

Judicial Council of Georgia

Administrative Office of the Courts

Chief Justice Harold D. Melton
Chair

Cynthia H. Clanton
Director

Memorandum

TO: Judicial Council Members

FROM: Presiding Justice David E. Nahmias
Chair, Standing Committee on Legislation

RE: Committee Report

DATE: December 2, 2020

On November 17, 2020, the Standing Committee on Legislation (“Committee”) met to discuss legislative items for the 2021 Session of the General Assembly. The Committee heard a report on the following item supported by the Judicial Council:

Judicial Council Standing Committee on Court Reporting Matters **Modernize and update the Court Reporting Act of Georgia** OCGA Titles 5; 9; 15; 17

An updated draft of the proposal, which removes the proposed Certified Digital Operator licensure category, was presented to the Committee. (*Information and updated draft language attached*)

On December 2, 2020, the Committee met to continue discussing legislative items for the 2021 Session of the General Assembly. The Committee makes the following recommendations to the Judicial Council:

Judicial Council **Tolling of statutory speedy trial requirements following a judicial emergency** OCGA §§ 38-3-61; 38-3-62

The Standing Committee on Legislation recommends that the Judicial Council support legislation to amend OCGA §§ 38-3-61; 38-3-62 to provide for tolling of statutory speedy trial requirements following a judicial emergency. (*Information and draft language attached*)

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Memorandum

TO: Judicial Council's Standing Committee on Court Reporting Matters
FROM: Alison Lerner, Senior Staff Attorney, JC/AOC
RE: Subcommittee Recommendation for Changes to Proposed Court Reporting Legislation
DATE: October 15, 2020

I. Overview and Background

In May 2020, the Chair of the Standing Committee on Court Reporting Matters signed an order creating the Digital Court Reporting Rules and Regulations Subcommittee. The subcommittee was tasked as follows:

This subcommittee is charged with reviewing feedback on Judicial Council-supported court reporting legislation, making recommendations on updating the legislation, and drafting rules and regulations to accompany such legislation should it become law.

The subcommittee met frequently throughout the summer and continues to meet to work on draft rules and best practices guidelines. After reviewing other states' digital recording systems and the digital recording systems in use in Georgia state, juvenile, and probate courts, and the feedback received to date on the legislation, the subcommittee is recommending that the Standing Committee adopt one proposed change to the draft legislation as outlined below.

A. Recommendation to Eliminate State Certification of Digital Operator

In the version of the draft legislation that was approved by the Judicial Council last year, the proposed bill created a category of licensee called a Certified Digital Operator (CDO) and tasked the Board of Court Reporting with issuing licenses to persons wishing to become CDOs. The CDO was designated an officer of the court and was tasked with ensuring that a court's digital recording system operated properly, although the proposed legislation did not require CDOs to actively provide confidence monitoring services during court sessions. The proposed legislation also provided that courts using digital recording systems were required to use a Board-certified CDO. The certification process was envisioned to consist primarily of a basic background check and a verification that the applicant received appropriate training on the use of the digital recording

system used by the court in which the CDO would be serving. The proposed legislation also required that CDOs complete a certification page verifying that they have operated the system in accordance with all applicable rules and that they transmitted the digital files to a Certified Transcriptionist, another new licensee category created by the proposed legislation.

The subcommittee has now conducted an in-depth review of the regulation and operation of digital recording systems in multiple states across the country and in the federal system. Additionally, staff conducted a high-level overview of the law and regulations of digital recording systems in all 50 states.¹

In reviewing the governance of the digital operating systems across the country, staff could not locate any states that required court staff who operated digital recording systems to possess a state license. Some jurisdictions had policies that required digital monitors, who actively monitored the recording of court proceedings, to possess a national license, such as the Certified Electronic Reporter (CER) license issued by the American Association of Electronic Reporters and Transcribers (AAERT). However, no state separately required digital monitors or operators to obtain a state license issued by a state agency. If the proposed legislation passed as written, Georgia would be the only state in the country to require such licensure.

Additionally, many, if not most, jurisdictions use existing courtroom personnel to run digital recording systems. These staff members have almost always undergone a background check prior to hiring and are already trusted members of the courtroom team. This eliminates the need for a background check to be conducted at the state level. One of the functions of state regulation of court reporters is to run background checks on court reporters; since many reporters are freelancers and are not subject to the terms of state employment, this can be an important element of the state licensing process for reporters. Every so often, an applicant for a court reporting license is denied by the Board of Court Reporting, typically on the basis of their criminal history.

Further, the survey revealed that many jurisdictions successfully use digital recording systems operated by clerks or judicial assistants with no formal degree or certification, but solely with informal training covering the use of the court's specific system. Many clerks routinely train each other on the use of the systems and train other courtroom personnel, such as term law clerks and judicial assistants. Some systems are more complex to use than others, and each system requires some training in how to operate that unique proprietary system, but no degree or standardized formal training is required in any other state in the country or in the federal system. Some courts use digital recording systems to take detailed minutes and log notes as well as for recording court proceedings and have multiple processes that operators must be trained on. Other courts, however, use relatively easy-to-use systems and only track minimal information, such as start times for each matter, and the training for those systems is not as intensive.

¹ Digital recording systems are now in use in some capacity in all 50 states, however, not all states have state-level regulation or law guiding their operations. In some states, local courts (particularly high-volume courts handling routine matters) regularly use such systems in the absence of state law permitting or prohibiting their use. This is true particularly in states with no state-level oversight of court reporters. Only about half the states regulate court reporters at the state level.

One of the functions of state regulation of court reporting is to ensure that reporters meet minimum skill requirements in stenography, voice writing, or digital reporting. These skills can, in some cases, require years to master, but far fewer skills are required to operate digital recording systems. Since the training and education required to operate the digital systems is less intensive than that required for traditional court reporting, there does not seem to be a need for state-level oversight of the training or education of the personnel operating the digital recording systems. Thus, there does not appear to be a compelling reason for requiring state-level oversight of the qualifications of the digital monitor or digital operator.

Based on this analysis, by consensus, the subcommittee agreed to recommend that the Certified Digital Operator licensure be removed from the proposed legislation. Included in the materials for this meeting is a draft of the proposed legislation for the committee's review that removes this licensure and any requirements related to use of a CDO licensee by the courts.

1 TITLE 5. APPEAL AND ERROR

2
3 CHAPTER 6. Certiorari and Appeals to Appellate Courts Generally

4
5 5-6-41. Preparation of record for appeal; reporting of evidence and other matter; when narrative
6 form used.

7
8 (a) In all felony cases, all proceedings evidence, and proceedings shall be either:

- 9 1. ~~reported taken down and prepared~~ by a certified court reporter as provided in Code
10 Section 17-8-5 ~~or as otherwise provided by law, or.~~
11 2. recorded via a digital recording system as provided for by the Rules of the Board of
12 Court Reporting, Chapter 14 of Title 15, and by any applicable uniform rules.

13
14 (b) In all misdemeanor cases, the trial judge may, in the judge's discretion, require the reporting
15 and transcribing of all proceedings evidence and proceedings by a certified court reporter on
16 terms prescribed by the trial judge, or in the alternative, may require the recording of
17 proceedings by a digital recording system as provided for by the Rules of the Board of Court
18 Reporting, Chapter 14 of Title 15, and any applicable uniform rules.

19
20 (c) In all civil cases tried in the superior and ~~city~~ state courts, in the Georgia State-wide Business
21 Court, and in any other court, the judgments of which are subject to review by the Supreme
22 Court or the Court of Appeals, the trial judge thereof may require the parties to have the
23 proceedings ~~and evidence~~ reported by a court reporter or recorded by a digital recording system
24 as provided for by the Rules of the Board of Court Reporting and any applicable uniform rules,
25 the costs thereof to be borne equally between them; and, where an appeal is taken which draws
26 in question the transcript ~~of the evidence and proceedings~~, it shall be the duty of the appellant
27 to have the transcript prepared at the appellant's expense by a certified court reporter or a
28 certified transcriptionist. Where it is determined that the parties, or either of them, are financially
29 unable to pay the costs of reporting or transcribing, the judge may, in the judge's discretion,
30 authorize trial of the case unreported; and, when it becomes necessary for a transcript ~~of the~~
31 ~~evidence and proceedings~~ to be prepared, it shall be the duty of the moving party to prepare the
32 transcript from recollection or otherwise.

33
34 (d) Where a trial in any civil or criminal case is ~~reported~~ taken down by a court reporter or
35 recorded by a digital recording system as provided for by Rules of the Board of Court Reporting,
36 Chapter 14 of Title 15, and any applicable uniform rules, all motions, colloquies, objections,
37 rulings, evidence, whether admitted or stricken on objection or otherwise, copies or summaries
38 of all documentary evidence, the charge of the court, and all other proceedings which may be
39 called in question on appeal or other posttrial procedure shall be taken down or recorded
40 ~~reported~~; and, where the ~~report~~ proceeding is transcribed, all such matters shall be included in
41 the written transcript, it being the intention of this article that all these matters appear in the
42 record. Where matters occur which were not taken down ~~reported~~, such as objections to oral
43 argument, misconduct of the jury, or other like instances, the court, upon motion of either party,
44 shall require that a transcript of these matters be made and included as a part of the record. The
45 transcript of proceedings shall not be reduced to narrative form unless by agreement of counsel;
46 but, where the trial is not reported or the transcript of the proceedings for any other reason is not

47 available and the evidence is prepared from recollection, it may be prepared in narrative form.

48

49 (e) Where a civil or criminal trial is ~~reported~~ taken down by a certified court reporter or recorded
 50 via a digital recording system as provided for by the Rules of the Board of Court Reporting and
 51 ~~the evidence and proceedings are~~ then transcribed, the certified court reporter or certified
 52 transcriptionist shall complete the transcript and file the original and one copy thereof with the
 53 clerk of the trial court, together with the ~~court reporter's~~ certificate attesting to the correctness
 54 thereof. In criminal cases where the accused was convicted of a capital felony, an additional
 55 digital or paper copy shall be ~~filed for~~ sent to the Attorney General, for which the court reporter
 56 shall receive compensation from the Department of Law as provided by law. The original
 57 transcript shall be transmitted to the appellate court as a part of the record on appeal; and a one
 58 copy will be retained in the trial court, both as referred to in Code Section 5-6-43. Upon filing
 59 by the reporter or transcriptionist, the transcript shall become a part of the record in the case and
 60 need not be approved by the trial judge.

61

62

63 5-6-48 Dismissal of appeals generally prohibited

64

65 (f) Where it is apparent from the notice of appeal, the record, the enumeration of errors, or any
 66 combination of the foregoing, what judgment or judgments were appealed from or what errors
 67 are sought to be asserted upon appeal, the appeal shall be considered in accordance therewith
 68 notwithstanding that the notice of appeal fails to specify definitely the judgment appealed from
 69 or that the enumeration of errors fails to enumerate clearly the errors sought to be reviewed. An
 70 appeal shall not be dismissed nor consideration thereof refused because of failure of the certified
 71 court reporter or certified transcriptionist to file the transcript ~~of evidence and proceedings~~
 72 within the time allowed by law or order of court unless it affirmatively appears from the record
 73 that the failure was caused by the appellant.

74

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76 TITLE 9. CIVIL PRACTICE

77

78 CHAPTER 11. Civil Practice Act

79

80 9-11-29.1. When depositions and discovery materials required to be filed with court

81

82 (a) Depositions and other discovery material otherwise required to be filed with the court under
 83 this chapter shall not be required to be so filed unless:

84

85 (1) Required by ~~local~~ uniform rule of court;

86

87 ...

88 (b) When depositions and other discovery material are filed with the clerk of court as provided
 89 in subsection (a) of this Code section, the clerk of court shall retain such ~~original~~ documents and
 90 materials as provided for by the Judicial Council's Records Retention Schedule and any other
 91 applicable record-keeping rule approved by the Supreme Court of Georgia. until final disposition,
 92 ~~either by verdict or appeal, of the action in which such materials were filed. The clerk of court~~
 shall be authorized thereafter to destroy such materials upon microfilming or digitally imaging

93 such materials and maintaining such materials in a manner that facilitates retrieval and
94 reproduction, so long as the microfilm and digital images meet the standards established by the
95 Division of Archives and History of the University System of Georgia; provided, however, that
96 the clerk of court shall not be required to microfilm or digitally image depositions that are not
97 used for evidentiary purposes during the trial of the issues of the case in which such depositions
98 were filed.

99
100
101 9-11-30. Depositions upon oral examination.

102
103 (f) Certification and filing by officer; inspection and copying of exhibits; copy of deposition.

104
105 (1)(A) The officer shall certify that the witness was duly sworn by the officer and that the
106 deposition is a true record of the testimony given by the witness. This certificate shall ~~be in writing~~
107 ~~and accompany the record of the deposition. The officer shall then securely seal the deposition in~~
108 ~~an envelope marked with the title of the action, the court reporter certification number, and~~
109 ~~“Deposition of (here insert name of witness)” and shall promptly file it~~ the transcript and
110 certificate with the court in which the action is pending or deliver it to the party taking the
111 deposition, as the case may be, in accordance with Code Section 9-11-29.1.

112 (B) . . .

113 (2) Upon payment of reasonable charges therefor as provided by the rules of the Board of Court
114 Reporting, the officer shall furnish a copy of the deposition to any party or to the deponent.

115
116 **TITLE 9 CIVIL PRACTICE**

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118
119 CHAPTER 14. Habeas Corpus

120
121 9-14-50 Transcription of Trial.

122
123 All trials held under this article shall be recorded using a digital recording system as provided for
124 by the Rules of the Board of Court Reporting and transcribed by a certified transcriptionist, or
125 taken down and transcribed by a certified court reporter, as designated by the superior court
126 hearing the case.

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128
129 **TITLE 15. COURTS**

130
131 **CHAPTER 5. Administration of Courts of Record Generally**

132
133 **15-5-21 Promulgation of rules and regulations providing for fees of court reporters and for**
134 **form and style of transcripts.**

135
136 **(a) The Board of Court Reporting Judicial Council shall promulgate rules and regulations which**
137 **shall:**

138

139 (1) Provide for and set the fees to be charged by all ~~official~~ certified court reporters in this state
140 for attending any court proceeding or judicial proceeding other than federal court
141 proceedings, taking down proceedings and reordering transcribing the proceeding evidence;

142
143 (2) Provide for and set the fees to be charged by all ~~official court reporters~~ certified
144 transcriptionists in this state for furnishing transcripts of the evidence and for other
145 proceedings furnished by the official court reporters in all civil and criminal cases in this
146 state;

147
148 (3) Provide for a minimum per diem fee for ~~official~~ certified court reporters in this state for
149 attending any court proceeding or judicial proceeding other than federal court, which fee
150 may be supplemented by the various counties within the circuits to which the court
151 reporters are assigned; and

152
153 (4) Provide for the form and style of the transcripts, which shall be uniform throughout the
154 state.

155
156 (b) The Board of Court Reporting ~~Judicial Council~~ shall amend its rules and regulations providing
157 for and setting the fees to be charged by all ~~official~~ certified court reporters and certified
158 transcriptionists whenever the board council shall deem it necessary and proper.

159
160 (c) This Code section shall not apply to those court reporters ~~taking and furnishing transcripts of~~
161 ~~depositions or taking down and transcribing nonjudicial functions or any hearing held pursuant~~
162 to Title 29 and Title 37 outside of a courthouse as defined in subsection (a)(1) of Code Section
163 16-11-127, nor to any independent contracts of any reporters. The Board of Court Reporting shall
164 not promulgate rules setting fees to be charged for the takedown of or for the original transcript
165 of a deposition. The Board of Court Reporting shall promulgate rules setting fees to be charged
166 for copies of depositions.

167
168 (d) A rule or regulation promulgated by the Board of Court Reporting ~~Judicial Council~~ pursuant
169 to this Code section shall not become effective unless that board council provides to the
170 chairperson of the Judiciary Committee of the House of Representatives, the chairperson of the
171 Judiciary, Non-civil Committee of the House of Representatives, the chairperson of the Judiciary
172 Committee of the Senate, and the chairperson of the Special Judiciary Committee of the Senate,
173 at least 30 days prior to the date that the council intends to adopt such rule or regulation, written
174 notice which includes an exact copy of the proposed rule or regulation and the intended date of
175 its adoption. ~~After July 1, 1986, no rule or regulation adopted by the Judicial Council pursuant to~~
176 ~~this Code section shall be valid unless adopted in conformity with this subsection.~~ A proceeding
177 to contest any rule or regulation on the grounds of noncompliance with this subsection must be
178 commenced within two years from the effective date of the rule or regulation.

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181 TITLE 15. COURTS

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183 CHAPTER 7. State Courts of Counties

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185 15-7-47. Reporting of trials

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- (a) ~~Court reporting personnel~~ A certified court reporter, or a digital recording system operated in compliance with the rules of the Board of Court Reporting, Chapter 14 of Title 15, and by the Uniform Rules of State Court, shall be made available for the reporting of civil and criminal trials in state courts, subject to the laws governing same in the superior courts of this state. The judge shall have discretion as to whether to provide a certified court reporter or whether to utilize a digital recording system.
- (b) ~~Reporting~~ The taking down or recording of any trial may be waived by consent of the parties.
- (c) Appointment of a court reporter or reporters, as defined in Article 2 of Chapter 14 of this title, for court proceedings in each court shall be made by the judge thereof; the compensation and allowances of reporters for the courts shall be paid by the county governing authority and shall be the same as that for reporters of the superior courts of this state.

TITLE 15. COURTS

CHAPTER 11. Juvenile Code

15-11-17. Hearings; full and complete records of all words during proceedings; sitting as juvenile court judge.

- (a) All hearings under this chapter shall be conducted by the court without a jury. Any hearing may be adjourned from time to time within the discretion of the court.
- (b) Except as otherwise provided, all hearings shall be conducted in accordance with Title 24. Proceedings shall be ~~recorded by stenographic notes~~ taken down by a certified court reporter or by a digital recording system as provided for by the Rules of the Board of Court Reporting, and must be electronic, mechanical, or other appropriate means capable of accurately capturing a full and complete verbatim record of all words spoken during the proceedings.

TITLE 15. COURTS.

CHAPTER 12. JURIES, Article 4, Grand Juries

15-12-83 Court reporters

...

(g) The district attorney may utilize a digital recording system as provided for by the Rules of the Board of Court Reporting to record grand jury proceedings.

TITLE 15. COURTS

CHAPTER 14. COURT REPORTERS, Article 1. General Provisions

15-14-1. Appointment; removal; oath of office; duties

232

233 ~~(a) The A superior court judge s of the superior courts shall have power to~~ may, as a matter of
 234 right, appoint and, at their pleasure, ~~to~~ remove a court reporter, as defined in Article 2 of this
 235 chapter, for the courts of their respective circuits. The court reporter, before entering on the duties
 236 of the court reporter's office, shall be duly sworn in open court to perform faithfully all the duties
 237 required of the court reporter by law. It shall be the court reporter's duty to attend all courts in the
 238 circuit for which such court reporter is appointed and, when directed by the judge, to ~~record~~
 239 exactly and truly ~~take down or take stenographic notes of the testimony and~~ proceedings in the
 240 case ~~tried,~~ except the arguments of counsel. Certified court reporters taking down court
 241 proceedings who are retained by a party or by the court as independent contractors, are acting ex
 242 officio as official court reporters. Any court reporter taking down a court proceeding, regardless
 243 of how the reporter was retained and what person or entity is paying for the takedown or
 244 transcription of the case, must follow the Board's fee schedules.

245

246 (b) A judge of any court, including but not limited to, superior court, state court, probate courts,
 247 magistrate court, recorder's court, juvenile court, the Georgia state-wide business court, and
 248 municipal courts, may, as a matter of right, utilize a digital recording system to report
 249 proceedings, as provided by the Rules of the Board, any applicable uniform rules, and any other
 250 applicable Georgia law.

251

252 (c) A digital recording system utilized by any court, including but not limited to, superior court,
 253 state court, probate court, magistrate court, recorder's court, juvenile court, the Georgia state-
 254 wide business court, and municipal court, to record a court proceeding must comply with the
 255 Rules of the Board and any applicable uniform rules.

256

257

258 15-14-2 City courts having concurrent jurisdiction with superior courts in certain cases;
 259 compensation; exceptions

260

261 (a) The judges of the city courts of this state having concurrent jurisdiction with the superior
 262 courts of this state to try misdemeanor cases and to try civil cases where the amount involved
 263 exceeds \$500.00, where not otherwise specifically provided for by law, may appoint an official
 264 court reporter, as defined in Article 2 of this chapter, whose compensation for reporting criminal
 265 and civil cases and for attendance upon court shall be the same as provided by the Judicial Council
 266 pursuant to Code Section 15-5-21. The court reporter reporting and transcribing civil cases shall
 267 be paid by the party or parties requesting the reporting or transcribing. The judges may also
 268 provide for the recording of cases via a digital recording system as provided for by the Rules of
 269 the Board and any applicable uniform rules.

270

271

272 15-14-3 Reporters and Digital Recording in the ~~S~~superior and state eity courts ~~in circuits~~
 273 ~~having more than one division~~

274

275 (a) Each of the judges of the superior and state eity courts in all circuits where there may be more
 276 than one division, whether the same is civil or criminal, shall appoint and at such judge's pleasure
 277 remove a court reporter, as defined in Article 2 of this chapter, for such judge's ~~respective~~

278 ~~division~~. The court reporter, before entering on the duties of the court reporter's office, shall be
 279 duly sworn in open court to perform faithfully all the duties required. It shall be the court reporter's
 280 duty to attend all sessions of the court for which such court reporter is appointed and, when
 281 directed by the judge, to record exactly and truly or take stenographic notes of the testimony and
 282 proceedings in the case tried, except the argument of counsel. Each judge may also provide for
 283 the recording of cases via a digital recording system as provided for by the Rules of the Board
 284 and any applicable Uniform Rules.

285
 286 (b) Each of the judges of the superior and state courts shall have the power to purchase such
 287 recording machines and equipment as he or she may deem necessary or proper to aid in the
 288 transaction of the business of the court, including the implementation of a digital recording system
 289 as provided for by the Rules of the Board and this Article, and to order payment therefor out of
 290 the county treasury as an expense of court.

291
 292
 293 15-14-4 Additional reporters ~~in circuits having nine or more superior court judges~~; typists;
 294 digital recording equipment

295
 296 (a) In all judicial circuits of this state ~~in which nine or more superior court judges are provided~~
 297 ~~by law, each the superior court judges of such circuits~~ shall have the power to appoint, in addition
 298 to those court reporters already authorized by law, such additional court reporters as each judge
 299 deems necessary or proper to report and transcribe the proceedings of the court over which he
 300 presides, such court reporters to have the same qualifications and to be paid in the same manner
 301 as is provided by law. The contingent expense and travel allowance authorized by Code Section
 302 15-14-6 shall not be paid to the additional court reporters appointed pursuant to this code section
 303 on or after July 1, 2020.

304
 305 (b) In addition thereto, each of the judges of such circuits shall have the power, with the approval
 306 of the county commissioners, to employ such typists as he may deem necessary or proper to aid
 307 in the recording or transcribing of the proceedings of the court; the compensation of the typists
 308 is declared to be an expense of court and payable out of the county treasury as such.

309
 310 (c) In the aforesaid circuits each of the judges shall have the power to purchase such recording
 311 machines and equipment as he or she may deem necessary or proper to aid in the transaction of
 312 the business of the court, including a digital recording system as provided for by the Rules of the
 313 Board and this Article, and to order payment therefor out of the county treasury as an expense of
 314 court.

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317 15-14-5. Duty to transcribe evidence; duty regarding electronic filing; certificate to transcript;
 318 presumption as to correctness; transcription of records of digital recording systems.

319
 320 (a) When a court reporter takes down a court proceeding or deposition, it shall be the duty of
 321 each court reporter to transcribe the ~~evidence and other proceedings of which he has taken notes~~
 322 ~~as provided by law~~ whenever requested so to do by counsel for any party to such case and upon
 323 being paid the legal fees for such transcripts. The reporter, upon delivering the transcript to such

324 counsel or upon filing it with the clerk of court, shall affix thereto a certificate signed by him or
325 her reciting that the transcript is true, complete, and correct. Subject only to the right of the trial
326 judge to change or require the correction of the transcript, the transcript so certified shall be
327 presumed to be true, complete, and correct.

328
329 (b) When a court proceeding has been recorded via a digital recording system as provided for by
330 the Rules of the Board, if requested or if required by law, a transcript shall be prepared by a
331 certified transcriptionist. Once the certified transcriptionist receives the files from the court, it
332 shall be the duty of the transcriptionist to transcribe the files completely and accurately in
333 accordance with the Rules of the Board. The transcriptionist, upon delivering the transcript to the
334 requesting party or upon filing it with the clerk, shall affix thereto a signed certificate reciting
335 that the transcript is true, complete, and correct. Subject only to the right of the trial judge to
336 change or require the correction of the transcript, the transcript so certified shall be presumed to
337 be true, complete, and correct.

338
339 (d) All transcripts filed by a certified court reporter or certified transcriptionist shall be filed by
340 electronic means through a court's electronic filing service provider if a court utilizes an
341 electronic filing system. A court's electronic filing service provider shall not charge a certified
342 court reporter or certified transcriptionist a fee to electronically file a transcript. This subsection

343 =
344 (1) shall not apply to the filing of transcripts of out of court depositions;
345 (2) shall not be construed to require a certified court reporter or certified transcriptionist
346 to file any transcript; and
347 (3) shall become effective on July 1, 2021.

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349
350 15-14-7 Destruction of court reporter's notes; who may authorize destruction

351
352 (a) Upon petition, the judge of a superior court, city court, or any other court, the judgments of
353 which are subject to review by the Supreme Court or the Court of Appeals, may authorize
354 destruction of a court reporter's notes taken of the evidence and other proceedings in civil actions
355 ~~in that court, subject to this Code section.~~

356 (b) The court reporter or other person in whose custody the notes are kept shall file a written
357 petition in the court in which the trial was conducted requesting an order authorizing destruction
358 of notes taken during the trial. The petition shall specify the name of the court reporter, the name
359 of the person in whose custody the notes are kept if other than the court reporter, the place at
360 which the notes are kept, and the names and addresses of the parties to the action or, if the address
361 of a party is unknown, the name and address of counsel to that party if such is known.

362 ~~(c) The petition shall certify one of the following:~~

363 (1) That the action is a civil action in which no notice of appeal has been filed, that the court
364 reporter has not been requested or ordered to transcribe the evidence and other proceedings, and
365 that a period of not less than 37 months has elapsed since the last date upon which a notice of
366 appeal in the action could have been filed; or

367 (2) That the action is one in which the court reporter has been requested or ordered pursuant to
368 law to transcribe the evidence and other proceedings, that the record has been transcribed, and
369 that a period of not less than 12 months has elapsed from the date upon which the remittitur from

370 ~~the appeal has been docketed in the trial court.~~

371 (d) When a petition for the destruction of notes is filed pursuant to this Code section, the court
372 shall cause due notice of the petition and the grounds therefor to be given to each party to the
373 action or, if the address of a party is unknown, to the counsel to the party if such is known.

374 (e) Not less than 30 days after receipt of a petition pursuant to this Code section, the court shall
375 authorize destruction of the specified notes unless such destruction, in the court's judgment, would
376 ~~impair the cause of justice or fairness in the action.~~

377

378

379 TITLE 15. COURTS

380

381 CHAPTER 14. Court Reporters, Article 2. Training and Certification¹

382

383 15–14–21. Declaration of Purpose.

384

385 It is declared by the General Assembly that the practice of court reporting the recording and taking
386 down of court proceedings and the transcribing thereof carries important responsibilities in
387 connection with the administration of justice, both in and out of the courts; that court reporters
388 are officers of the courts; and that the right to define and regulate the recording and taking down
389 of court proceedings and the transcribing thereof, including but not limited to the practice of court
390 reporting, belongs naturally and logically to the judicial branch of the state government.

391

392 Therefore, in recognition of these principles, the purpose of this article is to act in aid of the
393 judiciary so as to ensure the reliability and accuracy of verbatim transcripts of court proceedings
394 and of depositions, as well as to ensure minimum proficiency in the practice of court reporting,
395 by recognizing and conferring jurisdiction upon the Judicial Council of Georgia to define and
396 regulate the practice of court reporting and the use of digital recording systems.

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398

399 15–14–22. Definitions.

400

401 As used in this title, the term:

402

403 (1) “Board” means the Board of Court Reporting of the Judicial Council.

404

405 (2) “Certified court reporter” means any person certified by the Board of Court Reporting under
406 this article to practice verbatim court reporting.

407

408 (3) “Certified transcriptionist” means any person certified by the Board of Court Reporting to
409 create a transcript of a court proceeding from digital records that were created using a digital
410 recording system. Any person holding a C.C.R. certificate as defined by this Article shall be
411 granted a certificate as a certified transcriptionist.

412

413 ~~(4)~~ “Court reporter” means any person who is engaged in the practice of court reporting as
414 defined in paragraph (6) of this Code section. ~~as a profession as defined in this article. The term~~

¹ This is the Court Reporting Act.

415 ~~“court reporter” shall include not only those who actually report judicial proceedings in courts~~
 416 ~~but also those who make verbatim records as defined in paragraph (4) of this Code section.~~

417
 418 ~~(54) “Court reporting” means the act of taking down a court proceeding or deposition as defined~~
 419 ~~in paragraph (10) of this Code section. the making of a verbatim record Court reporting shall be~~
 420 ~~practiced by means of manual shorthand, machine shorthand, closed microphone voice dictation~~
 421 ~~silencer, or by other means of personal verbatim reporting as provided by the Rules of the Board~~
 422 ~~of Court Reporting. of any testimony given under oath before, or for submission to, any court,~~
 423 ~~referee, or court examiner or any board, commission, or other body created by statute, or by the~~
 424 ~~Constitution of this state or in any other proceeding where a verbatim record is required. The~~
 425 ~~taking of a deposition is the making of a verbatim record as defined in this article. The practice~~
 426 ~~of court reporting shall not include the operation of a digital recording system as defined in this~~
 427 ~~code section.~~

428428

429 ~~(6) “Digital Recording System” means any method for creating an electronic audio or audiovisual~~
 430 ~~recording of a court proceeding for the purpose of creating a verbatim transcript.~~

431
 432 ~~(7) “Transcriptionist” means any person who creates the transcript of a court proceeding or~~
 433 ~~deposition.~~

434
 435 ~~(8) “Take down” means the act of making stenographic notes of a court proceeding or deposition~~
 436 ~~for the purpose of creating a verbatim transcript. The use of a closed microphone voice dictation~~
 437 ~~silencer constitutes the act of making stenographic notes. The act of operating a digital recording~~
 438 ~~system or other electronic recording device does not constitute the act of taking down a~~
 439 ~~proceeding.~~

440440

441441

442 15–14–23. Judicial Council of Georgia; Agency of Judicial Branch.

443
 444 The Judicial Council of Georgia, as created by Article 2 of Chapter 5 of this title, is declared to
 445 be an agency of the judicial branch of the state government for the purpose of defining and
 446 regulating the practice of court reporting, the use of digital recording systems in the courts, and
 447 the creation of transcripts of court proceedings and depositions in this state.

448

449

450 15–14–24. Board of Court Reporting of the Judicial Council, Creation, Name, Membership,
 451 Appointment, Qualifications, Terms, Vacancies, Removal.

452
 453 ~~(a) The Judicial Council shall ~~There is established~~ a board which shall be known and designated~~
 454 ~~as the “Board of Court Reporting of the Judicial Council.” The board shall be created in~~
 455 ~~accordance with the Judicial Council’s by-laws regarding the creation of standing committees~~
 456 ~~and shall function as a standing committee of the Judicial Council. It shall be composed of ~~nine~~~~
 457 ~~fifteen members, five members to be certified court reporters, two members to be representatives~~
 458 ~~from the State Bar of Georgia, and ~~two~~ eight members to be from the judiciary, one to be a~~
 459 ~~Supreme Court Justice, one to be a judge of the Court of Appeals, one to be a superior court judge,~~
 460 ~~and one to be a state court judge, one to be a juvenile court judge, one to be a probate court judge,~~
 461 ~~one to be a magistrate court judge, and one to be a municipal court judge, each of whom shall~~

462 have not less than five years' experience in their respective professions. ~~The board shall be~~
463 ~~appointed by the Judicial Council. The term of office shall be two years, and the Judicial Council~~
464 ~~shall fill vacancies on the board.~~

465

466 (b) Any member of the board may be removed by the Judicial Council after a hearing at which
467 the Judicial Council determines that there is cause for removal.

468

469

470 15-14-26. Organization of Board, Rules and Regulations.

471

472 (a) The board shall each year elect from its members a chairperson, who shall be a member of the
473 judiciary, and whose term shall be for ~~one~~ two years, and who shall serve during the period for
474 which elected and until a successor shall be elected.

475

476 (b) The board shall make any and all necessary rules and regulations to carry out this article, but
477 the rules and regulations shall be subject to review by the Judicial Council and approval by the
478 Supreme Court.

479

480 (c) The board shall make and publish such statewide minimum standards and rules as it deems
481 necessary that provide for the qualifications of certified court reporters and certified
482 transcriptionists.

483

484 (d) The board shall make and publish such statewide minimum standards and rules as it deems
485 necessary that shall provide requirements for digital recording systems sufficient to ensure that
486 the recording of proceedings for the purpose of making a verbatim transcript will be conducted
487 reliably and accurately. The Councils of the classes of court, and the judge of business court, are
488 empowered to create additional standards for digital recording systems, however, they may not
489 create any rules that result in lesser standards than those promulgated by the board.

490

491

492 15-14-28. Reporters and Transcriptionists Must be Certified

493

494 (a) No person shall engage in the practice of ~~verbatim~~ court reporting in this state unless the
495 person is the holder of a certificate as a certified court reporter or is the holder of a temporary
496 permit issued under this article.

497

498 (b) No person shall transcribe a court proceeding with the knowledge that the resulting transcript
499 is to be filed in a Georgia court unless the person is the holder of a certificate as a certified
500 transcriptionist as provided by this article.

501

502

503 15-14-29. Issuance of Certificate, Qualifications for Certification; Exemption from Taking
504 Examination; Individuals with Disabilities

505

506 The qualifications of certified court reporters and certified transcriptionists shall be those
507 established by the Board of Court Reporting of the Judicial Council.

- 508
 509 (a) Upon receipt of appropriate application and fees, the board shall grant a certificate as a
 510 certified court reporter to any person who:
 511 ~~(1) Has attained the age of 18 years;~~
 512 ~~(2) Is of good moral character;~~
 513 ~~(3) Is a graduate of a high school or has had an equivalent education; and~~
 514 (4) Has, except as provided in subsection (b) of this Code section, successfully passed an
 515 examination in verbatim court reporting as prescribed in Code Section 15-14-30.
 516 (b) Any person who has attained the age of 18 years and is of good moral character, who submits
 517 to the board an affidavit under oath that the court reporter was actively and continuously, for one
 518 year preceding March 20, 1974, principally engaged as a court reporter, shall be exempt from
 519 taking an examination and shall be granted a certificate as a certified court reporter.
 520 (c)(1) Reasonable accommodation shall be provided to any qualified individual with a disability
 521 who applies to take the examination who meets the essential eligibility requirements for the
 522 examination and provides acceptable documentation of a disability, unless the provision of such
 523 accommodation would impose an undue hardship on the board.
 524 (2) Reasonable accommodation shall be provided to any qualified individual with a disability
 525 who applies for certification who meets the essential eligibility requirements for certification and
 526 provides acceptable documentation of a disability, unless the provision of such accommodation
 527 would impose an undue hardship on the board or the certification of the individual would pose a
 528 direct threat to the health, welfare, or safety of residents of this state.
 529 (3) The term “disability,” as used in paragraphs (1) and (2) of this subsection, means a physical
 530 or mental impairment that substantially limits one or more major life activities of such individual,
 531 a record of such an impairment, or being regarded as having such an impairment.

532
 533 15-14-30. Examination of Applicants, Fee, Scope of Examination
 534

535 Every person desiring to ~~commence the practice of court reporting~~ become certified by the Board
 536 ~~in this state~~ shall file an application ~~for testing~~ with the board upon such form as shall be adopted
 537 and prescribed by the board. At the time of making an application the applicant shall deposit with
 538 the board an application examination fee to be determined by the board. ~~Examinations shall be~~
 539 ~~conducted as often as may be necessary, as determined by the board, provided that examinations~~
 540 ~~must be conducted at least once annually. Applicants shall be notified by mail of the holding of~~
 541 ~~such examinations no later than ten days before the date upon which the examinations are to be~~
 542 ~~given. Examinations shall be conducted and graded according to rules and regulations prescribed~~
 543 ~~by the board.~~

544544

545545

546 15-14-31. Renewal of Certificate
 547

548 Every certified court reporter and certified transcriptionist who continues in the active practice of
 549 ~~verbatim court reporting~~ their respective duties shall annually renew their certificate in
 550 accordance with rules promulgated by the Board of Court Reporting. ~~on or before April 1~~
 551 following the date of issuance of the certificate under which the court reporter is then entitled to
 552 practice, upon the payment of a fee established by the board. Every certificate which has not been
 553 renewed on April 1 shall expire on that date of that year and shall result in the suspension of the
 554 court reporter's right to practice under this article. Reinstatement shall be as provided by the rules

555 ~~of the board, which suspension shall not be terminated until all delinquent fees have been paid~~
556 ~~or the court reporter has requalified by testing. After a period to be determined by the board, a~~
557 ~~suspended certificate will be automatically revoked and may not be reinstated without meeting~~
558 ~~current certification requirements.~~

559
560

561 15-14-32. Certified Court Reporter, Corporation and Firm Name; Regulations

562

563 (a) Any person who has received from the board a certificate as provided for in this article as a
564 certified court reporter shall be known and styled as a certified court reporter and shall be
565 authorized to practice as such in this state and to use such title or the abbreviation "C.C.R." in
566 so doing. No other person, firm, or corporation, all of the members of which have not received
567 such certificate, shall assume the title of certified court reporter, the abbreviation "C.C.R.," or
568 any other words or abbreviations tending to indicate that the person, firm, or corporation so
569 using the same is a certified court reporter.

570

571 (b) Any person who has received from the board a certificate as a certified transcriptionist shall
572 be known and styled as a certified transcriptionist and shall be authorized to practice as such in
573 this state and to use such title or the abbreviation "C.T." in so doing. No other person, firm, or
574 corporation, all of the members of which have not received such certificate, shall assume the
575 title of certified transcriptionist, the abbreviation "C.T.," or any other words or abbreviations
576 tending to indicate that the person, firm, or corporation so using the same is a certified
577 transcriptionist.

578

579

580 15-14-33. Refusal to Grant or Revocation of Certificate or Temporary Permit

581

582 (a) The board shall have the authority to refuse to grant a certificate or temporary permit to an
583 applicant therefor or to revoke the certificate or temporary permit of a person or to discipline a
584 person, and the board shall promulgate rules to effectuate this section. , upon a finding by a
585 majority of the entire board that the licensee or applicant has:

586 (1) Failed to demonstrate the qualifications or standards for a certificate or temporary permit
587 contained in this article or under the rules or regulations of the board. It shall be incumbent upon
588 the applicant to demonstrate to the satisfaction of the board that all the requirements for the
589 issuance of a certificate or temporary permit have been met, and, if the board is not satisfied as
590 to the applicant's qualifications, it may deny a certificate or temporary permit without a prior
591 hearing; provided, however, that the applicant shall be allowed to appear before the board if
592 ~~desired;~~

593 (2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice
594 of court reporting or on any document connected therewith; practiced fraud or deceit or
595 intentionally made any false statements in obtaining a certificate or temporary permit to practice
596 court reporting; or made a false statement or deceptive registration with the board; Been convicted
597 of any felony or of any crime involving moral turpitude in the courts of this state or any other
598 ~~state, territory, or country or in the courts of the United States. As used in this paragraph and~~
599 ~~paragraph (4) of this subsection, the term "felony" shall include any offense which, if committed~~
600 ~~in this state, would be deemed a felony without regard to its designation elsewhere; and, as used~~
601 ~~in this paragraph, the term "conviction" shall include a finding or verdict of guilty or a plea of~~

602 ~~guilty, regardless of whether an appeal of the conviction has been sought;~~

603 (4) Been arrested, charged, and sentenced for the commission of any felony or any crime
604 involving moral turpitude, where:

605 ~~(A) First offender treatment without adjudication of guilt pursuant to the charge was granted; or~~

606 (B) An adjudication of guilt or sentence was otherwise withheld or not entered on the charge,
607 except with respect to a plea of nolo contendere. ~~The order entered pursuant to the provisions of~~
608 ~~Article 3 of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender~~
609 ~~treatment shall be conclusive evidence of arrest and sentencing for such crime;~~

610 (6) (5) Had a certificate or temporary permit to practice as a court reporter revoked, suspended,
611 or annulled by any lawful licensing authority other than the board; or had other disciplinary action
612 taken against the licensee or the applicant by any such lawful licensing authority other than the
613 board; or was denied a certificate by any such lawful licensing authority other than the board,
614 pursuant to disciplinary proceedings; or was refused the renewal of a certificate or temporary
615 permit by any such lawful licensing authority other than the board, pursuant to disciplinary
616 proceedings; Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious
617 conduct or practice harmful to the public, which conduct or practice materially affects the fitness
618 of the licensee or applicant to practice as a court reporter, or of a nature likely to jeopardize the
619 interest of the public, which conduct or practice need not have resulted in actual injury to any
620 person or be directly related to the practice of court reporting but shows that the licensee or
621 applicant has committed any act or omission which is indicative of bad moral character or
622 untrustworthiness; unprofessional conduct shall also include any departure from, or the failure to
623 conform to, the minimal reasonable standards of acceptable and prevailing practice of court
624 reporting;

625 (7) Knowingly performed any act which in any way aids, assists, procures, advises, or encourages
626 any unlicensed person or any licensee whose certificate or temporary permit has been suspended
627 or revoked by the board to practice as a court reporter or to practice outside the scope of any
628 ~~disciplinary limitation placed upon the licensee by the board;~~

629 (8) Violated a statute, law, or any rule or regulation of this state, any other state, the board, the
630 United States, or any other lawful authority without regard to whether the violation is criminally
631 punishable, which statute, law, or rule or regulation relates to or in part regulates the practice of
632 court reporting, when the licensee or applicant knows or should know that such action is violative
633 of such statute, law, or rule, or violated a lawful order of the board previously entered by the
634 board in a disciplinary hearing, consent decree, or certificate or temporary permit reinstatement;

635 (9) Been adjudged mentally incompetent by a court of competent jurisdiction within or outside
636 this state. Any such adjudication shall automatically suspend the certificate or temporary permit
637 of any such person and shall prevent the reissuance or renewal of any certificate or temporary
638 ~~permit so suspended for as long as the adjudication of incompetence is in effect;~~

639 (10) Displayed an inability to practice as a court reporter with reasonable skill or has become
640 unable to practice as a court reporter with reasonable skill by reason of illness or use of alcohol,
641 ~~drugs, narcotics, chemicals, or any other type of material;~~

642 (11) Violated the provisions of subsection (c) or (d) of Code Section 9-11-28; or (12) Violated
643 ~~the provisions of Code Section 15-14-37.~~

644

645 (b) For purposes of this Code section, the board may obtain through subpoena upon reasonable
646 grounds any and all records relating to the mental or physical condition of a licensee or applicant,
647 and such records shall be admissible in any hearing before the board.

648

649 (c)When the board finds that any person is unqualified to be granted a certificate or temporary
650 permit or finds that any person should be disciplined pursuant to subsection (a) of this Code
651 section or the laws, rules, or regulations relating to court reporting, the board may take any one
652 or more of the following actions:

653

- 654 (1) Refuse to grant or renew a certificate or temporary permit to an applicant;
655 (2) Administer a public or private reprimand, but a private reprimand shall not be
656 disclosed to any person except the licensee;
657 (3) Suspend any certificate or temporary permit for a definite period or for an indefinite
658 period in connection with any condition which may be attached to the restoration of said
659 license;
660 (4) Limit or restrict any certificate or temporary permit as the board deems necessary for
661 the protection of the public;
662 (5) Revoke any certificate or temporary permit;
663 (6) Condition the penalty upon, or withhold formal disposition pending, the applicant's or
664 licensee's submission to such care, counseling, or treatment as the board may direct;
665 (7) ~~Impose a requirement to pass the state certification test; or~~
666 ~~(7) Require monetary adjustment in a fee dispute involving an official court reporter; or.~~
667 (8) Any other action the board deems necessary to carry out its duties in this article.
668

669 (d) In addition to and in conjunction with the actions described in subsection (c) of this Code
670 section, the board may make a finding adverse to the licensee or applicant but withhold imposition
671 of judgment and penalty or it may impose the judgment and penalty but suspend enforcement
672 thereof and place the licensee on probation, which probation may be vacated upon noncompliance
673 with such reasonable terms as the board may impose.

674

675 (e) Any disciplinary action of the board may be appealed by the aggrieved person to the Judicial
676 Council, which shall have the power to review the determination by the board. Initial judicial
677 review of the final decision of the Judicial Council shall be had solely in the superior courts of
678 the county of domicile of the board. Appeals may be heard by an ad hoc Judicial Council
679 Committee consisting of three members, two of whom shall be judges, appointed by the Chair of
680 the Judicial Council.

681

682 (f) In its discretion, the board may reinstate a certificate or temporary permit which has been
683 revoked or issue a certificate or temporary permit which has been denied or refused, following
684 such procedures as the board may prescribe by rule; and, as a condition thereof, it may impose
685 any disciplinary or corrective method provided in this Code section or any other laws relating to
686 court reporting.

687

688 (g)(1) The board is vested with the power and authority to make, or cause to be made through
689 employees or agents of the board, such investigations the board may deem necessary or proper
690 for the enforcement of the provisions of this Code section and the laws relating to court reporting.
691 Any person properly conducting an investigation on behalf of the board shall have access to and
692 may examine any writing, document, or other material relating to the fitness of any licensee or
693 applicant. The board or its appointed representative may issue subpoenas to compel access to any
694 writing, document, or other material upon a determination that reasonable grounds exist for the

695 belief that a violation of this Code section or any other law relating to the practice of court
696 reporting may have taken place.

697
698 (2) The results of all investigations initiated by the board shall be reported solely to the
699 board and the records of such investigations shall be kept for the board by the Administrative
700 Office of the Courts, with the board retaining the right to have access at any time to such
701 records. No part of any such records shall be released, except to the board for any purpose
702 other than a hearing before the board, nor shall such records be subject to subpoena; provided,
703 however, that the board shall be authorized to release such records to another enforcement
704 agency or lawful licensing authority.

705
706 (3) If a licensee is the subject of a board inquiry, all records relating to any person who
707 receives services rendered by that licensee in the capacity as licensee shall be admissible at
708 any hearing held to determine whether a violation of this article has taken place, regardless of
709 any statutory privilege; provided, however, that any documentary evidence relating to a person
710 who received those services shall be reviewed in camera and shall not be disclosed to the
711 public.

712
713 (4) The board shall have the authority to exclude all persons during its deliberations on
714 disciplinary proceedings and to discuss any disciplinary matter in private with a licensee or
715 applicant and the legal counsel of that licensee or applicant.

716
717 (h) A person, firm, corporation, association, authority, or other entity shall be immune from civil
718 and criminal liability for reporting or investigating the acts or omissions of a licensee or applicant
719 which violate the provisions of subsection (a) of this Code section or any other provision of law
720 relating to a licensee's or applicant's fitness to practice as a court reporter or for initiating or
721 conducting proceedings against such licensee or applicant, if such report is made or action is
722 taken in good faith, without fraud or malice. Any person who testifies or who makes a
723 recommendation to the board in the nature of peer review, in good faith, without fraud or malice,
724 in any proceeding involving the provisions of subsection (a) of this Code section or any other law
725 relating to a licensee's or applicant's fitness to practice as a court reporter shall be immune from
726 civil and criminal liability for so testifying.

727
728 ~~(i) If any licensee or applicant after at least 30 days' notice fails to appear at any hearing, the~~
729 ~~board may proceed to hear the evidence against such licensee or applicant and take action as if~~
730 ~~such licensee or applicant had been present. A notice of hearing, initial or recommended decision,~~
731 ~~or final decision of the board in a disciplinary proceeding shall be served personally upon the~~
732 ~~licensee or applicant or served by certified mail or statutory overnight delivery, return receipt~~
733 ~~requested, to the last known address of record with the board. If such material is served by~~
734 ~~certified mail or statutory overnight delivery and is returned marked "unclaimed" or "refused" or~~
735 ~~is otherwise undeliverable and if the licensee or applicant cannot, after diligent effort, be located,~~
736 ~~the director of the Administrative Office of the Courts shall be deemed to be the agent for service~~
737 ~~for such licensee or applicant for purposes of this Code section, and service upon the director of~~
738 ~~the Administrative Office of the Courts shall be deemed to be service upon the licensee or~~
739 ~~applicant.~~

740

741 (j) The voluntary surrender of a certificate or temporary permit or the failure to renew a certificate
742 or temporary permit by the end of an established penalty period shall have the same effect as a
743 revocation of said certificate or temporary permit, subject to reinstatement in the discretion of the
744 board. The board may restore and reissue a certificate or temporary permit to practice under the
745 law relating to that board and, as a condition thereof, may impose any disciplinary sanction
746 ~~provided by this Code section or the law relating to that board.~~

747

748 (ik) Regulation by the board shall not exempt court reporting from regulation pursuant to any
749 other applicable law.

750

751

752 15-14-35. Injunction Against Violation

753

754 On the verified complaint of any person or by motion of the board that any person, firm, or
755 corporation has violated any provision of this article, the board, ~~with the consent of the Judicial~~
756 ~~Council~~, may file a complaint seeking equitable relief in its own name in the superior court of any
757 county in this state having jurisdiction of the parties, alleging the facts and praying for a temporary
758 restraining order and temporary injunction or permanent injunction against such person, firm, or
759 corporation, restraining them from violating this article. Upon proof thereof, the court shall issue
760 the restraining order, temporary injunction, or permanent injunction without requiring allegation
761 or proof that the board has no adequate remedy at law. The right of injunction provided for in this
762 Code section shall be in addition to any other remedy which the board has and shall be in addition
763 to any right of criminal prosecution provided by law.

764

765

766 15-14-36. Violations Relating to Court Reporting

767

768 Any person who:

769

770 (1) Represents himself or herself as having received a certificate or temporary permit as provided
771 for in this article, whether as a court reporter or transcriptionist, without having received a
772 certificate or temporary permit;

773

774 (2) Continues to practice as a court reporter or transcriptionist in this state or uses any title or
775 abbreviation indicating he or she is a certified court reporter or certified transcriptionist, after his
776 or her certificate has been revoked; or

777

778 (3) Violates any provision of this article or of subsection (c) ~~or (d)~~ of Code Section 9-11-28.

779

780 shall be guilty of a misdemeanor. Each day of the offense is a separate misdemeanor.

781

782

783 15-14-37. Certain contracts for court reporting services prohibited; negotiating or bidding
784 reasonable fees for services on case by case basis not prohibited; registration of court reporting
785 firms.

786

787 (a) Contracts for court reporting services not related to a particular case or reporting incident
788 between a certified court reporter or any person with whom a certified court reporter has a
789 principal and agency relationship and any attorney at law, party to an action, party having a
790 financial interest in an action, or agent for an attorney at law, party to an action, or party having
791 a financial interest in an action are prohibited. Attorneys shall not be prohibited from negotiating
792 or bidding reasonable fees for services on a case-by-case basis.

793

794 (b) In order to comply with subsection (a) of this Code section, each certified court reporter shall
795 make inquiry regarding the nature of the contract for his or her services directed to the employer
796 or the person or entity engaging said court reporter's services as an independent contractor.

797

798 (c) This Code section shall not apply to contracts for court reporting services for the courts,
799 agencies, or instrumentalities of the United States or of the State of Georgia.

800

801 (d) A court reporting firm doing business in Georgia shall register with the board by completing
802 an application in the form adopted by the board and paying fees as required by the board.

803

804 (e) Each court reporting firm doing business in Georgia shall renew its registration annually
805 pursuant to rules established by the Board of Court Reporting. ~~on or before April 1 following the~~
806 ~~date of initial registration, by payment of a fee set by the board.~~

807

808 (f) Court reporting firms doing business in Georgia are governed by this article. The board shall
809 have authority to promulgate rules and regulations not inconsistent with this article for the conduct
810 of court reporting firms.

811

812 (g) The board is authorized to assess a reasonable fine, not to exceed \$5,000.00, against any court
813 reporting firm which violates any provision of this article or rules and regulations promulgated in
814 accordance with this Code section.

815

816

817 TITLE 17. CRIMINAL PROCEDURE.

818

819 CHAPTER 5. Searches and seizures.

820

821 17-5-55. Custody of property; evidence in criminal cases.

822

823 (a) In all criminal cases, the court shall designate a custodian of the evidence during the pendency
824 of the trial of the case. For the purposes of this code section, the trial of the case ends when the
825 trial court no longer has jurisdiction over the case, such as when a notice of appeal or an appeal
826 from a denial of a motion for new trial is filed. The court may designate either the clerk of court,
827 the court reporter, or any other officer of the court to be the custodian of any property that is
828 introduced into evidence during the pendency of the trial of the case. Property introduced into
829 evidence shall be identified or tagged with an exhibit number by the custodian, by the parties, or
830 by counsel for the parties. After verdict and judgment has been entered in any criminal case, the
831 person who has custody of the physical evidence introduced in the case shall inventory the
832 evidence and create an evidence log within 30 days of the entry of the judgment. Within 30 days

833 following the creation of the evidence log, physical evidence shall be returned to the rightful
834 owner of the property unless the physical evidence itself is necessary for the appeal of the case,
835 for a new trial, or for purposes of complying with this Code section or Code Section 17-5-56. The
836 evidence log shall contain the case number, style of the case, description of the item, exhibit
837 number, the name of the person creating the evidence log, and the location where the physical
838 evidence is stored. After the evidence log is completed, the judge shall designate the clerk of
839 court, the prosecuting attorney, the defense attorney, ~~any officer of the court~~, or the law
840 enforcement agency involved in prosecuting the case to obtain and store the evidence, and a
841 notation shall appear in the evidence log indicating the transfer of evidence. ~~If evidence is~~
842 ~~transferred to any other party, the evidence log shall be annotated to show the identity of the~~
843 ~~person or entity receiving the evidence, the date of the transfer, and the location of the evidence.~~
844 The signature of any person or entity to which physical evidence is transferred shall be captured
845 through electronic means that will be linked to the evidence log or the use of a property transfer
846 form that will be filed with the evidence log. When physical evidence, other than audio or video
847 recordings, is transferred to any person or entity, a photograph or other visual image of the
848 evidence shall be made and placed in the case file. These images shall also be attached to the
849 transcript as an exhibit if the trial is transcribed.

850

851 (b) Physical evidence classified as dangerous or contraband by state or federal law, including, but
852 not limited to, items described by state or federal law as controlled substances, dangerous drugs,
853 explosives, weapons, ammunition, biomedical waste, hazardous substances, or hazardous waste
854 shall be properly secured in a manner authorized by state or federal law. This evidence may be
855 transferred to a government agency authorized to store or dispose of the material.

856

857 (c) Documents, photographs, and similar evidence shall be maintained and disposed of in
858 accordance with records retention schedules adopted in accordance with Article 5 of Chapter 18
859 of Title 50, known as the “Georgia Records Act.” Other physical evidence that contains biological
860 material, including, but not limited to, stains, fluids, or hair samples that relate to the identity of
861 the perpetrator of the crime, shall be maintained in accordance with Code Section 17-5-56. A
862 party to an extraordinary motion for new trial or a habeas corpus action in which DNA testing is
863 sought that was filed prior to the expiration of the time prescribed for the preservation of evidence
864 by this Code section may apply to the court in which the defendant was convicted for an order
865 directing that the evidence be preserved beyond the time period prescribed by this Code section
866 and until judgment in the action shall become final.

867

868 (d) Except as is otherwise provided in subsections (b) and (c) of this Code section or by law,
869 following the expiration of the period of time set forth in subsections (b) and (c) of this Code
870 section, physical evidence may be disposed of in accordance with the provisions of Article 5 of
871 Chapter 12 of Title 44, known as the “Disposition of Unclaimed Property Act,” or, in the case of
872 property of historical or instructional value, as provided in Code Section 17-5-53.

873

874

875 TITLE 17. CRIMINAL PROCEDURE.

876

877 CHAPTER 8. Trial.

878

879 17-8-5. Stenographic notes; entry of testimony on minutes of court; transcript or brief
880

881 (a) ~~On the trial of~~ In all felony cases felonies, the presiding judge shall have all the proceedings
882 ~~testimony~~ taken down by a certified court reporter or recorded via a digital recording system
883 operating in compliance with the rules of the Board of Court Reporting and Chapter 14 of Title
884 15 and, when directed by the judge, the court reporter shall exactly and truly record or take
885 ~~stenographic notes of the testimony and proceedings in the case, except the argument of counsel.~~
886 In the event of a verdict of guilty, the certified court reporter shall transcribe the case and file the
887 transcript with the clerk of court, or, where a digital recording system was used, the court shall
888 ensure that a certified transcriptionist creates and files a transcript, the testimony shall be entered
889 ~~on the minutes of the court or in a book to be kept for that purpose.~~ In the event that a sentence
890 of death is imposed, the transcript of the case shall be prepared within 90 days after the sentence
891 is imposed by the trial court. Upon petition by the certified court reporter or certified
892 transcriptionist, the Chief Justice of the Supreme Court of Georgia may grant an additional period
893 of time for preparation of the transcript, such period not to exceed 60 days. The requirement that
894 a transcript be prepared within a certain period in cases in which a sentence of death is imposed
895 shall not inure to the benefit of a defendant.

896
897 (b) In the event that a mistrial results from any cause in the trial of a defendant charged with the
898 commission of a felony, the presiding judge may, in his discretion, either with or without any
899 application of the defendant or state's counsel, order that ~~a brief or the~~ transcript of the testimony
900 in the case be duly filed by the court reporter in the office of the clerk of the superior court in
901 which the mistrial occurred. If the ~~brief or~~ transcript is ordered, it shall be the duty of the judge,
902 in the order, to provide for the compensation of the reporter and for the transcript to be paid for
903 as is provided by law for payment of transcripts in cases in which the law requires the testimony
904 to be transcribed, at a rate not to exceed that provided in felony cases.

905

906

907 TITLE 29. GUARDIAN AND WARD

908

909 CHAPTER 4. Guardians of adults.

910

911 29-4-12. Hearings; court review of pleadings and report; dismissal; notice of hearing; evidence;
912 selection and powers of guardian; appointment of individuals to hear case.

913 ...

914 (2) The hearing shall be recorded by either a certified court reporter or via a sound recording
915 device digital recording system as provided for by the Rules of the Board of Court Reporting.
916 The recording shall be retained ~~for not less than 45 days from the date of the entry of the order~~
917 ~~described in Code Section 29-4-13.~~ in accordance with the Judicial Council's Record Retention
918 Schedule, Uniform Probate Court Rules, and any other applicable Georgia law or rule.

919

920

921 CHAPTER 5. Conservators of adults

922

923 29-5-12 Hearings; court review of pleadings and report; dismissal; notice of hearing; evidence;
924 selection and powers of conservator; appointment of individuals to hear cases.

925 ...

926 (d)(2) The hearing shall be recorded by either a certified court reporter or via a sound-recording
927 ~~device~~ digital recording system as provided for by the Board of Court Reporting. The recording
928 shall be retained ~~for not less than 45 days from the date of the entry of the order described in~~
929 ~~Code Section 29-5-138.~~in accordance with the Judicial Council's Record Retention Schedule,
930 Uniform Probate Court Rules, and any other applicable Georgia law or rule.

931

932

933 This Act shall become effective on July 1, 2021.