

CALIFORNIA
LAWYERS
ASSOCIATION

January 16, 2024

The Honorable Anthony J. Portantino
Chair, Senate Appropriations Committee
1021 O Street, Suite 7630
Sacramento, CA 95814

Re: SB 662 (Rubio), as amended April 27, 2023 - Support

Dear Senator Portantino:

The California Lawyers Association (CLA) strongly supports SB 662.

SB 662 addresses a growing crisis in our court system caused by the critical shortage of court reporters, depriving many litigants of a verbatim record of court proceedings. The California Supreme Court has recognized that “the absence of a verbatim record of trial court proceedings will often have a devastating effect on a litigant’s ability to have an appeal of a trial court judgment decided on the merits.” (*Jameson v. Desta* (2018) 5 Cal.5th 594, 662.) Even without an appeal, the absence of a verbatim record can harm litigants in the trial court when, for example, a dispute or uncertainty arises about the court’s decision or the basis of that decision.

The absence of a verbatim record threatens access to justice and raises significant constitutional issues, particularly for low-income litigants without the resources to hire private court reporters. (See, e.g., *In re Marriage of Obrecht* (2016) 245 Cal.App.4th 1, 9 fn. 3 [“As illustrated by this case, the absence of a verbatim record can preclude effective appellate review, cloaking the trial court’s actions in an impregnable presumption of correctness regardless of what may have actually transpired. Such a regime can raise grave issues of due process as well as equal protection in light of its disparate impact on litigants with limited financial means.”]; *Maxwell v. Dolezal* (2014) 231 Cal.App.4th 93, 100 [“We remain profoundly concerned about the due process implications of a proceeding in which the court, aware that no record will be made, incorporates within its ruling reasons that are not documented for the litigants or the reviewing court.”].)

Certified Shorthand Reporters (CSRs) are the preferred way to create a verbatim record. Consistent with this preference, SB 662 requires the court to make every effort to hire a court reporter for an action or proceeding before electing to have the action or proceeding electronically recorded. Unfortunately, the number of CSRs is not keeping pace with the need for their services and the problem is only getting worse. In many

The Honorable Anthony J. Portantino
Chair, Senate Appropriations Committee
January 16, 2024
Page 2

cases, unless the litigants pay to hire a private court reporter, there will be no verbatim record of their proceedings. This results in a two-tiered justice system where those with the greatest resources can pay for and obtain live court reporters, while others get *no record at all*. These litigants are harmed when they are unable to obtain a verbatim record of their proceedings, necessary to protect their rights in what are often extremely significant personal and family matters.

Electronic recording works well and is already authorized in California. This bill would authorize electronic recording of any civil case, broadening the existing authority of courts to order electronic recording in limited civil, misdemeanor, and infraction cases, but *only* when an official court reporter is unavailable, as under the existing statute.

It is time for the Legislature to address the critical shortage of court reporters. SB 662 addresses this problem with an effective and balanced approach.

For these reasons, CLA strongly supports SB 662 and respectfully requests your “Aye” vote.

Sincerely,



Betty J. Williams
President

cc: Hon. Susan Rubio, Member of the Senate
Hon. Brian W. Jones, Vice Chair of the Senate Appropriations Committee
Hon. Angelique V. Ashby, Member of the Senate Appropriations Committee
Hon. Steven Bradford, Member of the Senate Appropriations Committee
Hon. Kelly Seyarto, Member of the Senate Appropriations Committee
Hon. Aisha Wahab, Member of the Senate Appropriations Committee
Hon. Scott D. Wiener, Member of the Senate Appropriations Committee