reporter may use an electronic instrument as a
13 supplementary device. In any trial, hearing or proceedings, the
14 judge before whom the matter is being heard may, unless objection is
15 made by a party or counsel, order the proceedings electronically
16 recorded. A trial or proceedings may proceed without the necessity
17 of a court reporter being present, unless there is objection by a
18 party or counsel. Provided that if an official transcript is
19 ordered then it shall be prepared by the official court reporter.

20 B. Upon request of either party in a civil or criminal case,
21 the reporter shall transcribe the proceedings in a trial or other
22 judicial proceeding, or so much thereof as may be requested by the
23 party, certify to the correctness of the transcript, and deliver the
24 same in accordance with the rules of the Supreme Court. The fee for

1 an original transcript shall be Three Dollars and fifty cents
2 (\$3.50) per page, or as prescribed by the Supreme Court. Two copies
3 of the original transcript shall be furnished without additional
4 charge. In any court where the use of electronic transcripts and
5 exhibits has been implemented by the Supreme Court, the court
6 reporter shall deliver the electronic copy of the transcript
7 directly to the person ordering the transcript, by electronic mail
8 or as otherwise agreed between the court reporter and that person.

9 Each page shall be at least twenty-five lines to the page and typed
10 no fewer than nine characters to the typed inch. Each page shall be
11 no more than double spaced and the margin on the left side of the
12 page shall be no more than one and one-half (1 1/2) inches and the
13 margin on the right side of the page shall be no more than one-half
14 (1/2) inch from the edge of the paper. The format for all
15 transcripts shall be prescribed by the Supreme Court. The fees for
16 making the transcript shall be paid in the first instance by the
17 party requesting the transcript and shall be taxed as costs in the
18 suit.

19 When the judge on his or her own motion orders a transcript of
20 the reporter's notes, the judge may direct the payment of charges
21 and the taxation of the charges as costs in such manner as the court
22 deems appropriate. In a criminal action, if the defendant shall
23 present to the judge an affidavit that the defendant intends in good
24 faith to take an appeal in the case and that a transcript of the

1 reporter's notes is necessary to enable the defendant to prosecute
2 the appeal, and that he or she has not the means to pay for the
3 transcript, the court, upon finding that there is reasonable basis
4 for the averment, shall order the transcript made at the expense of
5 the district court fund. The format preparation, delivery and
6 filing of transcripts to be used in civil and criminal appeals may
7 be regulated by the Supreme Court.

8 C. The court reporter shall file his or her records of the
9 evidence and the proceedings taken in any case with the clerk of the
10 court in which the case was tried. Where the Supreme Court has
11 provided for the filing of electronic transcripts and exhibits, the
12 court reporter shall file or maintain such electronic transcripts
13 and exhibits as prescribed by the Supreme Court.

14 D. To the extent that it does not substantially interfere with
15 the court reporter's other official duties, the judge by whom a
16 reporter is employed or to whom he or she is assigned may assign a
17 reporter to secretarial or clerical duties arising out of official
18 court operations.

19 SECTION 2. AMENDATORY 20 O.S. 2011, Section 106.4a, is
20 amended to read as follows:

21 Section 106.4a A transcript of the court reporter's notes, upon
22 request and for the use of an indigent defendant or a district
23 attorney, may not be charged to the court fund unless, before its
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1 preparation, the cost to be incurred was authorized by written
2 judicial order.

3 When a judge authorizes or orders a transcript of the court
4 reporter's notes of any proceeding to be prepared at the expense of
5 the court fund, or where a prosecuting attorney orders such a
6 transcript at public or court fund expense and the accused as an
7 indigent is constitutionally entitled to a free copy of the
8 transcript, a reporter shall prepare an original and two copies of
9 the transcript so ordered and file it with the clerk of the trial
10 court. The court reporter shall immediately notify the district
11 attorney and the defendant of the date the transcript was filed.
12 The district attorney and the defendant shall have access to the
13 copies of the transcript on such terms as the trial court may
14 impose. The chief judge may prescribe rules for access to or
15 disposition of the copies of the transcript. In any court where the
16 use of electronic transcripts and exhibits has been implemented by
17 the Supreme Court, the court reporter shall deliver the electronic
18 copy of the transcript directly to the district attorney and the
19 defendant, or the attorney for the defendant, by electronic mail or
20 as otherwise agreed between the court reporter and that person.

21 SECTION 3. AMENDATORY 20 O.S. 2011, Section 1006, is
22 amended to read as follows:

23 Section 1006. A. Unless there is an objection by the chief
24 judge of the district court, the court reporter or the court clerk

1 is authorized to destroy all exhibits in all domestic relations
2 cases in which there has been no activity for more than twenty (20)
3 years, and exhibits in all other civil cases in which there has been
4 no activity for more than ten (10) years.

5 B. The chief judge may direct a court reporter to destroy a
6 court reporter's notes after the expiration of ten (10) years from
7 the date of a proceeding, or, if a proceeding has not resulted in an
8 appeal upon which a request has been made to transcribe the
9 proceeding, all notes of a court reporter may be destroyed
10 immediately upon completion of transcription of a proceeding.

11 C. No pleadings or judgments shall be destroyed under the
12 provisions of this section.

13 SECTION 4. AMENDATORY 20 O.S. 2011, Section 1010, is
14 amended to read as follows:

15 Section 1010. A. A deceased court reporter's notes may be
16 destroyed by a person lawfully in possession of the notes after a
17 one-year period has elapsed following the death of the court
18 reporter the expiration of ten (10) years from the date of a
19 proceeding. All notes of a court reporter may be destroyed
20 immediately upon completion of a transcription of a proceeding.

21 B. In any court where the use of electronic transcripts and
22 exhibits has been implemented by the Supreme Court, upon the death
23 of a court reporter the chief judge or designee of the chief judge
24 shall obtain one copy of all electronic exhibits and notes taken by

1 the deceased court reporter and provide them to the trial court
2 administrator, if any, or if there is no trial court administrator
3 in the district court then to the court clerk. The chief judge
4 shall exercise due diligence in meeting this responsibility. The
5 trial court administrator or court clerk shall be authorized to
6 destroy the materials in accordance with the time periods provided
7 in Section 1006 of this title and Section 1327 of Title 22 of the
8 Oklahoma Statutes. This subsection shall not apply to any court
9 reporter's notes or exhibits which have been transcribed or filed in
10 a case.

11 SECTION 5. AMENDATORY 20 O.S. 2011, Section 1011, is
12 amended to read as follows:

13 Section 1011. A. 1. Unless otherwise ordered by a judge of
14 the district court, each court reporter who has been employed by a
15 district court of this state shall remove all exhibits, notes and
16 other materials from the custody of the court clerk within thirty
17 (30) days after termination of employment with that district court
18 by the court reporter. In the event that the court reporter fails
19 to remove the property in a timely manner, the court clerk or trial
20 court administrator shall be authorized to destroy the materials
21 ~~after six (6) months have elapsed since termination of the court~~
22 ~~reporter's employment~~ in accordance with the time periods provided
23 in Section 1006 of this title and Section 1327 of Title 22 of the
24 Oklahoma Statutes.

1 2. In any court where the use of electronic transcripts and
2 exhibits has been implemented by the Supreme Court, upon termination
3 of employment with the court the court reporter shall deliver one
4 copy of all electronic exhibits and notes taken by the court
5 reporter to the trial court administrator, if any, or if there is no
6 trial court administrator in the district court then to the court
7 clerk, and shall also provide an electronic index of all exhibits
8 and notes being delivered. The trial court administrator or court
9 clerk shall be authorized to destroy the materials in accordance
10 with the time periods provided in Section 1006 of this title and
11 Section 1327 of Title 22 of the Oklahoma Statutes. This subsection
12 shall not apply to any court reporter's notes or exhibits which have
13 been transcribed or filed in a case.

14 B. It shall be mandatory that the offering party in any case
15 shall take possession of all exhibits offered in a case at the
16 conclusion of an appeal, or after the appeal time has elapsed if no
17 appeal is taken, except in capital murder and workers' compensation
18 cases. In any court where the use of electronic exhibits has been
19 implemented by the Supreme Court, the rules of the Supreme Court
20 shall govern the possession, retention, and filing of exhibits
21 offered in a case.

22 C. 1. The reporting notes of all certified shorthand reporters
23 may be kept in any form of communication or representation including
24 paper, electronic, or magnetic media or other technology capable of

1 reproducing for transcription the testimony of the proceedings
2 according to standards or guidelines for the preservation and
3 reproduction of the medium adopted by the American National
4 Standards Institute or the Association for Information and Image
5 Management. Reporting notes shall be stored in an environment free
6 from excessive moisture, temperature variation and electromagnetic
7 fields if stored on a medium other than paper.

8 2. If the reporting notes are kept in any form other than
9 paper, one duplicate backup copy of the notes shall be stored in a
10 manner and place that reasonably assures its preservation.

11 3. A periodic review of the media on which the reporting notes
12 are stored shall be conducted to assure that a storage medium is not
13 obsolete and that current technology is capable of accessing and
14 reproducing the records for the required retention period.

15 SECTION 6. This act shall become effective November 1, 2015.

16 Passed the House of Representatives the 9th day of March, 2015.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ____ day of _____, 2015.

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Presiding Officer of the Senate

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