

# Arizona Court Reporters Association

5350 W. Bell Rd., Suite C-122 #520, Glendale, AZ 85308

P: 602-679-6995

[office@acraonline.org](mailto:office@acraonline.org)

The following comments are submitted by ACRA, the Arizona Court reporters Association, in opposition to Proposed Rule 22-0037.

ACRA is a professional organization that is comprised of and has represented certified court reporters in Arizona since 1950. ACRA has worked closely with the judicial system and the public to ensure an accurate and verbatim record of proceedings for all parties.

It is with great disappointment that we are forced, once again, to alert the public to the reckless and dangerous intention of the court representatives that are promulgating this rule change that in effect takes away a litigant's right to have a certified court reporter present and ensure their right to an accurate transcript.

It is well known that ACRA has been actively involved in the many proposed changes to the statutes and rule proposals that have taken place in the past few years going as far back as the Keeping the Record Committee, and more recently, the Task Force to Supplement Keeping of the Record by Electronic Means, and the legislative efforts to change the statutes, first HB 2235, and then SB 1267, which was passed on April 28, 2021.

On June 3, 2021, David K. Byers, Administrative Director of the Administrative Office of the Courts (AOC), filed an amended rule petition to amend various procedural rules on an emergency basis. The amended petition sought to implement S.B. 1267, which the Arizona legislature had recently enacted to amend A.R.S. §38-424(A) to authorize courts to use electronic recording devices in lieu of court reporters. On September 30, 2021, the Court adopted the proposed amendments on an emergency basis, effective immediately. On December 8, 2021, the Court ordered that the rules which the Court adopted on an emergency basis on September 30, 2021, are hereby adopted permanently, as modified in accordance with Attachment A to this order, effective January 1, 2022. **Of those adopted rules, AOC specifically crafted and requested the following verbiage to Rule 30(b)(2) requiring a court reporter in "Proceedings brought pursuant to A.R.S. Title 36, Chapter 5."** The Court relied upon AOC's argument and avowal, granting said request at that time in good faith. To now request a change to the language that AOC solely crafted and avowed to in 2021 and citing a shortage of certified court reporters that they themselves created, shows not only bad faith by AOC but draws into question their intent.

ACRA has worked in good faith previously with the Administrative Office of the Courts (AOC) to reach an agreeable outcome to address the **alleged** certified court reporter shortage in Arizona and the courthouses that do not have certified court reporters on staff. Unfortunately, AOC is attempting to use this perceived shortage as both a sword and a shield, simultaneously creating a shortage while trying to use it to further their own argument, thus undermining their credibility.

AOC itself is the majority cause of these alleged shortages of certified court reporters in the court system. For example, Maricopa County Superior Court has had a hiring freeze on certified court reporters through the Court Reporting Department for many years now. Further, Maricopa Superior

# Arizona Court Reporters Association

5350 W. Bell Rd., Suite C-122 #520, Glendale, AZ 85308

P: 602-679-6995

[office@acraonline.org](mailto:office@acraonline.org)

Court has not allowed their court reporting department to use their on-staff per diem or contracted certified court reporters to help alleviate and address this perceived shortage. Many of Arizona's courts are also under this same mandate, thus creating a perceived shortage.

Many certified court reporters have inquired and attempted to work in many of Arizona's court systems to only be turned away. These departments are not allowed to hire certified court reporters or use outside court reporters despite repeated requests being made for the hiring freeze to be lifted, positions to be reopened, and their departments to be fully staffed.

To further support there is **NOT** a certified court reporter shortage, ACRA has communicated to AOC the availability of the "Request a Reporter" program, which has been highly successful in helping to arrange for certified court reporters to cover proceedings where a court employed certified court reporter is not readily available. AOC has not utilized this program that was put in place to ensure that anyone who requests a certified court reporter will be able to secure one.

The public and those who rely on the judicial system must have faith that all facets of our judicial system are acting with fairness, dignity, equality, and integrity to uphold the tenets of our justice system, which is often referred to and emulated as the best in the world.

It has been previously mandated after much research (electronic recording versus certified court reporter) that the best practice is that a certified court reporter shall be present for the grand jury, felony trials, capital trials, abortion without parental consent, and hearings involving mental illness. Which of those proceedings are not important enough to require an accurate record?

Have considerations been made about HIPAA violations and confidential or sealed testimony and how those situations will be handled by someone other than a certified court reporter? The use of electronic recording and allowing access to sensitive information to an uncertified individual, who has not gone through any background check or vetting process to transcribe such testimony is something that should not be overlooked. Removing the requirement to use a certified court reporter is not in the best interest of anyone other than those trying to cut corners for monetary gain.

The debate between certified court reporters and digital recording has been ongoing for years. Everyone has heard all about the pitfalls of digital recording and the many situations that can contribute to a faulty or non-existent record. No matter how advanced the recording systems are, failure to capture an accurate record is as simple as someone forgetting to turn on the system, attorneys not speaking into a microphone, or more than one person speaking at a time, all of which can lead to an incomplete transcript. Let's also not forget that Arizona is a diverse and ever-growing melting pot of cultures and people from all walks of life and backgrounds, which results in many different accents, speech dialects, and slang from all over the world; without a certified court reporter to ask for clarification, if necessary, the result is an inaccurate or inferior record.

# Arizona Court Reporters Association

5350 W. Bell Rd., Suite C-122 #520, Glendale, AZ 85308

P: 602-679-6995

[office@acraonline.org](mailto:office@acraonline.org)

With all the technological advances, there is still nothing as reliable as having a certified court reporter present in the courtroom to be the “Guardian of the Record.”

Lest we forget, certified court reporters provide instantaneous voice-to-text transcription. A real-time certified court reporter’s stenographic notes are translated instantly, displayed on a computer screen, and digitally archived to a computer. Real-time certified court reporters create a verbatim text record of the proceedings for instant review and use by attorneys and judges. Real-time is the only “voice-to-text” technology that meets the rigorous demand for accuracy that exists in the legal environment. Judges and attorneys request this service frequently in all types of hearings.

Let’s state it plainly: This is NOT what was represented would happen when SB 1267 was presented to the legislature.

ACRA has always been willing to work with AOC to address concerns and work towards an agreeable resolution to satisfy all parties involved.

For all the foregoing reasons, ACRA strongly opposes this proposed rule change.

Thank you for your time and attention to these important matters.

Angela F. Miller, Immediate Past President  
Arizona Court Reporters Association