

**"CHAPTER 606  
CLERKS, REPORTERS, INTERPRETERS, ETC.**

Section

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## Cross References

Office of language access, see chapter 321C.

## Rules of Court

Court interpreter certification program, see Hawaii Rules for Certification of Spoken and Sign Language Interpreters.

" **§606-1 Clerks of supreme court, intermediate appellate court, circuit courts, and district courts; appointment and removal.** (a) Subject to the provisions of chapter 76, when applicable:

- (1) There shall be a clerk of the supreme court and as many deputy clerks and assistant clerks as the business of the supreme court requires, appointed and removable by the justices of the supreme court.
- (2) There shall be a clerk of the intermediate appellate court and as many deputy clerks and assistant clerks as the business of such court requires, appointed and removable by the judges of the intermediate appellate court.
- (3) There shall be as many clerks of the circuit courts as may be necessary, appointed and removable by the judge or administrative judge thereof, as the case may be. The appointment of a clerk of a particular division may be made by the judge of that division.
- (4) There shall be as many clerks of the district courts as may be necessary, appointed and removable by the judge or administrative judge thereof, as the case may be.

(b) The respective clerks of the supreme court, intermediate appellate court, circuit courts, and district courts shall be ex officio clerks of all the courts of records, and as such may issue process returnable in all such courts. [L 1892, c 57, §59; am L 1903, c 32, §16; am L 1907, c 54, §1; am L 1911, c 84, §1; RL 1925, §2291; RL 1935, §3690; RL 1945, §9721; RL 1955, §218-1; am L 1965, c 104, §1; HRS §606-1; am L 1970, c 188, §25; am L 1972, c 88, §4(a); am L 1979, c 111, §4(1)]

## Case Notes

Powers of deputy clerks, in absence of clerk, to select jurors and issue process under former statutes. 7 H. 388; 9 H. 522, 540 (1894).

Authority of clerks discussed. 8 H. 191 (1890).

Removal of deputy for misconduct, etc., requires opportunity to be heard, disloyalty to government is cause for removal. 9 H. 681 (1893).

Where more judges than one in a circuit, appointment or removal of a clerk requires presence, actual or constructive, of all and concurrent action of majority. 22 H. 557, 568 (1915).

Cited: 32 H. 995, 997 (1934).

" **§606-2 Temporary assistants.** In case of the temporary absence or disability of any clerk, or when the business of any court demands, an assistant clerk, having the powers of a clerk, may be appointed for temporary duty. The salary of the assistant may be paid out of any appropriation available for the expenses of the court. [L 1892, c 57, §67; am L 1911, c 84, §2; RL 1925, §2292; am L 1929, c 14, §1; RL 1935, §3691; RL 1945, §9722; am L 1949, c 33, §1; am L 1951, c 192, §1; RL 1955, §218-2; HRS §606-2; am L 1972, c 88, §4(b)]

" **§606-3 Seal of court; physical or electronic seal, signature, or attestation on physical or electronic court records.** (a) Each court of record shall have a seal, which shall be as approved by the supreme court. The seal shall be in the custody or control of the clerk of the court and, when impressed, embossed, stamped, or electronically imprinted upon a court document, process, or certificate, shall be accompanied by the clerk's official attestation.

(b) Any requirement that a court document, process, or certificate shall be signed, certified, acknowledged, verified, exemplified, attested, or made under oath or seal is satisfied if the document bears an electronic seal of the court and an electronic image of the signature or electronic facsimile signature of the judge, clerk, or other person authorized to perform these acts. [L 1892, c 57, §65; RL 1925, §2293; RL 1935, §3692; RL 1945, §9723; RL 1955, §218-3; HRS §606-3; am L 1972, c 88, §4(c); am L 2006, c 284, §1]

" **§606-4 Custody; disposition of exhibits.** (a) The clerks of the supreme court, intermediate appellate court, circuit courts, and district courts shall have the custody of all records, books, papers, moneys, exhibits, and other things pertaining to their respective courts.

(b) The attorney of the party who introduced the exhibits or things in evidence or left them in the custody of the court, or the party, if not represented by any attorney, shall remove

them from the court within six months after the final termination of the action to which the exhibits or things are related. The clerks shall have the authority and power, upon the written approval of a judge of the court given in particular actions or proceedings, to sell, destroy, or otherwise dispose of exhibits and things marked for identification, other than original files belonging to other actions, which have come into their possession or custody under this section, when those exhibits or things have not been already removed by their owners or by the attorneys representing the owners and when more than six months has elapsed since the final termination of the action to which the exhibits or things are related.

(c) All moneys received from sales under this section shall be deposited with the director of finance as government realizations. [L 1892, c 57, §63; am L 1911, c 84, §3; RL 1925, §2294; am L 1929, c 171, §1; RL 1935, §3693; RL 1945, §9724; RL 1955, §218-4; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §606-4; am L 1970, c 188, §26; am L 1972, c 88, §4(d); am L 1979, c 111, §4(2); am L 1984, c 259, §1; am L 2016, c 55, §20]

#### Case Notes

Proceeds of partition sale in hands of clerk and subject to judicial action not subject to garnishment. 10 H. 499 (1896).

" **§606-5 Free copies of certain decrees to veterans.** The clerk of any state court shall provide to any veteran of the armed forces of the United States, the veteran's spouse, any member of the immediate family of a veteran, or the next of kin of a deceased veteran, free copies of decrees of divorce or adoption, when such copies are required for use in connection with a claim based on service in the armed forces of the United States. [L 1949, c 44, §1; RL 1955, §218-5; HRS §606-5; am L 1972, c 139, §1]

" **§§606-6 and 606-7 REPEALED.** L 1972, c 88, §4(n).

" **§606-8 Powers and duties of clerks.** The clerks of the courts of record may issue process, administer oaths, take depositions, and perform all other duties pertaining to their office. A clerk shall attend and record the proceedings at all sittings of courts of record.

The clerks of the circuit courts shall be ex officio masters in matters referred to them by the court. [L 1892, c 57, §62; am L 1911, c 127, §2; RL 1925, §2297; RL 1935, §3696; RL

1945, §9727; RL 1955, §218-8; HRS §606-8; am L 1972, c 88, §4(e)]

### Case Notes

Chambers summonses were only issuable by clerks of the circuit court under this section. 35 H. 689 (1940).

Cited: 12 H. 189, 195 (1899); 32 H. 995, 997 (1934); 33 H. 799, 804 (1936).

" **§§606-9 to 606-11 REPEALED.** L 1996, c 226, §§4 to 6.

" **§606-12 Duties of official court reporters.** [(a)] The duties of each official court reporter shall be to attend sessions of the court and take verbatim notes of all oral proceedings before the court, including the testimony of witnesses, objections of counsel, offers of proof, arguments of counsel, rulings of the court, charge to the jury, verdict of the jury, and any other matter which the court may require the official court reporter to report. The official court reporter may be called upon at any time during a hearing, by any party to the same, or by the court, to read aloud any portion of the official court reporter's notes taken by the official court reporter. The official court reporter may be referred to at any time by the clerk of the court for the exact language of any orders from the bench. In any hearing of probate of will or administration matter, the judge, in the judge's discretion, may order the official court reporter to supply and file, without charge and within a reasonable time, a certified statement of such testimony as relates to the names, ages, and genealogies of heirs. Other appropriate duties for the official court reporters to perform may be prescribed by rule of court.

[(b)] Each official court reporter shall file the official court reporter's notes with the clerk of the court and when requested by any party to a cause and so directed by the court or by the court of its own motion, within a reasonable time thereafter as the court may designate, shall furnish a certified transcript of the official court reporter's notes, or any portion thereof, taken in the cause, upon the payment of the fee fixed in section 606-13. The official court reporter may furnish a transcript of any of the official court reporter's notes, where the same is not intended for the purposes of appeal, upon the request of any party, without the order of the judge therefore first obtained.

[(c)] In an ex parte or uncontested case, if there is no official court reporter in attendance, the court may direct the clerk to take notes of the oral evidence adduced, or the judge may personally take notes or may cause the oral evidence to be preserved on tape or by another mechanical device. [L 1915, c 88, §2; RL 1925, §2300; RL 1935, §3699; RL 1945, §9732; RL 1955, §218-12; am L 1959, c 110, §3; HRS §606-12; am L 1972, c 88, §4(i), (j); gen ch 1985; am L 1996, c 226, §2; am L 2004, c 202, §60; am L 2006, c 94, §1; am L 2010, c 109, §1]

### Rules of Court

Generally, see Rules Governing Court Reporting.

Recording of testimony and proceedings, see RCC rule 25.1; RDC rule 25.1.

Transcript as evidence, see HRCF rule 80; order for transcript of evidence, see RCC rule 25 and RDC rule 25.

### Case Notes

"Any party" in the provision that the reporter may furnish a transcript where it is not intended for appeal upon the request of any party construed. 59 H. 237, 580 P.2d 58 (1978).

Court reporter's notes as public record, public's right of access to such records. 59 H. 237, 580 P.2d 58 (1978).

Section does not preclude recording of a closing argument. 67 H. 231, 683 P.2d 1217 (1984).

Trial court must order that the closing argument be recorded when a party makes a timely request to do so. 71 H. 347, 791 P.2d 392 (1990).

" **§606-12.5 Certified shorthand reporter; administration of oaths or affirmations.** A certified shorthand reporter may administer oaths or affirmations and may perform the duties of a deposition officer pursuant to rules of court relating to persons before whom depositions may be taken. [L 2010, c 110, §1]

" **§606-13 Salary and perquisites of official court reporters.** [(a)] Each official court reporter shall receive for services as prescribed in section 606-12 the salary that may be appropriated from time to time as compensation for the official court reporter's services in court. Each official court reporter may charge and collect fees for transcripts requested by the parties, including state courts, pursuant to

rules promulgated by the supreme court through its rulemaking authority. The fees for transcripts ordered by a party shall be paid by the party ordering the same and, except in the case of the attorney general, the public defender, or the county or prosecuting attorneys or corporation counsels, no official court reporter shall be required to perform any such service until the fees have been paid or the amount of the estimated cost of the fees deposited with the clerk of the court.

[(b)] Where the court, of its own motion, orders a transcript to be prepared of the whole or any part of the testimony in a civil cause, it may, in its discretion, direct the payment of the charges therefor, and the taxation of the same as costs, in such manner as to it may seem just. Where the attorney general, the public defender, or the county or prosecuting attorney or corporation counsel, desires transcripts for official use, either original or copy, the official court reporter may be paid for same by warrant upon the treasury of the State or county, as the case may be.

[(c)] Official court reporters or other persons preparing transcripts shall provide, at their own expense, all supplies directly related to the preparation thereof. [L 1915, c 88, §3; RL 1925, §2301; RL 1935, §3700; am L 1941, c 29, §1; RL 1945, §9733; am L 1949, c 361, §1; RL 1955, §218-13; am L 1963, c 89, §1; HRS §606-13; am L 1969, c 184, §1; am L 1972, c 88, §4(k), (1); am L 1975, c 100, §1; am L 1981, c 63, §1; am L 1983, c 73, §1; am L 1996, c 226, §3]

### **Rules of Court**

Order for transcript of evidence, see RCC rule 25 and RDC rule 25; transcripts, rates, see RCR rule 19.

Recording of testimony and proceedings, see RCC rule 25.1; RDC rule 25.1.

### **Case Notes**

Appellee was entitled to recover cost of one copy of transcripts in amount authorized by this section. 79 H. 291, 901 P.2d 1270 (1995).

" **[\$606-13.5] Definitions.** As used in this chapter, unless the context indicates otherwise:

"Certified shorthand reporter" means a shorthand reporter certified by the Hawaii supreme court through the Hawaii board of certified shorthand reporters.

"Official court reporter" means a certified shorthand reporter employed by the courts of the State to provide court reporting services.

"Private court reporter" means a certified shorthand reporter who offers services on a freelance basis and who is not employed by the courts of the State. [L 1996, c 226, pt of §1]

" **[§606-13.6] Private court reporters; contracts.** (a) Any contract for private court reporting services, not related to a particular case or reporting incident, shall be prohibited between a private court reporter or any other person with whom a private court reporter has a principal and agency relationship, and any attorney, party to an action, party having a financial interest in an action, or any entity providing the services of a certified shorthand reporter. Negotiating or bidding reasonable fees, equal to all parties, on a case-by-case basis may not be prohibited.

(b) Violation of this section shall be grounds for discipline, censure, or suspension or revocation of licensure. [L 1996, c 226, pt of §1]

#### **Rules of Court**

Certification of court reporters, see Rules Governing Court Reporting.

" **[§606-13.7] Official court reporters' notes; ownership.** All official court reporters' notes shall be the property of the State. [L 1996, c 226, pt of §1]

" **§606-14 Bailiffs.** The judge of the circuit court of each judicial circuit or division may appoint a person to be known as "court officer and bailiff" or "special court officer". Each of the persons so appointed shall be removable by the judge by whom the person is appointed, except as otherwise provided. In the first circuit one of the persons so appointed shall be designated as "chief court officer and bailiff", and another as "assistant chief court officer and bailiff".

The court officers and bailiffs or special court officers shall attend upon the trial of causes, keep order in the courtroom and judiciary building, serve notices and other process of the court as directed by any judge of the court, summon jurors and under the supervision of the respective courtroom clerks, have custody over juries and perform any other



duties in and around the court as shall be from time to time required of them by the presiding judges or by rule of court. They shall be in attendance during all sessions of the court and perform other duties during business hours or during emergencies as may be required of them by the respective judges, absenting themselves only upon special permission from the judge presiding in the court or from the chief court officer and bailiff.

They shall receive for their services salaries as provided by law. They shall not be entitled to any fees for the service of process or for the performance of any other service, but where fees are chargeable by law for such services, such fees shall become a general governmental realization. If required to serve any notice or process they shall be entitled to reimbursement for reasonable actual expenses for transportation, to be paid out of circuit court expenses, in such sums as may be approved by a judge of the court.

In the performance of their duties they shall have the general powers of a police officer, including all of the authority, powers, and duties as set forth in chapter 803; provided they shall not interfere with the work of the sheriff, the chiefs of police or their deputies in the service of any process for which fees are paid.

An appointee under this section who, at the time of the appointment, is a member of any pension or retirement fund provided by law shall continue as such member after the appointment with the same rights to prior and subsequent service credit as if the appointee had remained in the service of the State or county in any former service. [L 1941, c 332, §1; RL 1945, §9734; am L 1945, c 249, §1; RL 1955, §218-14; am L 1963, c 85, §3; HRS §606-14; am L 1972, c 88, §4(m); gen ch 1985; am L 1989, c 211, §10; am L 1990, c 281, §11]

" **§606-15 REPEALED.** L 1972, c 88, §4(n).