

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **3005**

03/14/2016 Authored by Hilstrom and Cornish

The bill was read for the first time and referred to the Committee on Public Safety and Crime Prevention Policy and Finance

03/29/2016 Adoption of Report: Placed on the General Register

Read Second Time

05/18/2016 Referred to the Chief Clerk for Comparison with S. F. No. 3483

05/19/2016 Postponed Indefinitely

A bill for an act

relating to courts; updating outdated statutes pertaining to court reporters; authorizing direct appeals of referee orders and decrees in probate or civil commitment court proceedings to the Court of Appeals; clarifying statutes related to penalty of perjury for documents provided to the court; amending Minnesota Statutes 2014, sections 243.49; 358.116; 484.70, subdivision 7; 484.702, by adding a subdivision; 486.01; 486.02; 486.05, subdivision 1; 486.06; 609.48, by adding a subdivision; repealing Minnesota Statutes 2014, sections 484.72; 486.05, subdivision 1a; 525.112.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2014, section 243.49, is amended to read:

243.49 COMMITMENT PAPERS; DUTY OF COURT ADMINISTRATOR.

Upon a plea of guilty or finding of guilty after trial, the court administrator of every court which sentences a defendant for a felony or gross misdemeanor to the custody of the commissioner of corrections or to the superintendent of the workhouse or work farm, shall provide the officer or person having custody of the defendant a certified record for commitment, including (1) a copy of the indictment and plea, (2) a transcript of the sentencing proceedings, with the date thereof, together with the defendant's statement under oath, if obtained, as to the defendant's true name, residence, if any, the date and place of birth, the names and addresses of parents and other relatives and of employers and others who know the defendant well, social and other affiliations, past occupations and employments, former places of residence and the period of time and the dates the defendant has resided in each, citizenship, the number, dates, places and causes of any prior convictions, and (3) if the person pleaded guilty, a transcript of the sentencing proceedings. The record shall also include the trial judge's impressions of the defendant's mental and physical condition, general character, capacity, disposition, habits and special needs. The

~~court reporter shall provide the required transcripts.~~ The certified record for commitment may be used as evidence in any postconviction proceeding brought by the defendant. The court administrator shall also deliver to the sheriff or other officer or person conveying the defendant to the correctional facility, workhouse, or work farm designated by the commissioner of corrections or the judge a warrant of commitment together with a certified copy of the warrant directing the conveyor to deliver the person and the certified record for commitment to the principal officer in charge of the correctional facility, workhouse, or work farm. Upon the delivery of any person, the principal officer in charge of the correctional facility, workhouse, or work farm shall keep the certified copy of the warrant of commitment and endorse the principal officer's receipt upon the original, which shall be filed with the sentencing court. The court administrator shall retain ~~one copy of the required transcripts,~~ and a tape recording and the court reporter's notes of all other proceedings.

Sec. 2. Minnesota Statutes 2014, section 358.116, is amended to read:

358.116 COURT DOCUMENTS.

Unless specifically required by court rule, a pleading, motion, affidavit, or other document filed with a court of the Minnesota judicial branch, or presented in support of a request for a court order, warrant, or other relief, is not required to be notarized. Signing a document filed with the court or presented to a judge or judicial officer for signature constitutes "verification upon oath or affirmation" as defined in section 358.41, clause (3), without administration of an oath under section 358.07, provided that the signature, as defined by court rules, is affixed immediately below a declaration using substantially the following language: "I declare under penalty of perjury that everything I have stated in this document is true and correct." In addition to the signature, the date of signing and the county and state where the document was signed shall be noted on the document. A person who signs knowing that the document is false in any material respect is guilty of perjury under section 609.48, even if the date, county, and state of signing are omitted from the document.

Sec. 3. Minnesota Statutes 2014, section 484.70, subdivision 7, is amended to read:

Subd. 7. **Referee duties.** The duties and powers of referees shall be as follows:

(a) Hear and report all matters assigned by the chief judge.

(b) Recommend findings of fact, conclusions of law, temporary and interim orders, and final orders for judgment.

All recommended orders and findings of a referee shall be subject to confirmation by a judge.

(c) Upon the conclusion of the hearing in each case, the referee shall transmit to a judge the court file together with recommended findings and orders in writing. The recommended findings and orders of a referee become the findings and orders of the court when confirmed by a judge. The order of the court shall be proof of such confirmation, and also of the fact that the matter was duly referred to the referees.

(d) Review of any recommended order or finding of a referee by a judge may be by notice served and filed within ten days of effective notice of the recommended order or finding. The notice of review shall specify the grounds for review and the specific provisions of the recommended findings or orders disputed, and the court, upon receipt of a notice of review, shall set a time and place for a review hearing.

(e) All orders and findings recommended by a referee become an effective order when countersigned by a judge and remain effective during the pendency of a review, including a remand to the referee, unless a judge:

(1) expressly stays the effect of the order;

(2) changes the order during the pendency of the review; or

(3) changes or vacates the order upon completion of the review.

(f) Notwithstanding paragraphs (d) and (e), referee orders and decrees in probate or civil commitment court proceedings, if appealed, must be appealed directly to the Court of Appeals, in the same manner as judicial orders and decrees.

Sec. 4. Minnesota Statutes 2014, section 484.702, is amended by adding a subdivision to read:

Subd. 6. **Expedited child support process.** Hearings and proceedings conducted in the expedited child support process under this section may be reported by use of electronic recording equipment provided that the equipment meets the minimum standards established by the state court administrator. Electronic recording equipment must be operated and monitored by a person who meets the minimum qualifications established by the state court administrator.

Sec. 5. Minnesota Statutes 2014, section 486.01, is amended to read:

486.01 APPOINTMENT, DUTIES, BOND; SUBSTITUTES.

Each judge, by ~~duplicate orders~~ order filed with the court administrator and county auditor of the several counties of the judge's district, may appoint a competent stenographer court reporter as reporter of the court, to hold office during the judge's pleasure, and to act as the judge's secretary in all matters pertaining to official duties. ~~Such reporter shall give bond to the state in the sum of \$2,000, to be approved by the appointing judge, conditioned~~

for the faithful and impartial discharge of all the reporter's duties, which bond, with the oath of office, shall be filed with the court administrator in the county in which the judge resides.

~~Whenever the official reporter so appointed, because of sickness or physical disability, is temporarily unable to perform duties, the judge of the court affected may, if another official court reporter is not available, secure for the temporary period of disability of the official court reporter, another competent reporter to perform such duties for not to exceed 60 days in any calendar year. The substitute court reporter so appointed shall receive as salary an amount equal to the salary of the official court reporter for the period of time involved and shall also receive in addition thereto expenses and fees provided by sections 486.05 and 486.06. The salary of such substitute reporter shall be paid in the manner now provided by law for the payment of the salary of the official court reporter. The substitute court reporter shall not be required to furnish bond, unless ordered by the judge to do so. The employment of and the compensation paid to such substitute reporter shall in no way affect or prejudice the employment of and the compensation paid to the official court reporter of said court.~~

Sec. 6. Minnesota Statutes 2014, section 486.02, is amended to read:

486.02 STENOGRAPHIC RECORD.

~~Except as provided in section 484.72,~~ A competent stenographer court reporter who meets minimum qualifications promulgated by the Supreme Court, shall make a complete ~~stenographic~~ record of all testimony given and all proceedings had before the judge upon the trial of issues of fact, with or without a jury, or before any referee appointed by such judge. In so doing the stenographer court reporter shall take down all questions in the exact language thereof, and all answers thereto precisely as given by the witness or by the sworn interpreter. The stenographer court reporter shall also record, verbatim, all objections made, and the grounds thereof as stated by counsel, all rulings thereon, all exceptions taken, all motions, orders, and admissions made and the charge to the jury. When directed so to do by the judge, the stenographer court reporter shall make a like record of any other matter or proceeding, and shall read to such judge or referee any record made by the stenographer court reporter, or transcribe the same, without charge, for any purpose in furtherance of justice.

Sec. 7. Minnesota Statutes 2014, section 486.05, subdivision 1, is amended to read:

Subdivision 1. **Salaries.** The salary for each court reporter shall be set ~~annually by the district administrator~~ as provided in judicial branch personnel policies and collective

5.1 bargaining agreements within the range established under section 480.181 as provided in
5.2 the judicial branch personnel rules.

5.3 Sec. 8. Minnesota Statutes 2014, section 486.06, is amended to read:

5.4 **486.06 CHARGE FOR TRANSCRIPT.**

5.5 In addition to the salary set in section 486.05, the court reporter may charge for a
5.6 transcript of a record ordered by any person other than the judge ~~50 cents per original folio~~
5.7 ~~thereof and ten cents per folio for each manifold or other copy thereof when so ordered~~
5.8 ~~that it can be made with the original transcript. The chief judge of the judicial district may~~
5.9 ~~by order establish new transcript fee ceilings annually~~ a rate set by the chief justice.

5.10 A court reporter may impose a fee authorized under this section only if the transcript
5.11 is delivered to the person who ordered it within a reasonable time after it was ordered.

5.12 Sec. 9. Minnesota Statutes 2014, section 609.48, is amended by adding a subdivision
5.13 to read:

5.14 Subd. 5. **Venue.** A violation of subdivision 1, clause (4), may be prosecuted in the
5.15 county where the statement, under penalty of perjury, was signed, or the county of the
5.16 district court in which the statement was filed.

5.17 Sec. 10. **REPEALER.**

5.18 Minnesota Statutes 2014, sections 484.72; 486.05, subdivision 1a; and 525.112, are
5.19 repealed.

484.72 ELECTRONIC RECORDING OF COURT PROCEEDINGS.

Subdivision 1. **Authorization.** Except as provided in subdivision 4, electronic recording equipment may be used to record court proceedings in lieu of a court reporter. However, at the request of any party to any proceedings, the court may, in its discretion, require a competent stenographer who meets minimum qualifications promulgated by the Supreme Court, to make a complete stenographic record of the proceedings.

Subd. 2. **Appointment of operator, costs and payment.** The court shall have the authority to appoint a person or persons to operate and monitor electronic recording equipment. The person or persons may be paid on a salary basis, on a contract basis, or such other basis as the court deems appropriate.

Subd. 3. **Specification for electronic recording equipment; qualifications for operator.** For the purpose of this section the state court administrator shall promulgate specifications for acceptable electronic recording equipment used to record court proceedings and minimum qualifications for the persons who operate and monitor the equipment.

Subd. 4. **Limitations on use of electronic recording equipment.** A competent stenographer who meets minimum qualifications promulgated by the Supreme Court, shall make a complete stenographic record of the following court proceedings:

(1) Felony and gross misdemeanor offenses, except arraignments and first appearance in district court as specified in rule 8 of the Rules of Criminal Procedure.

(2) District court jury trials.

(3) Contested district court trials and fact-finding hearings. Where required by statute or court rule, electronic recording equipment may be used in addition to the services of a competent stenographer.

Subd. 5. **Malfunction of electronic recording.** If, when electronic recording equipment is used, a malfunction occurs in the recording process so that the recording is incomplete, the court may declare a mistrial if the malfunction is discovered during the trial. If the malfunction is discovered in the course of preparing a transcript after a verdict has been entered, the court may grant a new trial upon motion of any party.

Subd. 6. **Expedited child support process.** Notwithstanding subdivisions 1 and 4, hearings and proceedings conducted in the expedited child support process under section 484.702 may be reported by use of electronic recording equipment provided that the equipment meets the minimum standards promulgated by the state court administrator. Electronic recording equipment must be operated and monitored by a person who meets the minimum qualifications promulgated by the state court administrator.

486.05 DISTRICT COURT; REPORTERS' SALARIES AND EXPENSES.

Subd. 1a. **Expenses.** A court reporter, in addition to a salary, shall be paid necessary mileage, traveling, and hotel expenses incurred in the discharge of official duties while absent from the home chambers where the judge the reporter serves is assigned. The expenses are to be paid by the state upon presentation of a verified itemized statement approved by the judge.

525.112 COURT REPORTERS FOR HENNEPIN COUNTY COURT.

The county judge or judge of probate of any county now having or which may hereafter have 400,000 inhabitants, or over, may appoint a competent stenographer as court reporter and secretary, who shall be paid a salary of \$3,000 per annum; and, in addition to this salary, the court reporter may also be paid such fees for transcripts of evidence made in relation to probate hearings, as the judge of probate shall fix and allow, and appoint two additional clerks who shall be competent stenographers, who shall each be paid a salary of \$1,200 per annum.