

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 882 (Papan)
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AWM

SUBJECT

Electronic court reporting

DIGEST

This bill authorizes a court to use electronic recording technology to create a verbatim record of a proceeding in most civil case types, when the court does not provide a reporter and the party who wishes a transcript to be prepared cannot afford to retain a reporter; and for courts that elect to use electronic recording technology to create a verbatim record, imposes a number of requirements related to the courts' application process for and hiring of official court reporters and retention of official court reporters pro tempore. The bill's provisions would sunset on January 1, 2028.

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. The exception to the rule is that a court may electronically record a proceeding to create the verbatim record in limited civil, misdemeanor, and infraction cases if there is no official court reporter available.

Courts are currently required to provide a court reporter in felony, dependency, and juvenile justice proceedings, and in civil cases where a party has a fee waiver. (*Jameson v. Desta* (2018) 5 Cal.5th 594, 623.) In all other cases, the court may opt to provide a reporter or may leave it to the parties to provide, and pay for, their own court reporter.

For years now, the courts have not had sufficient court reporters on staff to provide court reporting to every civil litigant. These parties are, as noted above, free to retain their own court reporter, but the cost of doing so is prohibitive for many litigants. As a result, many civil proceedings are not reported, leaving the parties without a verbatim record of the proceeding; without a verbatim record, an appeal is virtually impossible.

The Legislature has taken a number of actions to help the courts retain and hire court reporters, including establishing a pilot project for remote court reporting that began this year. Nevertheless, court reporter positions remained persistently unfilled.

This bill would allow a court to use electronic recording in lieu of a court reporter in most civil case types, when there is no court-provided reporter available and the litigant is unable to afford to retain a private court reporter. The bill imposes a number of requirements for the use of electronic recording, including requiring the eligible litigant to provide notice a day before the hearing unless they were unaware of the hearing. The bill also imposes a number of requirements on the courts' employment practices with respect to their current employee-court reporters, for any court that wishes to provide low-income litigants with an electronic recording option. The bill would sunset on January 1, 2028.

This bill is sponsored by SEIU California and is supported by the American Federation of State, County, and Municipal Employees, AFL-CIO; the California Court Reporters Association; the Orange County Employees Association; and one individual. This bill is opposed by over 20 private organizations and public entities, including a number of legal aid organizations and the superior courts of four counties.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides that an official court reporter or official court reporter pro tempore¹ 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) Requires the official court reporter, if a transcript is ordered by the court or requested by a party or nonparty entitled to receive the transcript, to, within a reasonable time, transcribe the proceedings, certify that the transcripts were

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

correctly reported and transcribed, and, when directed by the court, file the transcripts with the clerk of the court. (Code Civ. Proc., § 269(b).)

- a) A transcript may be delivered in electronic form, as specified. (Code Civ. Proc., § 271.)
 - b) The report of the official court reporter, when transcribed and certified as being a correct transcript of the testimony and proceedings in the case, is prima facie evidence of that testimony and proceedings. (Code Civ. Proc., § 273.)
- 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 (CRB). (Gov. Code, § 69942.)
- 5) Defines the practice of shorthand reporting, for purposes of becoming a certified shorthand reporter under 4), as the making, by means of written symbols or abbreviations in shorthand or machine shorthand writing, or by voice writing, of a 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) Requires a court, prior to purchasing or leasing any electronic recording technology or equipment, to obtain advance approval from the Judicial Council, which may grant approval only if the use of the technology or equipment is consistent with 1) or specified monitoring purposes. (Gov. Code, § 69957(c).)
- 8) Prohibits a court reporter from using remote court reporting, defined as the use of a stenographic reporter who is not present in the courtroom to make a verbatim record of court proceedings that are transmitted by audiovisual means to the reporter, to make a record of any court proceedings. (Gov. Code, § 69959.)
- 9) Provides, notwithstanding 8), that the Superior Courts of the Counties of Alameda, Contra Costa, Los Angeles, Mendocino, Monterey, Orange, San Bernardino, San Diego, San Joaquin, San Mateo, Santa Clara, Tulare, and Ventura are authorized to conduct a remote court reporting pilot project, beginning July 1, 2025, and until July 1, 2027, provided that the project meets specified criteria. (Gov. Code, § 69959.5.)
- 10) States that the Legislature finds and declares all of the following:
 - a) That our legal system cannot provide “equal justice under law” unless all persons have access to the courts without regard to their economic means.

California law and court procedures should ensure that court fees are not a barrier to court access for those with insufficient economic means to pay those fees.

- b) That fiscal responsibility should be tempered with concern for litigants' rights to access the justice system. The procedure for allowing the poor to use court services without paying ordinary fees must be one that applies rules fairly to similarly situated persons, is accessible to those with limited knowledge of court processes, and does not delay access to court services. The procedure for determining if a litigant may file a lawsuit without paying a fee must not interfere with court access for those without the financial means to do so.
- c) That those who are able to pay court fees should do so, and that courts should be allowed to recover previously waived fees if a litigant has obtained a judgment or substantial settlement. (Gov. Code, § 68630.)

This bill:

- 1) Provides that, when a court is unable, after due diligence, to hire or retain sufficient official reporters or official reporters pro tempore to provide verbatim records to civil litigants who cannot afford to retain a private court reporter and have requested a verbatim record of the civil proceedings, the court may, subject to the requirements of 1)-7), use electronic recording to make a record of those civil proceedings.
 - a) A transcript derived from such an electronic recording may be utilized whenever a transcript of court proceedings is required.
 - b) Transcripts derived from electronic recordings shall include a designation of "inaudible" or "unintelligible" for those portions of the recording that contain no audible sound or are not discernable.
- 2) Provides that, notwithstanding 1), electronic recording shall not be used to make the record in the following proceedings:
 - a) Juvenile dependency proceedings.
 - b) Juvenile delinquency proceedings.
 - c) Proceedings under the Sexually Violent Predator Act or other civil commitment proceedings.
 - d) Criminal proceedings, except as permitted under existing law for misdemeanor and infraction proceedings.
- 3) Provides that electronic recording may be utilized under 1) only if the judicial officer presiding over the civil proceeding finds that all of the following requirements are satisfied:
 - a) The litigant has requested a verbatim record of the proceeding.
 - b) The litigant cannot afford to retain a private court reporter to make a verbatim record of the proceeding.

- c) No official reporter or official reporter pro tempore hired or retained by the court is available to make a verbatim record of the proceeding.
 - d) No other party to the proceeding has retained a private court reporter to serve as an official reporter pro tempore for the proceeding.
- 4) Requires a court to find that a litigant who has requested a verbatim record of a proceeding cannot afford to retain a private court reporter if any of the following requirements is satisfied:
 - a) The litigant has been granted a waiver of court fees for the proceeding.
 - b) The litigant is represented in the proceeding without charge by a nonprofit legal aid organization.
 - c) The litigant establishes to the satisfaction of the judicial officer that the litigant lacks the financial ability to retain a private court reporter for the proceeding.
- 5) Requires a party to a civil proceeding who cannot afford to retain a private court reporter and who seeks to have the court make a record of an oral proceeding in a department in which court reporters are not regularly provided to submit a written request to the court at least one day before the hearing, unless the litigant lacks advance notice of the hearing.
- 6) Provides that, if a court uses electronic recording to make records of civil proceedings in circumstances authorized by 1), all of the following apply:
 - a) The court shall provide public notice that the court is accepting applications from certified shorthand reporters for positions as official court reporters, and notice to major court reporter job boards and court reporting schools in California. The court shall maintain records of its outreach and recruitment activities.
 - b) The court shall offer employment to all certified shorthand reporters who apply for official reporter positions unless there is good cause for rejecting the applicant; in the event of a dispute, the court shall have the burden of showing that an applicant was rejected for good cause. The court shall maintain records of applications received, interviews conducted, and reasons for hiring decisions.
 - c) The court shall not adopt any unreasonable barriers to applications or to hiring applicants; in the event of a dispute, the court has the burden of showing that its requirements are reasonable.
 - d) In addition to hiring official reporters, the court shall make all reasonable efforts, consistent with the court's budget, to retain official reporters pro tempore to supplement the work of official court reporters. In the event of a dispute, the court has the burden of showing that its requirements are reasonable.
 - e) If the official reporters in the court are represented by a recognized employee organization, the court shall, upon the request of the employee organization, meet and confer with the employee organization about the court's efforts to

- recruit official court reporters and provide the employee organization with the records that the court is required to maintain under (a)-(d); if the reporters are not so represented, the court shall make the records available upon the request of any official reporter employed by the court.
- f) If the official reporters employed by the court are represented by a recognized employee organization, the court shall forward a copy of written requests submitted under 6) on the same day that the request is submitted to the court.
 - g) Courts shall not, without the consent of the official reporter, reassign an official reporter who was regularly assigned to a family law, probate, or other civil department on the effective date of this bill where the reassignment would create a need to use electronic recording in that department.
 - h) If the official reporters in the court are represented by a recognized employee organization, the employee organization may file a grievance with the court if the employee organization contends that the court has violated (a)-(e); unless the parties to the dispute agree upon the other procedures after the dispute arises, or other procedures are provided in the memorandum of understanding (MOU) or agreement with a recognized employee organization, unresolved disputes between the recognized employee organization and the court concerning a violation of (a)-(e) shall be submitted for binding arbitration to the California State Mediation and Conciliation Service.
 - i) If the official reporters are not represented by a recognized employee organization, any official reporter employed by the court may file a grievance with the court if the reporter contends that the court has violated (a)-(g) and, if the dispute is not resolved, submit the dispute for binding arbitration to the California State Mediation and Conciliation Service.
 - j) The grievance and arbitration process set forth in (h) and (i) shall be the exclusive means of resolving disputes about compliance with (a)-(g).
- 7) Provides that 1)-6) will sunset on January 1, 2028.

COMMENTS

1. Author's comment

According to the author:

Assembly Bill 882 strikes a balance between maintaining the quality and transparency of court records and addressing the immediate needs caused by the current court reporter shortage. It provides a practical, temporary, solution that allows for continued access to justice for all Californians, while reinforcing the Legislature's commitment to upholding the standards of our judicial system.

For nearly fifty years, California has relied on court reporters to ensure the accuracy of court transcripts. However, budget cuts and incentivized early retirements have significantly reduced the number of available reporters, making it difficult for many courts to maintain adequate staffing. As a result, litigants in civil cases have often been required to hire private court reporters at their own expense. In response, the Legislature has allocated millions of dollars to help courts recruit and retain a sufficient pool of court reporters. Despite these efforts, a short-term gap in coverage remains and must still be addressed.

AB 882 proposes a simple, temporary, solution by allowing the use of electronic recordings in civil proceedings if the superior court is unable to provide a court reporter and a litigant cannot afford to hire a private court reporter.

2. Background on California's court reporter laws

Court reporters are vital to the litigation process: “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 [their] claims of trial court error resolved by the appellate court.”² In other words, “if it is not in the record, it did not happen.”³

Current law establishes three categories of case types for purposes of when, and how, a verbatim record of a proceeding is made. Certain case types – felony, dependency, and juvenile justice proceedings – are automatically reported by a court reporter.⁴ In the second category of cases – limited civil, misdemeanor, and infraction cases – proceedings are not automatically recorded, but Government Code section 69957 (Section 69957) permits the court to authorize the proceeding to be electronically recorded and transcribed after the fact by a person designated by the clerk of the court.⁵ And in the third category of cases – all remaining civil matters – any party may request that a court reporter make a record of the proceedings.⁶ Whether a reporter is available to take the record is another story, discussed further in Comment 3.

If a party in this third category of cases wants a proceeding recorded and the courtroom has a court reporter assigned to it, that reporter will make the record of the proceeding; these parties pay a set daily fee to the court and pay the court reporter directly for the creation of the official transcript.⁷ If the court does not have a court reporter regularly available, however, a party in a civil case generally has to retain and pay for a non-employee reporter to serve as an official reporter pro tempore.⁸ There is no statutory

² *Jameson v. Desta* (2018) 5 Cal.5th 594, 608.

³ *Protect Our Water v. County of Merced* (2003) 110 Cal.App.4th 362, 364.

⁴ Pen. Code, §§ 190.9, 869; Welf. & Inst. Code, §§ 347, 677. A court reporter must be licensed by the CRB to be eligible for designation as an official reporter or official reporter pro tempore. (Gov. Code, § 69942.)

⁵ Civ. Code, § 269(a); Gov. Code, § 69957(a); Cal. Rules of Ct., rule 2.952(g).

⁶ Code Civ. Proc., § 269(a).

⁷ See Gov. Code, §§ 68086, 69950; Cal. Rules of Ct., rule 9.956.

⁸ Gov. Code, § 68086.

cap on the fees that a privately retained court reporter can charge, and stakeholders report that the per diem cost of retaining an independent reporter costs can be prohibitively expensive. Litigants have also reported being unable to find available reporters for certain trials and proceedings. Section 69957 prohibits the use of electronic recording to take a record of the proceedings in a general civil case, even if the equipment is available.⁹

There is an exception to the general rule that litigants in unlimited civil cases can be required to pay for their own court reporter: in 2018, the California Supreme Court held in *Jameson v. Desta* (*Jameson*) that the principles of California's in forma pauperis doctrine require a court to provide a court reporter to indigent litigants.¹⁰ In *Jameson*, an incarcerated litigant sued the physician who treated him in prison, alleging that the doctor's negligence caused him a variety of physical harms, including permanent damage to his eyesight.¹¹ Jameson was indigent and received a fee waiver, but the San Diego Superior Court did not provide him with a court reporter – the court's policy was to require litigants in all civil trials to pay for their own court reporter.¹² Neither party paid for a court reporter, so no verbatim record was made.¹³ Jameson lost at trial and appealed, and the Court of Appeal denied the appeal on the basis that his arguments were not cognizable without a reporter's transcript.¹⁴ The Court of Appeal also held that California's fee waiver statute does not require a court to provide an indigent litigant with a court reporter.¹⁵

Jameson sought review in the California Supreme Court, and the court granted review “to consider whether the superior court's policy of not providing an official court reporter in a civil case even when a party to the action has qualified for a fee waiver, while permitting a party who can afford to hire a private court reporter to do so, is consistent with past California decisions and statutes recognizing the importance of ensuring access to justice to all persons regardless of their economic circumstances.”¹⁶ The Court's answer was a resounding “no,” explaining that:

[T]he San Diego Superior Court's general policy of providing official court reporters in most civil trials while permitting privately retained court reporters for parties who can afford to pay for such reporters is inconsistent with the general teaching of prior California in forma pauperis judicial decisions and the public policy of facilitating access to the courts embodied in [state law]. By precluding an indigent litigant from obtaining the attendance of an official court reporter (to which the litigant would be entitled without payment of a fee), while

⁹ Gov. Code, § 69957.

¹⁰ *Jameson*, *supra*, 5 Cal.5th at p. 623.

¹¹ *Id.* at pp. 599-600.

¹² *Id.* at p. 600.

¹³ *Id.* at p. 601.

¹⁴ *Id.* at p. 602.

¹⁵ *Id.* at p. 603.

¹⁶ *Ibid.*

at the same time preserving the right of financially able litigants to obtain an officially recognized pro tempore court reporter, the challenged court policy creates the type of restriction of meaningful access to the civil judicial process that the relevant California in forma pauperis precedents and legislative policy render impermissible.¹⁷

3. The history behind this bill

Prior to budget cuts made by the state in connection with the Great Recession, California's courts generally made official court reporters available for civil trials.¹⁸ Many of these court reporters were court employees who "occup[ie]d a unique dual status," because they were "considered court employees when taking notes in a recorded proceeding but operate[d] as independent contractors when producing and selling the certified verbatim transcript."¹⁹ As a result of budget cuts, however, many courts opted to reduce their number of employee court reporters and adopted policies for providing official court reporters only in narrow categories of civil cases that do not include "ordinary contract, personal injury, or professional negligence cases."²⁰ In some courts, official court reporters are extremely rare; in the Superior Court for the County of Los Angeles, court reporters are not provided in family law and probate matters or for cases in the writs and receiver departments.²¹

In recent years, the Legislature has taken steps to encourage the courts to hire more court reporters as employees so as to minimize the number of litigants who have to find an outside-contractor reporter. The 2021 Budget Act included a grant of \$30 million to increase the number of court reporters in family law and civil law cases.²² And in 2022, the Legislature authorized the Court Reporters Board to license voice writers as shorthand reporters²³ with the goal of increasing the number of available licensed reporters: the training period for voice writers is generally shorter and less expensive than that for reporters who make a record of the proceedings through shorthand or stenographic means.

At this Committee's informational hearing on March 7, 2023 – *The Judicial Branch: Protecting Access to Justice as the COVID-19 State of Emergency Expires* – the Executive

¹⁷ *Id.* at p. 599.

¹⁸ *Id.* at p. 610.

¹⁹ Commission on the Future of California's Court System, Report to the Chief Justice, *supra*, Appendix 5.1C, pp. 260-261.

²⁰ *Ibid.*

²¹ See Superior Court of California, County of Los Angeles, News Release, Effective November 14, The Court Will Prioritize Official Court Reporters for Criminal Felony, Juvenile Cases As Severe Staffing Shortages Persist Despite New State Funding (Aug. 25, 2022) available at

<https://www.lacourt.org/newsmedia/uploads/14202282512465522NRCOURTREPORTERS.pdf>. All links in this analysis are current as of July 11, 2025.

²² SB 170 (Skinner, Ch. 240, Stats. 2021).

²³ See AB 1056 (Assembly Committee on Budget, Ch. 569, Stats. 2022); Bus. & Prof. Code, §§ 8017, 8017.5, 8024.

Officer of the CRB stated that there is currently a sufficient number of licensed court reporters to meet the demand for court reporters. According to the Judicial Council, however, as of July 1, 2024, the courts had a 21 percent vacancy rate statewide for court reporter positions, a 3 percent reduction from the prior year.²⁴ The California Access to Justice Commission also reports that, as of 2024, there were 5,400 licensed shorthand reporters and approximately 300 court reporter vacancies across the superior courts, which “on its surface, appears to be enough to fill the...vacancies.”²⁵ The same report, however, concluded that “California is denying low-and moderate- income litigants equal access to civil justice and due process because too few [certified shorthand reporters] work for Superior Courts to cover large numbers of hearing in the categories not permitted be transcribed in any other way.”²⁶

Stakeholders disagree on cause of the vacancies, even with the added funding appropriated by the Legislature. The Judicial Council reports that courts have made extensive efforts to hire court reporters, including generous signing and retention bonuses. Court reporters have reported that, in many cases, the salaries offered by courts are insufficient to draw court reporters away from the freedom of being a freelance court reporter; they have also reported instances wherein courts have failed to extend an offer to a court reporter despite having several qualified applicants.

In 2023, this Committee passed SB 662 (Rubio, 2023) with a vote of 8-3. SB 662 would have permitted the electronic recording of a proceeding in any civil case in which an official reporter was unavailable, and required the court to provide a certified shorthand reporter with the right of first refusal to transcribe the electronically recorded proceeding. SB 662 was held in the Senate Appropriations Committee. The next year, the Legislature passed AB 3013 (Maienschein, Ch. 250, Stats. 2024), which authorizes 13 superior courts to conduct a pilot program for remote court reporting, i.e., reporting in which the court reporter is in a different room than the proceedings being reported.²⁷ According to information provided by the Judicial Council, several of the eligible counties have commenced, or will soon commence, remote reporting pilot projects.

In late 2024, the Presiding Judge of the Los Angeles Superior Court (LASC) issued a general order permitting individual judges within the LASC to authorize the use of electronic recording of hearings at which fundamental rights are at stake, notwithstanding Section 69957’s limitation to the contrary.²⁸ The order stated that, “[w]hen such fundamental rights and liberty interests are at stake, the denial of [electronic recording] to litigants who cannot reasonably secure a [certified shorthand

²⁴ Judicial Council of California, *Trial Court Operational Metrics: 2025 Report* (Jan. 2025) p. 10, available at <https://courts.ca.gov/system/files/file/lr-2025-tc-operational-metrics-ba2022-ch43.pdf>.

²⁵ California Access to Justice Commission, Issue Paper: Access to the Record of California Trial Court Proceedings (Nov. 2024) p. 7, available at <https://calatj.org/publications/a2r>.

²⁶ *Id.* at p. 2.

²⁷ See Gov. Code, § 69959.5.

²⁸ Superior Court of the State of California for the County of Los Angeles, General Order (Sept. 5, 2024) 2024-GEN-011-00.

reporter] violates the constitutions of the United States and the State of California.”²⁹ The Superior Court for the County of Santa Clara issued a similar, but more strident, order shortly thereafter, essentially declaring Section 69957 unconstitutional.³⁰ The Superior Court for the County of Contra Costa followed suit shortly thereafter.³¹

4. The pending petition before the California Supreme Court

At the end of 2024, the Family Violence Appellate Project (FVAP) and Bay Area Legal Aid filed a petition for a writ of mandate and/or prohibition in the California Supreme Court.³² The petition alleges that verbatim records are unavailable in many civil cases unless litigants can hire a private reporter, which is financially infeasible for many litigants; and that the statutes prohibiting electronic recording in these circumstances violates *Jameson* by preventing courts from providing an affordable option for the creation of a verbatim record.³³ The petition also argues that Section 69957 violates separation of powers principles by impairing the courts from satisfying their constitutional obligations.³⁴ The petition asks the California Supreme Court to (1) find and declare that Section 69957 cannot be constitutionally applied to prohibit the use of electronic recording in civil proceedings involving litigants who cannot afford to pay for a court reporter and the court does not supply one; and (2) order that, in any civil proceeding, a litigant who cannot afford to pay for a private court reporter is entitled to have a verbatim record created at no charge, including by electronic recording if no court reporter is available.³⁵

The petition was nominally filed against the Superior Courts for the Counties of Contra Costa, Los Angeles, Santa Clara, and San Diego.³⁶ As discussed in Comment 3, however, three of these courts have already authorized electronic recording in civil cases, in violation of Section 69957, applying the same reasoning as the petition. The conclusion in their return, therefore, was perhaps a fait accompli: the four respondent courts let their “General Orders speak for themselves at this juncture” and requested only that the Supreme Court’s order granting the petition not impose a duty to provide

²⁹ *Id.* at p. 4.

³⁰ Superior Court of the State of California, County of Santa Clara, General Order re Operation of Electronic Recording Equipment for Specified Proceedings Involving Fundamental Liberty Interests in the Absence of an Available Court Reporter (Nov. 14, 2024)

³¹ Superior Court of the State of California, County of Contra Costa, General Order re Use of Electronic Recording Equipment (Dec. 30, 2024) Standing Order 1.8.

³² See *Family Violence Appellate Project v. Superior Courts of Contra Costa, Los Angeles, Santa Clara & San Diego*, Case No. S288176 (FVAP v. S.C.) Dkt. No. 1 (Dec. 5, 2024.).

³³ *Id.* at pp. 13-15.

³⁴ *Id.* at pp. 51-52.

³⁵ *Id.* at pp. 45-46.

³⁶ *Id.* at p. 1.

an electronic recording “even when the courtroom lacks ‘approved equipment and equipment monitors’ for electronic recording.”³⁷

After the respondents declined to oppose the petition, the California Supreme Court deemed the Legislature a real party in interest in the case and invited the Legislature to file a return.³⁸ The Legislature filed a letter reminding the California Supreme Court that the Legislature’s constitutional role does not extend to weighing in on proceedings calling a specific statute into question.³⁹ The California Supreme Court then invited the Attorney General to serve and file an amicus brief addressing the issues presented by the petition.⁴⁰ The Attorney General’s amicus brief states that the lack of court-provided court reporters “has become untenable for low-income litigants and the State’s judicial system” and agrees with the petitioners that “the current application of [S]ection 69957 fails to comport with the procedural guarantees of the State’s due process clause.”⁴¹ The Attorney General did not, however, weigh in on the petitioners’ equal protection or separation of powers claims, arguing that the Court does not need to reach those arguments in light of the due process claim.⁴²

Numerous entities and organizations have filed amicus curiae briefs in the Supreme Court proceeding. All amici agree that (1) the courts are not complying with *Jameson*’s mandate to provide court reporters to all low-income litigants, and (2) this failure creates a two-tiered system of justice, in which wealthy litigants who can afford to pay a freelance court reporter retain their right to an appeal, while less-fortunate litigants functionally forfeit those rights.

In light of the agreed-upon lack of access to transcripts, most the amicus briefs also argue that, to level the playing field, the Supreme Court should order that electronic recording should be available to low-income litigants where no court reporter is available.⁴³ The brief of the SEIU, the California Court Reporters Association, the Los Angeles County Court Reporters Association, the Santa Clara County Superior Court Reporters Association, and the San Diego Superior Court Reporters Association, however, argues that this conclusion goes too far, because the courts could comply with both *Jameson* and Section 69957 by retaining official reporters pro tempore on behalf of

³⁷ *FVAP v. S.C.*, Response of Respondents Superior Courts of California, Counties of Contra Costa, Los Angeles, Santa Clara, and San Diego to Order to Show Cause (Mar. 21, 2025) p. 7.

³⁸ See *FVAP v. S.C.*, Order to Show Cause (Feb. 19, 2025).

³⁹ *FVAP v. S.C.*, Written Return filed by the Legislature of the State of California (Mar. 21, 2025).

⁴⁰ *FVAP v. S.C.*, Order re supplemental briefing (Apr. 23, 2025).

⁴¹ *FVAP v. S.C.*, Amicus Curiae Brief of the Attorney General in Support of Petitioners (Jun. 30, 2025).

⁴² *Id.* at pp. 20-23.

⁴³ E.g., Application to File Amicus Curiae Brief & Brief of Amicus Curiae California Lawyers Association in Support of Petitioners (Apr. 9, 2025); Application for Leave to File Amicus Curiae Brief and Proposed Brief of Amicus Curia ACLU of Northern California in Support of Petitioners (Apr. 9, 2025); Application for Leave to File Amicus Curiae Brief in Support of Petitioners & Amicus Curiae Brief (Apr. 9, 2025) (on behalf of 13 law professions, including Erwin Chemerinsky); Application for Permission to File Amicus Curiae Brief and Proposed Brief of Amicus Curiae Domestic Violence Legal Empowerment and 16 Organizations in Support of Petitioners (Apr. 9, 2025).

indigent litigants.⁴⁴ According to these amici, the courts' refusal to retain court reporters is the source of the two-tiered justice system, not the unavailability of electronic recording, and it would be inappropriate for the California Supreme Court to essentially mandate how the courts may expend public funds.⁴⁵

Many of the parties who are involved in the pending petition have also weighed in on this legislation, including the SEIU, who is the bill's sponsor, and the Family Violence Appellate Project and Bay Area Legal Aid, who oppose the bill.

5. This bill authorizes electronic recording in civil proceedings when no official reporter is available and a litigant cannot afford to retain a private court reporter

This bill permits the use of electronic recording to produce a verbatim transcript of a proceeding in nearly all civil case types, provided that certain conditions are met. Juvenile dependency, juvenile delinquency and civil commitment proceedings are excluded from the bill's electronic recording provisions, which is consistent with the heightened liberty interests at stake in these cases. The bill also expressly states that the laws relating to electronic recording in criminal cases remain unaffected.

For case types included within the bill, the court can authorize electronic recording of a proceeding if all of the following conditions are met:

- The court has been unable, after due diligence, to hire or retain sufficient official reporters or official reporters pro tempore to provide verbatim records to civil litigants who cannot afford to retain a private court reporter and who have requested a verbatim record of the civil proceedings.
- The litigant has requested a verbatim record of the proceeding.
- The litigant cannot afford to retain a private court reporter to make a verbatim record of the proceeding.
- No other party to the proceeding has retained a private court reporter to serve as an official reporter pro tempore for the proceeding.
- The party who cannot afford to retain a private court reporter and who seeks to have the court make a record of an oral proceeding in a department in which court reporters are not regularly provided submits a request to the court at least one court day before the hearing, unless the litigant lacks advance notice of the hearing.

The bill does not fully define which litigants are considered unable to afford to retain a private court reporter, but provides that, at a minimum, a litigant is considered unable meets this criterion if they have been granted a waiver of court fees; litigants who are

⁴⁴ *FVAP v. S.C.*, Amici Curiae Brief of SEIU California State Council, California Court Reporters Association, Los Angeles County Court Reporters Association, Santa Clara County Superior Court Reporters Association, and the San Diego Superior Court Reporters Association in Support of Neither Party (Apr. 4, 2025) p. 10.

⁴⁵ *Id.* at p. 11.

represented in the proceeding without charge by a nonprofit legal aid organization; and litigants who establish, to the satisfaction of the court, that they lack the financial ability to retain a private court reporter.

In addition to the above requirements for the use of electronic recording in a specific proceeding, the bill imposes a number of requirements on the courts that elect to provide electronic recording, including:

- The court must provide notice of job openings for court reporter positions to the public, court reporter job boards, and court reporting schools in California.
- The court must offer employment to all certified shorthand reporters who apply for official court reporter positions, unless there is good cause to reject the applicant; the court bears the burden of establishing good cause.
- The court may not adopt any unreasonable barriers to applications or hiring applicants; the court bears the burden of establishing good cause.
- The court must make all reasonable efforts, consistent with the court's budget, to retain official reporters pro tempore to supplement the work of official reporters; the court bears the burden of establishing that efforts were reasonable.
- If the court reporters are represented by an employee organization, the court must forward to the organization a copy of any written requests it receives from parties wishing to use electronic recording on the same day as it is received by the court.
- The court may not, without the consent of the official reporter, reassign an official reporter who was regularly assigned to a family law, probate, or other civil department where the reassignment would create a need to use electronic recording in that department.
- The court must make specified records available to the court reporters' employee organization, or to a court reporter, and in the event that the employee organization or a court reporter believes that a court is violating its obligations, the court must resolve the dispute through specified channels.

All of the bill's provisions will sunset on January 1, 2028. The bill does not contain an urgency clause, so its provisions would take effect on January 1, 2026. It is unknown when the California Supreme Court will issue an opinion in *FVAP v. S.C.*, though the case is fully briefed.

6. Arguments in support

According to SEIU California:

Between 2009 and 2012, courts statewide laid off their civil and family law reporters due to budget cuts. However, once those budget cuts were restored, most courts didn't rehire for these positions. This had profound effects on the reporting profession and litigants. It drastically slowed the number of people entering the court reporting profession, leaving litigants without access to

reporters and verbatim transcripts. In response, the Legislature took recent action to authorize the licensure of voice writers, provided reciprocity with national licensure requirements, and provided courts with \$30 million in ongoing funds to recruit and retain civil and family law reporters. These efforts are paying off. In just two years, the number of newly licensed reporters increased by over 250%, and some courts have fully staffed their courtrooms.

Despite the profession's growth, courts need more time to fill vacant positions. For over a decade, court reporter recruitment and retention were neglected, and correcting the perception created by layoffs, hiring freezes, and furloughs will take time. As courts work to attract court reporters entering the profession, litigants may lack access to court records, which compromises the fairness of legal proceedings. If this issue is not addressed, it could lead to greater challenges in ensuring access to justice.

AB 882 proposes a temporary solution while courts improve hiring practices and fill vacant positions. This bill is intended to permit the use of electronic recording in unlimited civil proceedings if a litigant is unable to afford a private court reporter and a court is unable to provide a court reporter. A litigant is considered unable to afford a freelance reporter if 1) the litigant is a fee waiver recipient, 2) the litigant is represented by a legal aid association, *or* 3) a judge finds the litigant lacks the financial ability to retain a private court reporter for the proceeding. AB 882 requires courts to provide a court reporter if one is available, to ensure litigants have access to the most accurate and affordable option whenever possible. Lastly, AB 882 ensures that courts remain accountable for providing high-quality, affordable transcript access by eliminating any barriers to hiring court reporter applicants and requiring courts to hire certified shorthand reporters who meet all minimum qualifications, absent good cause for not hiring the applicant.

7. Arguments in opposition

Most of the opposition argues that the bill does not go far enough to make electronic recording available to low-income litigants. For example, according to the Inner City Law Center:

Government Code Section 69957 prohibits the electronic recording of most proceedings in California Courts. When a court reporter is not available to transcribe a proceeding for any reason, this prohibition results in court users that can't afford to privately hire a court reporter without a verbatim record of their case. As the statewide shortage of court reporters has grown, the magnitude of this problem has reached crisis levels. Since April of 2023, over 1.7 million hearings have occurred with no record. These litigants have had no record of what happened in the trial court, effectively thwarting their ability to seek justice

on appeal. This disproportionately affects the low-income Californians we serve, causing a major access to justice issue...

The legal aid community has worked in good faith since the bill was introduced to address the important access to justice problem underlying the litigation. Even with many amendments however, this bill still does not provide meaningful access to the essential protection of a verbatim record. For example:

- The bill places undue burden on the litigant to meet request and notice requirements before granting access to electronic recording, such as requiring them to make a request one day in advance of their hearing, even though they will not know until they arrive at their hearing that a court reporter is unavailable.
- The bill places burdens on courts that many courts are simply unable to meet, leaving all users of that court with no way to enforce their rights.
- By applying its provisions to all civil matters, it places new requirements and thus may prevent the electronic recording of the limited civil proceedings, such as unlawful detainers, that are already being recorded.
- The bill is permissive, indicating that courts may use electronic recording if its requirements are met, leaving courts with the option to deny relief for any reason.

Additionally, several opponents have reiterated their opposition to the bill even if it were amended to make the electronic recording authorization separate from the hiring requirements. Bay Area Legal Aid, Community Legal Aid SoCal, the Family Violence Appellate Project, the Legal Aid Society of San Bernardino, and Neighborhood Legal Services of Los Angeles wrote on July 11, 2025:

While we appreciate the effort to decouple the bill's labor requirements from the use of electronic recording, the bill still lacks internal consistency, imposes unnecessary and burdensome restrictions, and will ultimately fail to ensure equal access to justice for low-income litigants.

Most importantly, addressing the bill now, instead of making it a 2-year bill, will continue to violate the long-standing practice of *not* enacting legislation while litigation is pending, and will unnecessarily waste legislative resources given the case currently before the California Supreme Court. The California Attorney General recently filed an amicus curiae brief in support of the Petition, stating that the current impact of the shortage on litigants' constitutional rights and the State judicial system is "untenable" and fails to comport with the California Constitution. If the Supreme Court agrees with Petitioners and the Attorney General, then litigants would be *entitled* to an official verbatim recording of their proceeding, including by electronic recording, if a court reporter is not available. As such, the bill's permissive language would raise serious constitutional concerns...

For these reasons, we continue to oppose the bill and strongly urge the committee to, at a minimum, make this a 2-year bill. This will comport with the long-standing practice of allowing the California Supreme Court to rule on the issue, and give all stakeholders time to improve the bill's language and eliminate inconsistencies throughout.

SUPPORT

SEIU California (sponsor)

American Federation of State, County, and Municipal Employees, AFL-CIO

California Court Reporters Association

Orange County Employees Association

One individual

OPPOSITION

Bay Area Legal Aid

California Defense Counsel

California Judges Association

California Lawyers Association

California Rural Legal Assistance Foundation

California Women's Law Center

Center for Access to QDROs

Community Legal Aid SoCal

Community Legal Services in East Palo Alto

Consumer Attorneys of California

Disability Rights California

Family Violence Appellate Project

Inner City Law Center

Judicial Council of California

La Raza Centro Legal

Law Foundation of Silicon Valley

Legal Aid Association of California

Legal Aid Foundation of Los Angeles

Legal Aid Society of San Bernardino

Legal Services of Northern California

Public Counsel

Superior Court of California, County of Los Angeles

Superior Court of California, County of Mendocino

Superior Court of California, County of Sacramento

Superior Court of California, County of Shasta

RELATED LEGISLATION

Pending legislation:

AB 711 (Chen, 2025) requires a party to include, as part of its meet-and-confer declaration submitted in support of a discovery motion, whether the parties have met and conferred regarding the retention of a certified shorthand reporter for the hearing

on the motion. AB 711 has been passed by both Houses and is awaiting the Governor's signature.

AB 1189 (Lackey, 2025) provides for the licensure of certified digital reporters, as defined, and legal transcriptionists, as defined, by the CRB, and allows the record in proceedings and of depositions to be taken with, and transcribed by, certified digital reporters and legal transcriptionists. AB 1189 is pending before the Assembly Judiciary Committee.

Prior legislation:

AB 3013 (Maienschein, Ch. 250, Stats. 2024) authorized, beginning July 1, 2025, the superior courts for 13 specified counties to conduct a pilot project to study the use of remote court reporting, through which a court reporter would make a record of the proceedings from a location other than in the courtroom.

SB 662 (Rubio, 2023) would have authorized a court to electronically record any civil case, for the purpose of creating the official record, as specified, and would have allowed the CRB to issue provisional certificates to shorthand reporters who meet certain criteria; the bill is discussed further in Comment 3 of this analysis. SB 662 died in the Senate Appropriations Committee.

AB 1834 (Wagner, 2015) would have allowed a court to use electronic recording in a family law case if an official court reporter is unavailable. AB 1834 died in the Assembly Judiciary Committee.

AB 251 (Wagner, 2013) would have allowed a court to use electronic recording in a family law case if an official court reporter is unavailable. AB 251 died in the Assembly Judiciary Committee.

AB 2657 (Calderon, Ch. 170, Stats. 2012) required transcripts derived from electronic recordings to include a designation of "inaudible" or "unintelligible" for the portions of a recording that contain no audible sound or are not discernable.

AB 803 (Wagner, 2011) would have required the Judicial Council, by 2012, to implement electronic court reporting in at least 20 percent of its courtrooms and in 20 percent of its courtrooms per year annually thereafter. AB 803 failed passage in the Assembly Judiciary Committee.

PRIOR VOTES:

Assembly Floor (Ayes 62, Noes 4)

Assembly Appropriations Committee (Ayes 11, Noes 1)

Assembly Judiciary Committee (Ayes 8, Noes 0)
