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RECEIVED
DEC 31 2019
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December 31, 2019

The Honorable Ken Paxton
Attention: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

RQ-0327-KP
FILE # ML-48675-19
I.D. # 48675

RE: May a judge of a court of record appoint an official court recorder in lieu of an official court reporter? If an official court recorder may be appointed in lieu of an official court reporter, do the statutory provisions relating to court reporters apply to court recorders? Namely, §152.905 of the Texas Local Government Code and §52.051 of the Texas Government Code.

Dear Attorney General Paxton:

Due to an increased shortage of court reporters, and the need to avoid delays in court proceedings when an official court reporter retires, passes away or is otherwise unavailable the Judge of the 2nd Judicial District Court of Cherokee County, Texas requested I forward these questions for your consideration. Please accept this letter as a request for an Attorney General Opinion on these matters.

I submit the following for your consideration:

The Texas Government Code mandates, "Each judge of a court of record shall appoint an official court reporter. An official court reporter is a sworn officer of the court and holds office at the pleasure of the court." V.T.C.A., Government Code §52.041

Additionally, Rule 13.1 of the Texas Rules of Appellate procedure seems to allow for the use of electronic recording equipment operated by an official court recorder instead of a stenographic recording by an official court reporter as it states:

The official court reporter or court recorder must:

- (a) Unless excused by agreement of the parties, attend court sessions and make a full record of the proceedings;
- (b) Take all exhibits offered in evidence during a proceeding and ensure that they are marked;
- (c) File all exhibits with the trial court clerk after a proceeding ends;
- (d) Perform the duties prescribed by Rules 34.6 and 35; and
- (e) Perform other acts relating to the reporter's or recorder's official duties, as the trial court directs.

Tex. R. App. P. 13.1

The duties of an official court reporter and court recorder are identical in Rule 13.1; but, additional duties are imposed on a court recorder in Rule 13.2

The official court recorder must also:

- (a) Ensure that the recording system functions properly throughout the proceeding and that a complete, clear, and transcribable recording is made;
- (b) Make a detailed, legible log of all proceedings being recorded, showing:
 - (1) The number and style of the case before the court;
 - (2) The name of each person speaking;
 - (3) The event being recorded such as the voir dire, the opening statement, direct and cross-examinations, and bench conferences;
 - (4) Each exhibit offered, admitted, or excluded;
 - (5) The time of day of each event; and
 - (6) The index number on the recording device showing where each event is recorded;
- (c) After a proceeding ends, file with the clerk the original log;
- (d) Have the original recording stored to ensure that it is preserved and is accessible; and
- (e) Ensure that no one gains access to the original recording without the court's written order.

Tex. R. App. P. 13.2

The 2nd Judicial District Court of Cherokee County, Texas has obtained approval by the Supreme Court of Texas and the Court of Criminal Appeals of Texas of its local rules governing the procedure for making a record of civil and criminal court proceedings by electronic recording instead of making a stenographic record. Those rules are attached to this request.

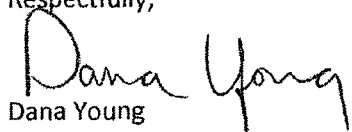
Taking into consideration the statutes and approval of the local rules our first question is, again, may a judge of a court of record appoint an official court recorder in lieu of an official court reporter?

If an official court recorder may be appointed in lieu of an official court reporter, do the statutory provisions relating to court reporters apply to court recorders? Namely, §152.905 of the Texas Local Government Code requires the district judge to hold an annual hearing setting the compensation of the official court reporter. Would this provision apply to an official court recorder appointed in lieu of an official court reporter?

If an official court recorder may be appointed in lieu of an official court reporter, does §52.051 of the Texas Government Code concerning compensation of District Court Reporters apply to official court recorders?

Thank you for your consideration of these matters and please feel free to contact me with any questions you may have.

Respectfully,

A handwritten signature in black ink that reads "Dana Young". The signature is written in a cursive style with a large initial "D" and a long, sweeping underline.

Dana Young

Cherokee County Attorney