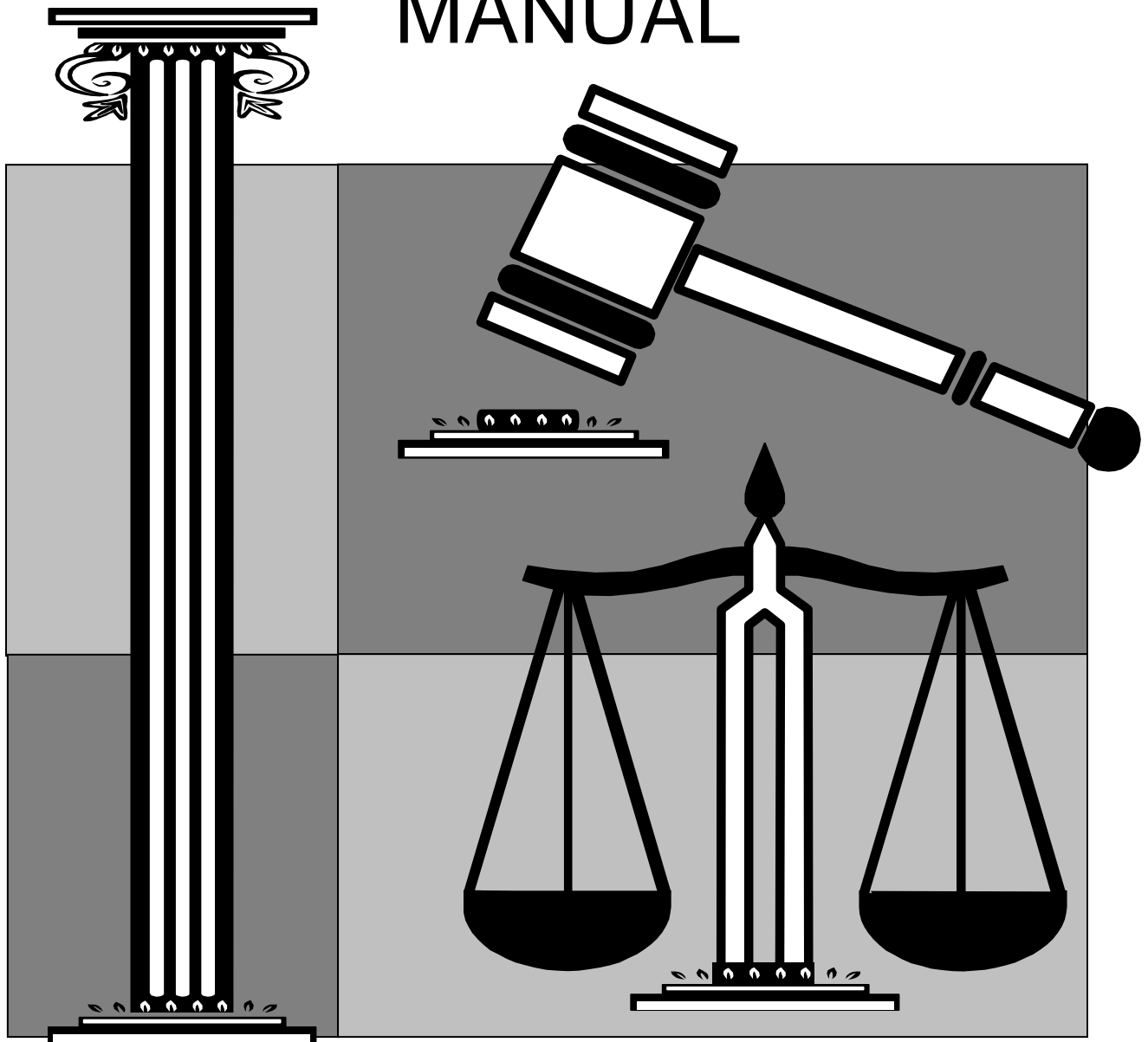


TENNESSEE OFFICIAL COURT REPORTER MANUAL



PREPARED BY
THE ADMINISTRATIVE OFFICE OF THE COURTS



COURT REPORTER MANUAL

IMPORTANT

All official court reporters, having received a copy of the Tennessee Court Reporter Manual, should become familiar with the contents of the manual as it outlines general information, work responsibilities, and benefits.

Further, the official court reporter acknowledges the following:

This manual represents a brief summary of some of the more important policies related to court reporters. Consequently, the manual is not all-inclusive. In the event that any inconsistency or conflict is identified between the information contained in this manual and any official policy or benefit plan of the judiciary (as amended from time to time) then the official policy or benefit plan documents shall control.

The AOC retains the sole right in its judgment to modify, suspend, interpret, or cancel, in whole or in part, at any time, and with or without any notice, any of the published or unpublished policies or practices.

The contents of this manual do not constitute an express or implied contract of employment.

The official court reporter is an at-will employee and may terminate the work relationship, with or without cause, and the supervisory judge may do the same.

Please sign the ***“Acknowledgment of Receipt”*** on the following page and forward to the Human Resources office.

ACKNOWLEDGMENT OF RECEIPT

I have received a copy of the Tennessee Court Reporter Manual. I understand I am to become familiar with the contents of the manual as it outlines general information, work responsibilities, and benefits.

Further, I acknowledge and agree to the following:

This manual represents a brief summary of some of the more important policies related to court reporters. Consequently, the manual is not all-inclusive. In the event that any inconsistency or conflict is identified between the information contained in this manual and any official policy or benefit plan of the judiciary (as amended from time to time) then the official policy or benefit plan documents shall control.

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Employee Name (Please Print)

Employee Signature

Date

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INTRODUCTION

In accordance with T.C.A. § 40-14-313, the Administrative Office of the Courts, (AOC) sets forth these policies and procedures for the function of court reporters employed full time by the state to serve in Tennessee's courts exercising criminal jurisdiction. Court reporters who are full-time employees of the state are referred to as "official court reporters". All official court reporters are required to comply with this manual while in the service of the courts.

The Administrative Office of the Courts recognizes the important contribution that court reporters make to the judicial community and hopes to ensure the continued success of the relationship between court reporters and other professionals in the judicial system.

CONTACT INFORMATION

The official court reporter's direct supervisor is the judge for whom the reporter works and is the person the court reporter should communicate questions to. For administrative or benefit matters, please contact the following staff at the Administrative Office of the Courts.

Administrative

Connie D. Turner, Paralegal
Court Reporter Services Coordinator
511 Union Street, Suite 600
Nashville, TN 37219
(615) 741-2687

Mary Rose Zingale
Court Services Director
511 Union Street, Suite 600
Nashville, TN 37219
(615) 741-2687

Benefits

Stephanie Holliday
Human Resources Specialist
511 Union Street, Suite 600
Nashville, TN 37219
(615) 741-2687

GENERAL INFORMATION

Eligibility:

- Must possess high school diploma or equivalent
- Completion of court reporter training from a court reporting school or other educational institution with an emphasis on court reporting-related study or practical court reporting experience (using shorthand machine with CAT system or voice writer is preferred)
- Notaries public preferred

Essential Job Functions:

Be present to record court proceedings at the request of the supervising judge and prepare accurate transcripts of those recordings. Service to the court must be prompt and punctual. Equipment should be functional and properly maintained.

Office Procedures:

Should an official court reporter assigned to work in a criminal court on a particular day become unable to fulfill that obligation, it is the responsibility of the court reporter to find a substitute.

Should an official court reporter need time off, for any reason, the reporter must have the approval of the supervising judge. If time off is for an extended period of time, the AOC should be notified. It is the court reporter's responsibility to find a substitute court reporter for the duration of the absence.

If an auxiliary reporter is used as a substitute, the auxiliary reporter must have a current vendor authorization form on file with the AOC. A list of authorized court reporters is generated and distributed to official court reporters each fiscal year. If the official court reporter finds it necessary to use a reporter who has not been authorized by the AOC, the substitute reporter must contact the AOC to have a vendor authorization form prepared.

Official court reporters shall submit the monthly work report form to the designated representative of the Administrative Office of the Courts no later than the 13th of every month. The form must be the one designated by the AOC and must be accurately and completely filled out, preferably in typewritten form. Failure to submit report as required may result in a delay in payment of mileage expenses as well as transcript supplemental payment(s).

Official court reporters shall be paid according to the scale set forth by the AOC. (See section on compensation.)

Organization:

The official court reporter's direct supervisor is the judge for whom the reporter works and is the person the court reporter should communicate questions to. For administrative or benefit matters, please refer to page 1 for AOC staff contacts.

The official court reporter's employment is at-will. The court reporter's employment may be terminated at any time, with or without cause.

Compensation:

Compensation for official court reporters is determined by salary and by transcript fee. Salary is awarded on the basis of experience and proficiency levels.

Official court reporters receive longevity pay in the form of an annual bonus. The bonus is \$100.00 for every year of service and is given for the first time at 3 years/\$300.00. The bonus continues to increase with every year of service with the maximum bonus set at \$2,500.00.

PAYMENT OF TRANSCRIPT REQUESTS

The Administrative Office of the Courts is authorized by statute to pay for transcripts that are ordered by a state trial or appellate judge and those that are necessary for the appellate record in the case of an indigent defendant.

In an indigent criminal case, the AOC will pay for one (1) original and one (1) copy of a transcript for the defendant. In non-indigent criminal cases, if the reporter is asked to prepare a transcript by the defendant or the defendant's attorney, payment arrangements are to be determined by the court reporter, the defendant, and/or the defendant's attorney. If the reporter is asked to prepare a transcript (in indigent or non-indigent cases) by an employee of another state agency (i.e., district attorney general's office), payment arrangements are to be determined by the reporter and the employee of the state agency.

When submitting a request for payment (in a single-defendant case) for additional sets beyond the one (1) original and one (1) copy, the reporter should provide a court order or brief explanation of the payment request. If a trial judge desires a personal copy, in addition to the one (1) original which is normally placed in the court file, he/she should obtain a copy from the original on file in the clerk's office.

Transcripts:

Effective July 1, 2003, payment for preparation of transcripts is \$3.00 per page for one (1) original and one (1) copy (included as a set).

EMPLOYEE RIGHTS

Equal Employment Opportunity:

Pursuant to the State of Tennessee's policy of non-discrimination, the AOC does not discriminate on the basis of race, sex, religion, color, national or ethnic origin, age, pregnancy, disability, or military service in its policies, or in the admission or access to, or treatment or employment in, its programs, services or activities.

Counseling is available through the Human Resources Office to resolve informal complaints of discrimination. Any employee or applicant who feels she/he may have been discriminated against may file a formal complaint with the Manager of Human Resources without fear of reprisal.

Americans with Disabilities Act (ADA):

The ADA was enacted to provide comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services and telecommunications. An individual is considered to have a disability if that individual either:

- Has a physical or mental impairment that substantially limits one or more of that person's major life activities;
- Has a record of such an impairment;
- Is regarded by the covered entity as having such impairment.

If you meet the above criteria and feel you have been subject to discrimination, please contact the Human Resources Office.

Pursuant to Supreme Court Rule 45, as participants in the judicial program, official court reporters must follow the provisions of the Judicial Branch ADA policy. If you qualify as an individual with a disability as referenced above, a Request for Modification may need to be submitted to the local Judicial Branch ADA Coordinator in your county in order to ensure access to the judicial program if a modification or accommodation is required in order to obtain access.

Consolidated Omnibus Budget Reconciliation Act (COBRA):

The federal law referred to as COBRA allows employees and their dependents, whose medical insurance would otherwise terminate, to continue the same medical coverage for specific periods of time under certain conditions.

If for certain qualifying reasons, you or your dependents become no longer eligible to receive medical insurance coverage through the state group insurance plan (usually because you are no longer working full-time for the state), the COBRA law requires that you be allowed to continue purchasing insurance at the same rate as the state group insurance plan, but the state will no longer be paying its share of the premium. Instead, you will pay the entire premium. You can continue to purchase insurance for

a certain period of time (usually 18 months, but under certain qualifying conditions, up to 29 or 36 months) or until you are eligible for coverage under another group insurance plan.

If you meet the conditions required to continue coverage under COBRA, you should automatically receive a COBRA notification packet within 10 days of losing coverage. If you do not receive your notification packet after your insurance terminates, or if you wish to find out if you are eligible to receive coverage under COBRA, contact the Division of Insurance Administration at (615) 741-3590.

OFFICIAL COURT REPORTER BENEFITS

The State of Tennessee offers a wide range of benefits for official court reporters. A number of the programs (such as Social Security, worker's compensation, state disability and unemployment insurance) cover all employees in the manner prescribed by law. The following benefit programs are available to eligible employees:

- Baccalaureate Education System Trust (BEST) Program
- Credit Union
- Deferred Compensation
- Discounts
- Employee Assistance Program
- Flexible Benefits Plan
- Higher Education Fee Discounts/Waivers
- Holidays
- Insurance
- Leave
- Workers' Compensation

Benefits eligibility is dependent upon a variety of factors, including whether the reporter is full-time or part-time. Check with the Human Resources Office for questions about eligibility.

Retirement:

Official court reporters are entitled to participation in the Tennessee Consolidated Retirement System (TCRS). Policies and procedures for enrollment, modification and disbursement of benefits are administered by the Tennessee Consolidated Retirement System and for the Administrative Office of the Courts by the Human Resources office.

Baccalaureate Education System Trust (BEST) Program:

The Baccalaureate Education System Trust (BEST) offers an efficient plan for meeting future tuition costs. Tuition and mandatory fees may be purchased in increments and roughly 100 tuition units will cover the cost for one academic year of tuition.

Units may be purchased by check or by regular automatic withdrawals from employees' checking or savings accounts. The maximum number of units, which may be purchased on behalf of any one child, is 1,500. Federal income tax on the appreciation of tuition units is deferred until the units are used.

For more information on the BEST program, call 1-888-486-BEST or (615) 532-8056 in Nashville.

Credit Union:

Official court reporters are eligible to join the Southeast Financial Credit Union. You may contact them at (615) 741-3049 for more information or for locations near you.

Deferred Compensation:

Deferred compensation is a benefit designed to provide employees an opportunity to supplement their retirement plans. Employees may choose to make pre-tax contributions to a variety of investment options through the 401 (k) plan or the 457 plan. A minimum \$20 monthly contribution is required in the plans. For the 401 (k) plan, the state will match a \$50 per month contribution.

Enrollment applications for the deferred compensation program are available in the Human Resources Office or at www.treasury.state.tn.us/dc/forms.htm. For further information about the various investment options available, contact Great-West Life and Annuity Insurance Company at (615) 244-1030 or (800) 922-7772.

Discounts:

As a state employee, you may be eligible for discounts offered to government workers by various private businesses. Information on fitness center discounts can be obtained at the Internet address www.state.tn.us/finance/ins/wellness. Tennessee State Parks offer employee discounts from October 1 through March 31 each year. Regular full-time state employees are entitled to a 50% discount on inns and cabins (some restrictions apply). Contact the Department of Environment and Conservation, Parks Information at (615) 532-0001 for more information.

Employee Assistance Program:

The Employee Assistance Program (EAP) is a confidential counseling and referral service for all employees and their dependents. EAP can address problems related to:

- Workplace Effectiveness
- Communicating Effectively
- Parenting
- Overcoming Anxiety
- Strengthening Personal Relationships
- Physical Abuse
- Coping with Grief and Loss
- Marital Conflict
- Managing Stress
- Child or Elder Care
- Depression
- Alcohol or Drug Dependency
- Financial Planning
- Legal Questions

The program offers up to six (6) free counseling sessions per problem episode. All services are strictly confidential and can be accessed by calling 1-800-308-4934 (United Behavioral Health) 24 hours a day, 365 days a year.

Treatment required beyond the six (6) free counseling sessions might be covered by your chosen insurance plan benefits. Refer to your insurance benefits package for confirmation.

For more information on the EAP, you may call Insurance Administration at (615) 741-1925 or visit the Internet address www.state.tn.us/finance/ins/eap.

Flexible Benefits:

The flexible benefits plan is a program designed to help state employees pay fewer taxes. Under this program, certain specific expenses can be deducted from an employee's paycheck prior to taxes, resulting in a lower taxable income level. New employees who wish to participate must enroll in the flexible benefits program within 30 days of their hire date. Thereafter, employees can choose to enroll during the annual flexible benefits enrollment period (usually during November/December of each year).

Further information on the flexible benefits program can be obtained at the Internet address www.treasury.state.tn/flex.

Higher Education Fee Discounts/Waivers:

A 25% discount on undergraduate tuition at any state operated institution of higher learning in Tennessee is available to children 23 years of age or under of full-time state employees.

Full-time state employees with six months of continuous state service are eligible to have tuition fees waived for one course from one state institution per semester.

The Public Higher Education Fee Discount form and the Public Higher Education Fee Waiver form are available in the Human Resources Office.

Holidays:

The Tennessee General Assembly establishes legal holidays for all state employees. The following are observed annually but are not necessarily taken by the courts. A court reporter must follow the schedule of the supervising judge, including those days scheduled as holidays.

- New Year's Day January 1
- Martin Luther King, Jr. Day 3rd Monday in January
- Presidents' Day 3rd Monday in February
- Good Friday Friday before Easter
- Memorial Day Last Monday in May
- Independence Day July 4
- Labor Day 1st Monday in September
- Columbus Day 2nd Monday in October
- Veterans' Day November 11
- Thanksgiving Day 4th Thursday in November
- Christmas Day December 25

The Friday after Thanksgiving Day may be substituted for Columbus Day at the discretion of the Governor.

Insurance:

The State of Tennessee offers an employee insurance program to all full-time employees. The coverage available to state employees includes:

- Health insurance
- Life insurance
- Special accident insurance (basic)
- Term life insurance
- Universal life insurance
- Special accident insurance
- Dental insurance
- Long Term Care Insurance

Health Insurance

Employees have a choice of three options for health insurance coverage:

1. The Basic Medical Plan
2. The Point of Service Plan
3. The Health Maintenance Organization (HMO) that is available in the employee's area.

All three options include basic term life insurance and basic special accident insurance.

Further information about the health insurance coverage is available from the Human Resources Office.

New state employees must choose to participate in either the Basic Medical Plan, the Point of Service Plan, or an HMO within 30 calendar days of their hire date in order to be eligible to participate in the state group insurance plan.

Life Insurance

Employees who choose to participate in one of the state health insurance options automatically receive basic term life insurance at no additional cost. Employees may supplement the basic term life insurance by purchasing optional term life insurance and/or optional universal life insurance. Contact the Human Resources Office for more information.

Special Accident Insurance

Employees who choose to participate in one of the state health insurance options automatically receive basic special accident insurance at no additional cost. Employees may supplement the basic special accident insurance by purchasing optional special accident insurance, which provides further coverage for accidental death and coverage for dismemberment. Contact the Human Resources Office for more information.

Dental Insurance

Employees choosing to purchase dental insurance through the state group insurance plan have a choice of a pre-paid dental insurance plan or a reimbursement dental insurance plan. Contact the Human Resources office for more information about the plan.

Long Term Care Insurance

Employees have the option of choosing long-term care insurance. For more detailed information, please contact Med-America at 1-866-615-5824 or go online at www.LTC-TN.com.

Sick Leave:

Hours worked and use of sick days should be reported by official court reporters on the monthly work report.

Sick leave benefits are available to all eligible employees for periods of temporary absence due to medically-related reasons (i.e., illness, disability due to accident, medical and dental appointments, surgery, etc.), whether or not court is scheduled. Sick leave eligibility begins after one (1) month of employment and one (1) day (7.5 hours) will be earned per month.

Should it become necessary for a reporter to leave court due to a medically-related reason and the reporter is no longer available on a particular day, the reporter should deduct the number of court hours worked from 7.5 hours. For example, if the reporter worked in court 2.5 hours, left due to illness and was unavailable for the rest of the day, the number of sick leave hours should be reflected on the work report as 5.0 hours.

Time spent working on a transcript does not off-set the time away from court. Thus, in the above example, even if the reporter worked on a transcript for four (4) hours, it is still necessary to report five (5) hours of sick leave. In addition, the amount of hours that another reporter substitutes **does not** represent hours worked for the reporter being relieved. If one cannot be available due to illness or other medically-related reason, then one must use the sick leave benefit and accurately report as sick leave on the work report. This also applies to days on which court has been cancelled and when court is not in session.

When courts of a particular district are closed due to judicial conferences and extended holidays (i.e., Christmas), reporters are not required to take sick leave. Official reporters, however, are required to attend the court reporters conference when held, and if unable to attend due to medically-related illness, sick leave should be used.

Bereavement leave days are in accordance with the policy that is utilized by the AOC. The standard number of bereavement leave days that may be taken is 3 days in the event of death of one's immediate family member. Immediate family member includes spouse, child, stepchild, parents, siblings, grandparents, grandchildren, stepparents, foster parents or parents-in-law. These days must be reflected on the work report as court-approved leave with an indication that the leave is for bereavement (i.e., funeral); an additional 2 days may be granted as sick leave. Bereavement leave days for non-immediate family members should be reflected as sick leave. All leave taken by the reporter must be approved by the supervising judge(s).

Family and Medical Leave:

The Family and Medical Leave Act (FMLA) was enacted into federal law to entitle full-time employees with 12 months of full-time state service to:

- Up to 12 workweeks (60 work days) of leave (paid or unpaid) in a 12-month period for specified family and medical reasons;
- Continued health insurance coverage during the leave period;
- Reinstatement to the same or equivalent position once the leave period has ended.

An employee may request FMLA for any of the following reasons:

- The birth of a child and to care for the newborn child
- The adoptive or foster care placement of a child with the employee
- To care for the employee's spouse, child, or parent with a serious health condition
- The employee has a serious health condition resulting in his or her inability to perform one or more essential job functions.

If you or a member of your immediate family develop a serious health condition or sustain a serious injury that may cause a need to take leave for an extended period of time, it may be to your advantage to designate the time you take off as FMLA leave. Contact the Human Resources Office to determine if you are eligible.

Workers' Compensation:

If you are injured while performing a work-related activity, you may be eligible to receive workers' compensation benefits.

If you sustain any injury, it should be reported immediately to your supervising judge and to the Human Resources Office. No employee should go to the doctor without first reporting the injury to her/his supervisor and the Human Resources Office unless it is an emergency situation.

Personal Property:

The state is not liable for damage or loss of any personal property brought onto state property.

CODE OF PROFESSIONAL ETHICS

A court reporter is an employee of the Judiciary whose presence is constitutionally, statutorily, or judicially required. As such, the reporter is an officer of the court and the following standards of behavior are expected. Court reporters shall maintain candor with the court. Court reporters shall perform their duties at the highest level of their ability, and do everything necessary to preserve the discrete and confidential nature of court proceedings.

The following code of ethics has been adapted from research on the National Court Reporters Association website [www.ncraonline.org], and the state policies of Arkansas, Georgia, North Carolina, and Florida. These standards are mandatory for all court reporters while in the service of Tennessee courts.

A Reporter Shall:

Be fair and impartial toward each participant in all aspects of reported proceedings, and always offer to provide comparable services to all parties in a proceeding.

Be alert to situations that are conflicts of interest or that may give the appearance of a conflict of interest. If a conflict or a potential conflict arises, the Reporter shall disclose that conflict or potential conflict.

Guard against not only the fact but also the appearance of impropriety.

Preserve the confidentiality and ensure the security of information, oral or written, entrusted to the Reporter by any of the parties in a proceeding.

Refrain, as an official reporter, from freelance reporting activities that interfere with official duties and obligations.

Determine fees independently, except when established by statute or court order, entering into no unlawful agreements with other reporters on the fees to any user.

Refrain from giving, directly or indirectly, any gift, incentive, reward or anything of value to attorneys, clients, witnesses, insurance companies or any other persons or entities associated with the litigation, or to the representatives or agents of any of the foregoing.

CODE OF PROFESSIONAL ETHICS (cont'd)

In making the official record, a Reporter should:

Accept only those assignments when the Reporter's level of competence will result in the preparation of an accurate transcript. The Reporter should remove him or herself from an assignment when the Reporter believes the Reporter's abilities are inadequate, recommending or assigning another reporter only if that reporter has the qualifications required for such assignment.

Prepare the record in accordance with the transcript preparation guidelines established by statute or court order, by local custom and usage, or when not so established, in accordance with the transcript format guidelines in this manual.

When sending a substitute reporter, ensure that the substitute is qualified to report the proceeding.

Strive to become and remain proficient in the Reporter's professional skills.

Keep abreast of current literature, technological advances and developments, and participate in continuing education programs.

PREPARING AND FILING THE RECORD

Transcript Format:

The following guidelines, as adapted from NCRA, represent the standard transcript format, when no other local rules apply. It is the responsibility of the court reporter to consult with the criminal or circuit court clerk and the supervising judge to determine if different or additional rules apply.

1. No fewer than nine or 10 characters to the typed inch.
2. Left-hand margin to be set at no more than 1-3/4 inches.
3. Right-hand margin to be set at no more than 3/8 inch.
4. Each question and answer to begin on a separate line.
5. Each question and answer to begin no more than five spaces from the left-hand margin with no more than five spaces from the Q and A to the text.
6. Carry-over Q & A lines to begin at the left-hand margin.
7. Colloquy material to begin no more than 15 spaces from the left-hand margin, with carryover colloquy to the left-hand margin.
8. Quoted material to begin no more than 15 spaces from the left-hand margin, with carry-over lines to begin no more than 10 spaces from the left-hand margin.
9. Parentheticals and exhibit markings to begin no more than 15 spaces from the left-hand margin, with carry-over lines to begin no more than 15 spaces from the left-hand margin. (In states or jurisdictions with transcript format guidelines recommended or established by court or other applicable rule, such guidelines shall be observed.)
10. Twenty-five typed lines per page must be observed on fully typed pages.

PREPARING AND FILING THE RECORD (cont'd)

Filing the Original Record:

Tennessee Code Annotated §40-14-307 specifies that the original record of the court proceeding (e.g., shorthand notes, event logs, and tape recordings) should be certified by the court reporter and filed with the clerk of court. All original recordings are the property of the State of Tennessee. This record should remain available in the event transcripts are requested. All court reporters in the service of Tennessee courts are required to comply with this statute.

(a) A designated reporter shall attend every stage of each criminal case before the court and shall record verbatim, by a method prescribed or approved by the administrative director, all proceedings had in open court and such other proceedings as the judge may direct. The reporter shall attach the reporter's official certificate to the records so taken and promptly file them with the clerk of court, who shall preserve them as part of the records of the trial.

If a court reporter plans to retire, resign, or is terminated from his/her position, the reporter shall immediately inform the AOC. Should the reporter have records that were not promptly filed with the clerk of the court pursuant to T.C.A. §40-14-307, the reporter should provide to the other official court reporter in the district, or if there is no other official reporter in the district, to the presiding judge in the district, all records including his/her files, notes, cassettes/diskettes for all criminal cases taken by the reporter. The files, notes, cassettes/diskettes shall be clearly marked and have notated on the same, the district(s), court(s), judge(s), date(s) and type(s) of hearing included on the same. The transfer of items shall take place on the last day of the employment of the reporter. The reporter shall also notify the AOC that the transfer has taken place and to whom the items were provided.

EQUIPMENT: RELATED PROCEDURES

Equipment Maintenance and Repair:

The electronic recording equipment used in the courtrooms by official court reporters and auxiliary court reporters is furnished by the State of Tennessee. Repairs and maintenance needed for this equipment should be reported first to the supervising judge, then to the AOC. The AOC will provide instructions regarding repairs and maintenance.

The audio recorders provided by the state are to be set at the 1.2 quarter speed level, which allows 3 hours of recording time as opposed to the 2.4 half-speed level, which only allows for 90 minutes of recording time.

The recording equipment provided by the state shall be used solely for authorized judicial proceedings in which the state is required to provide court reporting services. The recording equipment, as state property, shall remain with the court should a court reporter leave state employment.

Requisition of Supplies:

As employees of the state, official court reporters may order “general” supplies as necessary. The AOC general supply list includes items that are purchased directly or provided by the AOC. These items include transcript covers, stenopads, tape storage envelopes, audio cassettes, exhibit labels, headsets, and foot pedals. These “general” supply items should be requested on the requisition form included in this manual. The form should be sent to the Coordinator of Court Reporter Services at the AOC. Once the requisition is approved, please allow five business days for delivery of the supplies.

Effective July 1, 2006, the AOC will reimburse officials for additional “consumable” office supplies up to a maximum of \$500 per fiscal year. Consumable office supplies include steno notebooks, calculator, calculator tape, correction supplies, (i.e., liquid white-out), pens, pencils, post-it-notes, stapler, staples, copy paper, business cards, calendars, scissors, paper clips, batteries, invisible tape, storage boxes, computer disks, legal notepads, highlighters, rubber bands, file labels, label dividers, rubber stamps with ink pads, toner/print cartridges. These “consumable” office supply requests for reimbursement should be reflected on the monthly work report as an expense. A receipt must be attached to the work report in order to obtain reimbursement.

All requests for items not listed on the general or consumable office supply list must be submitted to the AOC for prior approval. This includes items that are to be used with the state-provided equipment.

In the event that a courthouse is in need of court reporting supplies and no official is available to requisition the necessary items, any state trial judge may requisition supplies with the form included in this manual.

Procedures for Digital Recording of Criminal Court Proceedings

ALL COURT REPORTERS

- All proceedings shall be simultaneously saved to the recording file on the hard drive of the computer and also mirrored (or saved at the same time) to a CD-R or DVD-R. This CD-R or DVD-R shall be considered the original recording.
- At the end of each day's proceedings, the reporter shall verify that the saving/burning of the proceedings has been successful by initiating playback of the audio recording and the CD-R or DVD-R.
- A new CD-R or DVD-R should be used each day, regardless of whether or not the previous CD-R or DVD-R used was completely filled. Additional CD's or other AOC-approved storage media may be utilized for transcription purposes. (Please contact the AOC for approval of storage media other than CD's.)

SUBSTITUTE COURT REPORTERS

- The original CD-R or DVD-R shall be provided immediately to the official court reporter or the regularly designated reporter for whom you are substituting.

OFFICIAL COURT REPORTERS/REGULARLY DESIGNATED REPORTERS

- The official court reporter or the regularly designated reporter shall immediately provide the original CD-R or DVD-R to the clerk of court or file in a location that has been approved by the AOC. (Please contact the AOC if uncertain of the approved location.)
- On the last work days in March, June, September, and December of every year, or as close to that date as possible, the official court reporter or regularly designated reporter shall delete from the hard drive of the recording system computer all proceedings that have been saved to a CD-R or DVD-R and previously filed with the clerk of court or in the AOC-approved location. This should be done only after it has been verified that the recordings of the proceedings have been previously saved successfully.

STATUTES AND RULES

The practice of court reporting, its administrative procedures, and the procedural rules for Tennessee courts are found in four different places: the Tennessee Code Annotated, the Tennessee Rules of Appellate Procedure, the Tennessee Rules of Criminal Procedure, and the local Rules of Court.

Administrative Rules and the Practice of Court Reporting:

Should a question arise in the course of a reporter's practice regarding administrative policies, the court reporter should look first to this manual and the statutes governing court reporters. The statutes are contained in Title 40, Chapter 14, Part 3 of the Tennessee Code Annotated, and they begin on page 21 of this manual.

Trial Process:

The rules governing the process of a criminal trial may be found in the Tennessee Rules of Appellate Procedure, and the Tennessee Rules of Criminal Procedure. To answer questions that fall in this category, a reporter may find the current edition of the Rules at www.tsc.state.tn.us under Court Rules.

Tennessee Rules of Appellate Procedure regarding the record on appeal begins on page 27 of this manual.

Rules of Practice in a Particular Court:

There are certain rules of practice that may be determined by individual courts. A court reporter should always check with the clerk of court to determine if any local rules are in effect that may affect the court reporter. Local Rules of Practice are also available at www.tsc.state.tn.us

TENNESSEE CODE ANNOTATED
TITLE 40. CRIMINAL PROCEDURE
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[§ 40-14-301. Definitions](#)

As used in this part, unless the context otherwise requires:

- (1) "Administrative director" means the administrative director of the courts;
- (2) "Court" means any court of this state exercising jurisdiction over any criminal action, which is punishable by confinement in the state penitentiary;
- (3) "Criminal case" means the trial of any criminal offense which is punishable by confinement in the state penitentiary and any proceeding for the writ of habeas corpus wherein the unlawful confinement is alleged to be in a state, county or municipal institution; and
- (4) "Judge" means the judge of any court of this state exercising jurisdiction over any criminal action, which is punishable by confinement in the state penitentiary.

TITLE 40. CRIMINAL PROCEDURE
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[§ 40-14-302. Designation](#)

The judge of each court of this state shall designate one (1) or more persons to act as court reporters to serve at the pleasure of the judge. The number of reporters who may be so designated by each such judge shall be determined by the administrative director.

1965 Pub.Acts, c. 221, § 2; 1993 Pub.Acts, c. 66, § 55, eff. March 22, 1993.

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[§ 40-14-303. Qualifications; continuing education](#)

(a) The qualifications of such reporters shall be determined in accordance with standards formulated by the administrative director.

(b) The administrative director is authorized to conduct training or educational seminars for persons designated as court reporters pursuant to § 40-14-302, and to require their attendance at such seminars.

1965 Pub.Acts, c. 221, § 3; 1985 Pub.Acts, c. 14, § 1; 1993 Pub.Acts, c. 66, § § 56, 57, eff. March 22, 1993.

Formerly § 40-2031.

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[§ 40-14-304. Auxiliary reporters](#)

Each such judge, with the approval of the administrative director, may designate auxiliary reporters who may serve when there is more reporting work than can be performed promptly by the regularly designated reporters, or when the regularly designated reporters are unable to attend court. Such auxiliary reporters shall be paid on a per diem basis under scales to be fixed by the administrative director.

1965 Pub.Acts, c. 221, § 4; 1993 Pub.Acts, c. 66, § 58, eff. March 22, 1993.

Formerly § 40-2032.

TITLE 40. CRIMINAL PROCEDURE
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[§ 40-14-305. Additional duties; compensation and salaries](#)

If any such judge and the administrative director find that it is in the public interest that the duties of reporter be combined with those of any other employee of the court or of the judge thereof, the administrative director may authorize such combination of duties and fix additional compensation for the performance of the added duties of acting as court reporter.

1965 Pub.Acts, c. 221, § 5; 1993 Pub.Acts, c. 66, § 59, eff. March 22, 1993.

Formerly § 40-2033.

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[§ 40-14-306. Methods; approval](#)

The administrative director shall prescribe or approve methods for the taking of verbatim records of proceedings under this part. Any such method shall be of such a nature that an accurate written transcript can be prepared therefrom.

1965 Pub.Acts, c. 221, § 6; 1993 Pub.Acts, c. 66, § 60, eff. March 22, 1993.

Formerly § 40-2034.

TENNESSEE CODE ANNOTATED
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[§ 40-14-307. Powers and duties; private reporters](#)

(a) A designated reporter shall attend every stage of each criminal case before the court and shall record verbatim, by a method prescribed or approved by the administrative director, all proceedings had in open court and such other proceedings as the judge may direct. The reporter shall attach the reporter's official certificate to the records so taken and promptly file them with the clerk of the court, who shall preserve them as a part of the records of the trial.

(b) A party at such party's own expense may retain a reporter other than the reporter provided under this part to record and transcribe the proceedings, and a transcript so prepared may be used for purpose of appeal, as provided by law.

1965 Pub.Acts, c. 221, § 7; 1993 Pub.Acts, c. 66, § 61, eff. March 22, 1993.

Formerly § 40-2035.

TITLE 40. CRIMINAL PROCEDURE
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[§ 40-14-308. Habeas corpus proceedings](#)

In the event a proceeding for the writ of habeas corpus is commenced in any court which is not authorized a reporter under this part, the judge thereof shall immediately notify the administrative director of the commencement of such proceedings and the administrative director shall immediately arrange for a reporter to record the proceedings. In courts where such proceedings are filed on a recurring basis, the administrative director may make arrangements for reporters without the necessity of case-by-case notification by the judge.

1965 Pub.Acts, c. 221, § 8; 1993 Pub.Acts, c. 66, § 62, eff. March 22, 1993.

Formerly § 40-2036.

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[§ 40-14-309. Partial transcripts](#)

Upon the direction of the court in the case of an indigent defendant, or at the request of any party who has agreed to pay the fee therefor, a reporter designated by the court shall transcribe from the original records such parts of the proceedings as are requested in the manner prescribed in the Tennessee Rules of Appellate Procedure.

1965 Pub.Acts, c. 221, § 9; 1981 Pub.Acts, c. 449, § 2.

Formerly § 40-2037.

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[§ 40-14-310. Supervision](#)

The reporters shall be subject to the supervision of the appointing judge in the performance of their duties, including dealings with the parties requesting transcripts. The administrative director may by rule prescribe reports to be filed by reporters.

1965 Pub.Acts, c. 221, § 10; 1993 Pub.Acts, c. 66, § 63, eff. March 22, 1993.

Formerly § 40-2038.

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[§ 40-14-311. Compensation and salaries](#)

Each reporter shall be compensated in accordance with schedules fixed by the administrative director within budgetary limits as provided by law.

1965 Pub.Acts, c. 221, § 11; 1993 Pub.Acts, c. 66, § 64, eff. March 22, 1993.

Formerly § 40-2039.

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[§ 40-14-312. Transcripts; fees; indigent defendants](#)

Each reporter may charge and collect fees for transcripts at rates prescribed by the administrative director. If the defendant prays and is granted an appeal, and is determined by the trial judge to be without sufficient funds to pay for the preparation of the transcript of the proceedings, the trial judge shall direct the court reporter to furnish the defendant a complete transcript of the proceedings, the fee for which shall be paid by the state of Tennessee out of money appropriated for that purpose. The reporter may require any party requesting a transcript to pay the estimated fee in advance except as to transcripts, which are to be paid for by the state of Tennessee.

1965 Pub.Acts, c. 221, § 12; 1993 Pub.Acts, c. 66, § 65, eff. March 22, 1993.

Formerly § 40-2040.

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§ 40-14-313. Rules and regulations

The administrative director shall adopt rules to implement the provisions of this part, which rules shall, among other things, prescribe the form and content of applications for the payment of all court reporter fees and other expenses charged to the state under this part. All such applications shall be submitted to, audited and reviewed by the administrative director, and shall be paid upon the administrative director's approval thereof.

1965 Pub.Acts, c. 221, § 13; 1993 Pub.Acts, c. 66, § 66, eff. March 22, 1993.
Formerly § 40-2041.

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§ 40-14-314. Recording equipment

The administrative director is authorized, upon a determination of a need therefore and upon certification of a judge that no qualified court reporter is available to record the proceedings in any court in the judge's district circuit, to purchase, out of money appropriated for that purpose, such recording equipment as may be necessary to carry out the purpose of this part and to formulate all necessary rules and regulations for its use, maintenance and replacement. Any such certification by a judge and determination of need by the administrative director shall be reviewed not less than annually. If a qualified court reporter should become available to attend the court, it is the duty of the judge so to certify to the administrative director. Any recording equipment purchased under the provisions of this section shall remain the property of the state of Tennessee and be under the direct control and supervision of the administrative director.

1965 Pub.Acts, c. 221, § 14; 1993 Pub.Acts, c. 66, § 67, eff. March 22, 1993.

Formerly § 40-2042.

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§ 40-14-315. Private contracts

Whenever the administrative director and the judge or judges in a particular area determine that accurate verbatim transcripts could be more economically, expeditiously and efficiently provided in such area by entering into contracts for that purpose rather than by utilizing the designation of court reporters as herein provided, then, in such instances, the administrative director is authorized to enter into such contracts for and on behalf of the state of Tennessee on such terms and conditions as the administrative director deems appropriate for the accomplishment of the purposes of this part.

1965 Pub.Acts, c. 221, § 15; 1993 Pub.Acts, c. 66, § 68, eff. March 22, 1993.

Formerly § 40-2043.

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§ 40-14-316. Preliminary stages preceding trial; use of video equipment

In addition to the use of videotape equipment to record court proceedings as set forth within [Supreme Court Rule 26](#), the supreme court is authorized and hereby encouraged to permit, in appropriate situations, the use of video equipment and recordings during the preliminary stages preceding trial for any criminal offense, including, but not necessarily limited to, bail hearings, arraignments, hearings wherein a defendant's guilty plea is entered and accepted by the court without trial, and other proceedings before the criminal court preliminary to trial.

1997 Pub.Acts, c. 314, § 1, eff. May 29, 1997.

Tennessee Rule of Appellate Procedure:

F. THE RECORD ON APPEAL

Rule 24. Content and Preparation of the Record. —(a) Content of the Record. —The record on appeal shall consist of: (1) copies, certified by the clerk of the trial court, of all papers filed in the trial court except as hereafter provided; (2) the original of any exhibits filed in the trial court; (3) the transcript or statement of the evidence or proceedings, which shall clearly indicate and identify any exhibits offered in evidence and whether received or rejected; (4) any requests for instructions submitted to the trial judge for consideration, whether expressly acted upon or not; and (5) any other matter designated by a party and properly includable in the record as provided in subdivision (g) of this rule.

The following papers filed in the trial court are excluded from the record: (1) subpoenas or summonses for any witness or for any defendant when there is an appearance for such defendant; (2) all papers relating to discovery, including depositions, interrogatories and answers thereto, reports of physical or mental examinations, requests to admit, and all notices, motions or orders relating thereto; (3) any list from which jurors are selected; and (4) trial briefs; and (5) minutes of opening and closing of court. Any paper relating to discovery and offered in evidence for any purpose shall be clearly identified and treated as an exhibit. No paper need be included in the record more than once.

If less than the full record on appeal as defined in this subdivision is deemed sufficient to convey a fair, accurate and complete account of what transpired with respect to those issues that are the bases of appeal or if a party wishes to include any papers specifically excluded in this subdivision, the party shall, within 15 days after filing the notice of appeal, file with the clerk of the trial court and serve on the appellee a description of the parts of the record the appellant intends to include on appeal, accompanied by a short and plain declaration of the issues the appellant intends to present on appeal. If the appellee deems any other parts of the record to be necessary, the appellee shall, within 15 days after service of the description and declaration, file with the clerk of the trial court and serve on the appellant a designation of additional parts to be included. All parts of the record described or designated by the parties shall be included by the clerk of the trial court as the record on appeal. The declaration and description of the parts of the record to be included on appeal provided in this subdivision may be filed and served with the declaration and description of the parts of the transcript to be included in the record provided in subdivision (b) of this rule. If a party wishes to include any papers specifically excluded in this subdivision, but fails to timely designate such items, the trial court clerk may supplement the record as provided for in subdivision (e) without modifying the previously prepared record.

(b) Transcript of Stenographic or Other Substantially Verbatim Recording of Evidence or Proceedings. —If a stenographic report or other contemporaneously recorded, substantially verbatim recital of the evidence or proceedings is available, the appellant shall have prepared a transcript of such part of the evidence or proceedings as is necessary to convey a fair, accurate and complete account of what transpired with respect to those issues that are the bases of appeal. Unless the entire transcript is to be included, the appellant shall, within 15 days after filing the notice of appeal, file with the clerk of the trial court and serve on the appellee a description of the parts of the transcript the appellant intends to include in the record, accompanied by a short and plain declaration of the issues the appellant intends to present on appeal. If the appellee

deems a transcript of other parts of the proceedings to be necessary, the appellee shall, within 15 days after service of the description and declaration, file with the clerk of the trial court and serve on the appellant a designation of additional parts to be included. The appellant shall either have the additional parts prepared at the appellant's own expense or apply to the trial court for an order requiring the appellee to do so. The transcript, certified by the appellant, the appellant's counsel, or the reporter as an accurate account of the proceedings, shall be filed with the clerk of the trial court within 90 days after filing the notice of appeal. Upon filing the transcript, the appellant shall simultaneously serve notice of the filing on the appellee. Proof of service shall be filed with the clerk of the trial court with the filing of the transcript. If the appellee has objections to the transcript as filed, the appellee shall file objections thereto with the clerk of the trial court within fifteen days after service of notice of the filing of the transcript. Any differences regarding the transcript shall be settled as set forth in subdivision (e) of this rule.

Within 15 days after filing the notice of appeal the appellant in a criminal action shall order from the reporter a transcript of such parts of the evidence or proceedings not already on file as the appellant deems necessary. The order shall be in writing and within the same period a copy shall be filed with the clerk of the trial court. If funding is to come from the state of Tennessee, the order shall so state.

(c) Statement of the Evidence When No Report, Recital, or Transcript Is Available. —If no stenographic report, substantially verbatim recital or transcript of the evidence or proceedings is available, the appellant shall prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement should convey a fair, accurate and complete account of what transpired with respect to those issues that are the bases of appeal. The statement, certified by the appellant or the appellant's counsel as an accurate account of the proceedings, shall be filed with the clerk of the trial court within 90 days after filing the notice of appeal. Upon filing the statement, the appellant shall simultaneously serve notice of the filing on the appellee, accompanied by a short and plain declaration of the issues the appellant intends to present on appeal. Proof of service shall be filed with the clerk of the trial court with the filing of the statement. If the appellee has objections to the statement as filed, the appellee shall file objections thereto with the clerk of the trial court within fifteen days after service of the declaration and notice of the filing of the statement. Any differences regarding the statement shall be settled as set forth in subdivision (e) of this rule.

(d) Procedure When No Transcript or Statement Is to Be Filed. —If no transcript or statement of the evidence or proceedings is to be filed, the appellant shall, within 15 days after filing the notice of appeal, file with the clerk of the trial court and serve upon the appellee a notice that no transcript or statement is to be filed. If the appellee deems a transcript or statement of the evidence or proceedings to be necessary, the appellee shall, within 15 days after service of the appellant's notice, file with the clerk of the trial court and serve upon the appellant a notice that a transcript or statement is to be filed. The appellee shall prepare the transcript or statement at the appellee's own expense or apply to the trial court for an order requiring the appellant to assume the expense. The

other provisions of subdivisions (b) and (c) of this rule are applicable to the transcript or statement filed by the appellee under this subdivision, except that the appellee under this subdivision shall perform the duties assigned to the appellant in subdivisions (b) and (c) of this rule and the appellant under this subdivision shall perform the duties assigned to the appellee in subdivisions (b) and (c) of this rule.

(e) Correction or Modification of the Record. —If any matter properly includable is omitted from the record, is improperly included, or is misstated therein, the record may be corrected or modified to conform to the truth. Any differences regarding whether the record accurately discloses what occurred in the trial court shall be submitted to and settled by the trial court regardless of whether the record has been transmitted to the appellate court. Absent extraordinary circumstances, the determination of the trial court is conclusive. If necessary, the appellate or trial court may direct that a supplemental record be certified and transmitted.

(f) Approval of the Record by the Trial Judge or Chancellor. —The trial judge shall approve the transcript or statement of the evidence and shall authenticate the exhibits as soon as practicable after the filing thereof or after the expiration of the 15-day period for objections by appellee, as the case may be, but in all events within 30 days after the expiration of said period for filing objections. Otherwise the transcript or statement of the evidence and the exhibits shall be deemed to have been approved and shall be so considered by the appellate court, except in cases where such approval did not occur by reason of the death or inability to act of the trial judge. In the event of such death or inability to act, a successor or replacement judge of the court in which the case was tried shall perform the duties of the trial judge, including approval of the record or the granting of any other appropriate relief, or the ordering of a new trial. Authentication of a deposition authenticates all exhibits to the deposition. The trial court clerk shall send the trial judge transcripts of evidence and statements of evidence.

(g) Limit on Authority to Add or Subtract from the Record. —Nothing in this rule shall be construed as empowering the parties or any court to add to or subtract from the record except insofar as may be necessary to convey a fair, accurate and complete account of what transpired in the trial court with respect to those issues that are the bases of appeal.

(h) Filing of Transcript or Statement; Service of Notice to Parties. —Nothing in this rule shall be construed as prohibiting any party from preparing and filing with the clerk of the trial court a transcript or statement of the evidence or proceedings at any time prior to entry of an appealable judgment or order. Upon filing, the party preparing the transcript or statement shall simultaneously serve notice of the filing on all other parties, accompanied by a short and plain declaration of the issues the party may present on appeal. Proof of service shall be filed with the clerk of the trial court with the filing of the transcript or statement. Any differences regarding the transcript or statement shall be settled as set forth in subdivision (e) of this rule.

[As amended effective July 1, 1980; as amended effective May 7, 1981, and by order entered January 21, 1988, effective August 1, 1988; and by order entered February 18, 1996, effective July 1, 1996; as amended effective July 1, 2000, and by order filed January 6, 2005, effective July 1, 2005.]

Advisory Commission Comments. *General Note.* This rule seeks to provide a method of preparation of the record that is both inexpensive and simple, and to provide that the record conveys an accurate account of what transpired in the trial court.

Subdivision (a). Under this subdivision the parties need do nothing (other than order preparation of a transcript) if the full record is deemed necessary for the appeal. The full record consists of: (1) copies of all papers filed in the trial court, (2) the original of any exhibits, (3) the transcript or statement of the evidence or proceedings, and (4) any other matter designated by a party and properly includable in the record. Certain papers filed in the trial court, such as subpoenas, summonses, papers relating to discovery, and jury lists, are automatically excluded from the record since they are

typically unnecessary. However, if any party desires such matters to be included in the record on appeal, the party may have them included by designating in writing that such matters are to be included.

In some situations it may not be desirable to prepare a full record as defined in the first paragraph of this subdivision. The third paragraph of this subdivision gives the parties the opportunity to designate which matters are to be included in the record on appeal. All matters designated by the parties are included by the clerk in the record on appeal.

Subdivision (b). Because of the need to have an exact record of what transpired in the trial court and to avoid the inaccuracies that inevitably attend preparation of a narrative record, this subdivision requires a verbatim transcript if a stenographic report or other contemporaneously recorded, substantially verbatim recital of the evidence or proceedings is available. This subdivision does not require that a stenographic report be made of all the evidence or proceedings. If a stenographic or other substantially verbatim record is not available, subdivision (c) establishes a procedure for generating a narrative record.

The procedure for preparing a verbatim transcript of the proceedings is similar to the procedure specified in subdivision (a) for taking an appeal on less than a full record as defined in that subdivision. Each party has the option to designate and have included whatever portions of the transcript the party deems relevant and appropriate for the appellate court to consider. The designation of the parts of the record to be included on appeal may be filed and served with the designation of the parts of the transcript to be included in the record.

Subdivision (c). This subdivision is available only in those situations in which a stenographic report or other substantially verbatim recital or transcript of the evidence is unavailable. It permits the preparation of a narrative record of the evidence or proceedings.

Subdivision (e). This subdivision sets forth the procedure to be followed if it is necessary to correct or modify the record. Omissions, improper inclusions, and misstatements may be remedied at any time, either pursuant to stipulation of the parties or on the motion of a party or the motion of the trial or appellate court. If it is necessary to inform the appellate court of facts that have arisen after judgment in the trial court, resort should be made not to this subdivision but to Rule 14 of these rules.

Subdivision (f). This subdivision preserves the current requirement that the record be approved by the trial judge. This rule makes clear it is unnecessary for the judge or chancellor who presided at the trial to approve the record if such approval cannot be obtained by reason of the death or inability to act of the presiding judge or chancellor. In such circumstances any successor or replacement judge or chancellor may approve the record, though in some circumstances the fact that the judge or chancellor who presided at the proceedings is unavailable may require the ordering of a new trial. If, however, a stenographic transcript of the proceedings is available, only rarely would it be necessary to order a new trial due to the death or inability to act of the presiding judge or chancellor.

Subdivision (g). Under subdivision (a) the parties are empowered to designate any matter to be included in the record on appeal even though it is not automatically includable under the provisions of that subdivision. This subdivision makes clear, however, that the ability to designate additional parts to be included in the record

extends only insofar as it is necessary to convey a fair, accurate and complete account of what transpired in the trial court. The ability to designate additional parts under subdivision (a) does not permit a party to augment the record by evidence entered ex parte.

Subdivision (h). This subdivision permits the preparation of a transcript or statement of the evidence prior to the entry of an appealable judgment if it is deemed desirable to do so. It would only be in unusual cases that it would be necessary to resort to this subdivision if a stenographic report of the proceedings is made.

Advisory Commission Comments [1980]. Most of the changes in Rule 24 amount to a simple relettering of subdivisions. There is an addition to Rule 24(b), which requires appellant in a criminal action to order the transcript from the court reporter within 15 days after filing notice of appeal, so that the court reporter will not be notified at the last minute of the need for a transcript. The only other change of substance in Rule 24 is the addition of a new subdivision (d). In some cases, no transcript or statement of the evidence or proceedings will be filed. For example, an action may be dismissed on a pretrial motion without a hearing in open court. This subdivision sets forth the procedure to be followed in such cases and any other case in which no transcript or statement is to be filed.

Advisory Commission Comment [1986]. Amended T.R.Civ.P. 30.02(4)(B) allows for videotape depositions without a stenographic record at the parties' option. Because the appellate courts generally do not review lengthy videotapes, however, an appellant must make certain that relevant portions of any videotape deposition introduced in evidence be presented to the appellate tribunal in written form. Usually the court reporter at trial should take down the testimony while the videotape is being played in the courtroom.

Advisory Commission Comments [1988]. *Subdivision (a).* The new fourth category of documents constituting the record makes clear that special requests for jury instructions automatically go to the appellate court. Probably that has always been the case, because the first category consists of papers "filed," which under Tenn. R. Civ. P. 5.06 includes papers filed with the trial judge as well as those filed with the clerk. The

request need not be made an exhibit to the transcript of evidence, although that is a permissible procedure.

The amendment requires only submission to the judge of written requests for a jury charge under Tenn. R. Civ. P. 51 or Tenn. R. Crim. P. 30; the judge's failure to expressly deny a request does not affect inclusion of the request in the record. The traditional judicial method of writing the action, date, and signature on the document itself continues to be a desirable but not essential procedure under the amendment. The important element is that the judge be made aware of the request and be given an opportunity to charge it or decline. If the requested instruction is submitted at a pretrial proceeding or simply filed with the clerk before trial, the better practice would be to specifically direct the judge's attention to the document, but that practice is not mandatory. Again, the only criterion is that the request be "submitted to the trial judge for consideration."

Trial briefs are superfluous in view of appellate briefs, and they should not be sent to the appellate court absent unusual circumstances.

Subdivision (f). The next-to-last sentence in (f) was added to relieve the trial judge from any supposed duty to separately authenticate each deposition exhibit. If a document was made an exhibit during the deposition and the deposition is authentic, the exhibits become part of the transcript of evidence.

Advisory Commission Comments [1996]. The final sentence of Rule 24(f) ensures that trial judges will have a record in chambers to approve.

Advisory Commission Comments [2000]. The amendment excludes from the appellate record various items, including minutes of opening and closing of court. The third paragraph provides for inclusion at a party's request.

Advisory Commission Comments [2004]. *Termination of Parental Rights Proceedings.* Rule 8A imposes special requirements governing the appeal of any termination of parental rights proceeding. In particular, Rules 8A(c) and 8A(d) impose special provisions regarding the content and preparation of the record in such an appeal.

Advisory Commission Comments [2005]. Paragraph (h) is amended to remove obsolete references to “bills of exception” and “wayside bills of exception.”

Advisory Commission Comments [2007]. A transcript or statement of the evidence must be filed with the trial court clerk within 60 days after the filing of the notice of appeal unless extended by the court. The period was formerly 90 days.

Rule 25. Completion and Transmission of the Record. —(a) Time for Completion of the Record; Duty of the Parties. —The record on appeal shall be assembled, numbered and completed by the clerk of the trial court within 45 days after filing of the transcript or statement prepared in accordance with Rule 24(b) or 24(c) or, if no transcript or statement is to be filed, within 45 days after filing of appellant's notice under Rule 24(d) that no transcript or statement is to be filed, unless the time is extended by an order entered under subdivision (d) of this rule or if proof of service of the notice of appeal has not been filed. Unless the time has been extended by order, if the appellant fails to file within 90 days from the filing of the notice of appeal either the transcript or statement of evidence prepared pursuant to Rule 24(b) or 24(c) or the notice under Rule 24(d) that no

transcript or statement is to be filed, the clerk of the trial court shall provide written notice within 10 days to the clerk of the appellate court of the appellant's failure to comply with Rule 24(b) or (c) or (d), with a copy provided to counsel and pro se parties. After filing notice of appeal the parties shall comply with the provisions of Rule 24 and shall take any other action necessary to enable the clerk to complete the record. The clerk of the trial court shall number the pages of the documents comprising the record and shall prepare for transmission with the record a list of the documents correspondingly numbered and identified with reasonable definiteness.

Exhibits shall be compiled in numerical order and bound in a volume or volumes separate from the volume of papers filed in the trial court and separate from the transcript or statement of the evidence or proceedings. The volume of exhibits shall contain a table of contents listing all exhibits, whether or not they are included in the record. Each exhibit to be included in the record shall be securely stapled to a blank page, or placed in a durable envelope which shall be securely stapled to a blank page, or placed within a plastic sheet protector; each such page or plastic sheet protector then shall be bound within the volume of exhibits. If an exhibit is not included in the record pursuant to subdivision (b) of this rule, or if an exhibit is included in the record but cannot be bound into the volume of exhibits due to the nature of the exhibit, the trial court clerk

shall include in numerical order in the volume of exhibits a page indicating the number of the exhibit, a description of the exhibit, and a statement of the reason the exhibit is not contained in the volume of exhibits. All exhibits which are to be included in the record but which cannot be bound in the volume of exhibits due to the nature of the exhibits shall be placed securely in a durable envelope or other suitable container, which shall be labeled with the style of the case, the docket number, and the exhibit number of the exhibit contained therein.

(b) Duty of Clerk to Transmit the Record. —When the record is complete for purposes of the appeal, the clerk of the trial court shall transmit the record to the clerk of the appellate court and shall transmit therewith the list identifying the documents required by subdivision (a) of this rule. Documents of unusual bulk or weight and physical exhibits, other than documents, shall not be transmitted by the clerk. The clerk of the trial court shall notify the parties if any documents or physical exhibits are not to be transmitted. The clerk of the trial court shall transmit any such documents or physical exhibits if directed to do so by a party or the clerk of the appellate court. A party must make advance arrangements with the clerks for the transportation and receipt of exhibits or documents of unusual bulk or weight.

Transmission of the record is effected when the clerk of the trial court mails or otherwise forwards the record to the clerk of the appellate court. The clerk of the trial court shall indicate by endorsement on the face of the record or otherwise the date upon which it is transmitted to the appellate court.

(c) Duty of Clerk to Make Record Available to Prepare Appellate Papers. —An attorney may request the clerk of the appellate court to transmit the record for the purpose of preparing appellate papers. The clerk shall comply with the request by making the record available at the clerk's office or by sending the record to the attorney at the attorney's expense. Upon receiving the record, the attorney is responsible for its safekeeping and shall return the record to the clerk of the appellate court not later than the day upon which the party's brief is to be filed.

The attorney shall return the record to the clerk in its entirety and in an organized manner, with all volumes of the record intact and with all exhibits accounted for. In the event the returned record is either incomplete or in disarray, the appellate court in its discretion may require the attorney to pay the cost of reconstructing the record and/or may suspend the attorney's privilege to check out records in the future. The clerk shall keep a written account of requests for and return of the record.

Pro se litigants shall be allowed to remove the record from the appellate clerk's office only upon order of the appellate court. However, pro se litigants may inspect the record at the appellate clerk's office pursuant to Supreme Court Rule 34.

(d) Extension of Time for Completion of the Record. —If the record cannot be completed within the time permitted by subdivision (a) of this rule, the clerk of the trial court shall request an extension of time from the appellate court to which the appeal has been taken. The request shall set forth the reason for the requested extension and must be made within the time originally prescribed for completing the record or within an extension previously granted. The time for completing the record shall not be extended to a day more than 60 days after the date of the filing of the transcript or statement prepared in accordance with Rule 24(b) or 24(c) or the appellant's notice filed in accordance with Rule 24(d). In the event of the failure of the clerk of the trial court to complete the record within the time allowed, the clerk of the appellate court shall notify the trial court and take such other steps as may be directed by the appellate court.

(e) Retention of the Record in the Trial Court by Order of the Court. —If the record or any part thereof is required in the trial court for use there pending the appeal, the trial court may make an order to that effect, and the clerk of the trial court shall retain the record or parts thereof subject to the request of the appellate court. The clerk of the trial court shall transmit a certified copy of the order together with such parts of the original record as the trial court shall allow and certified copies of any retained parts.

(f) Stipulation of Parties that Parts of the Record Be Retained in the Trial Court. —The parties may agree by written stipulation filed in the trial court that designated parts of the record shall be retained in the trial court unless thereafter the appellate court shall order or any party shall request their transmittal. The parts thus designated shall nevertheless be a part of the record on appeal for all purposes.

(g) Record for Preliminary Hearing in the Appellate Court. —If prior to the time the record is transmitted a party desires to make in the appellate court a motion or application for an order appropriately granted by the appellate court, the clerk of the trial court shall transmit to the appellate court such parts of the record or certified copies thereof as any party shall designate. [As amended effective July 1, 1980; and by order entered January 26, 1999, effective July 1, 1999, and by order entered January 31, 2003, effective July 1, 2003, and by order filed January 6, 2005, effective July 1, 2005.]

Advisory Commission Comments. After the transcript or statement prepared in accordance with Rule 24(b) or 24(c) has been filed with the clerk of the trial court, or after a notice is filed in accordance with Rule 24(d), the clerk must assemble, number and complete the record within 45 days after filing of the transcript or statement or notice. If unable to complete the record within 45 days, the clerk, not one of the parties, must request an extension from the appellate court to which the appeal has been taken. Under Rule 40(g), the clerk forfeits the clerk's entire cost of preparing and transmitting the record, or such portion thereof as appropriate, if the clerk fails to complete the record on appeal within the time specified in this rule. When the record is complete for purposes of appeal, the clerk of the trial court transmits the record to the clerk of the appellate court.

Advisory Commission Comments [1980]. *Subdivision (a).* Rule 25(a) makes clear that the clerk is not required to bind together the transcript of evidence with the other parts of the record.

Advisory Commission Comments [2003]. *Subdivision (a).* The new second sentence covers situations where lawyers take no action concerning the transcript of evidence after notice of appeal is filed.

Advisory Commission Comments [2004]. *Termination of Parental Rights Proceedings.* Rule 8A imposes special requirements governing the appeal of any termination of parental rights proceeding. In particular, Rules 8A(e) and 8A(f) impose special provisions regarding the completion and transmission of the record in such an appeal.

Advisory Commission Comments [2005]. *Subdivision (a).* The amendment to subdivision (a) changes the manner in which the exhibits included in the record are transmitted to the appellate court. Because individual exhibits occasionally are lost by attorneys who check out the record or by appellate court personnel, the rule is amended to require that the exhibits to the extent possible be compiled into bound volumes separate from the transcript of the evidence or proceedings. The Commission believes

that having the original exhibits bound into volumes will reduce the possibility that an individual exhibit will be lost.

Because individual exhibits occasionally are lost after the record is transmitted to the appellate court, attorneys are well-advised to retain duplicates of all exhibits pending the final disposition in the case. If the parties have duplicates of the exhibits, a lost exhibit can be replaced with relative ease; on the other hand, if neither party has a copy of the missing exhibit, it might not be possible to replace the missing exhibit. In the latter case appellate review of the case can be adversely affected.

Subdivision (c). The appellate court clerk's experience shows that some attorneys have returned records to the clerk with bound volumes of the record disassembled, with exhibits missing, or with the components of the record disorganized. The purpose of the amendment to the first paragraph of subdivision (c), requiring attorneys to return the record intact and in an organized manner, is two-fold: (1) to assist the clerk's personnel in efficiently verifying that each record returned to the appellate clerk is complete; and (2) to assist the appellate court, which subsequently will be reviewing the record when deciding the appeal.

The second paragraph of subdivision (c) is amended to refer to Rule 34, Rules of the Tennessee Supreme Court, governing access to appellate judicial records.

Advisory Commission Comments [2007]. A transcript or statement of the evidence must be filed with the trial court clerk within 60 days after the filing of the notice of appeal unless extended by the court. The period was formerly 90 days.

Rule 26. Filing of the Record. —(a) Filing and Notice of Filing of the Record. —Upon receipt of the record following transmittal, the clerk of the appellate court shall file the record. The clerk shall immediately serve notice on all parties of the date on which the record was filed.

(b) Dismissal for Failure of Appellant Timely to File the Transcript or Statement. —If the appellant shall fail to file the transcript or statement within the time specified in Rule 24(b) or (c), or if the appellant shall fail to follow the procedure in Rule 24(d) when no transcript or statement is to be filed, any appellee may file a motion in the appellate court to dismiss the appeal. The motion shall be supported by a certificate of the clerk of the trial court showing the date and substance of the judgment or order from which the appeal was taken and the date on which the notice of appeal was filed. The appellant may respond within 14 days after the motion is filed. In lieu of granting the motion or at any time on its own motion, the appellate court may order filing of the transcript or statement. Nothing in this subdivision shall be construed to authorize dismissal of an appeal due to the errors or omissions of the clerk of the trial court. [Amended by order effective July 1, 1997.]

Advisory Commission Comments. *Subdivision (a).* The docketing of an appeal under these rules takes place when the clerk of the appellate court receives a copy of the notice of appeal from the trial court clerk. Under this subdivision the clerk of the appellate court files the record immediately upon its receipt and notifies all parties of the date on which the record was filed.

Subdivision (b). The failure of a party to file the transcript or statement within the time specified in Rule 24 may result in dismissal of the appeal upon motion. The motion should be in the form set forth in Rule 22 of these rules. Nothing in this rule permits the dismissal of an appeal due to the errors or omissions of the clerk of the trial court.

Advisory Commission Comments [1997]. *Subdivision (b).* The amendment to the first sentence fills a gap left in the original rule. If an appellant did not intend to file a transcript of evidence, but failed to follow the prescribed procedure in Rule 24(d), it was unclear where the appellee would file a motion to dismiss. The amended language makes it clear that the appellate court is the proper forum. The amendment to the third sentence keys response deadlines concerning a motion to dismiss to filing dates, not service dates.