

1 SB472
2 139431-1
3 By Senator Keahey
4 RFD: Judiciary
5 First Read: 05-APR-12

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8 SYNOPSIS: Existing law provides for the licensure of
9 court reporters.

10 This bill would provide for professional
11 standards of practice, firm registration, renewal,
12 and reinstatement of the license of a court
13 reporting firm.

14 This bill would provide grounds for denial,
15 suspension, or revocation of a certificate or
16 license of a court reporter; to provide for rates;
17 and to provide fines.

18
19 A BILL

20 TO BE ENTITLED

21 AN ACT

22
23 Relating to court reporters, to provide for
24 professional standards of practices; to provide for firm
25 registration; to provide for renewal and reinstatement of
26 licenses of court reporting firms; to provide grounds for
27 denial, suspension, or revocation of a certificate or license

1 of a court reporter; to provide for registration; and to
2 provide for fines.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known as the Ethics for
5 Court Reporters Act.

6 Section 2. As used in this act, the following terms
7 shall have the following meanings:

8 (1) ABCR. The Alabama Board of Court Reporters.

9 (2) ACRA. The Alabama Court Reporters Association.

10 (3) ADHERING TO THE SPIRIT OF THE RULE. Adherence to
11 the spirit as well as the letter of the rule regarding
12 incentives by avoiding the appearance of impropriety.

13 Repeatedly giving gifts valued at significantly under the one
14 hundred dollar (\$100) aggregate limit to the same recipient in
15 order to award the one hundred dollar (\$100) aggregate limit
16 would violate the spirit of the provision and be
17 impermissible. Elaborate or complicated schemes to obfuscate
18 the value of incentives offered or to direct gifts to a single
19 recipient through different staff members from the same firm
20 in order to avoid exceeding the limits specified in this act.

21 (4) CERTIFICATE. A certified court reporter's
22 certificate issued under this act.

23 (5) CERTIFIED COURT REPORTER or COURT REPORTER. A
24 person who is technically qualified, registered, and certified
25 by the ABCR under this act to practice court reporting.

26 (6) COURT REPORTING FIRM. An entity which, for
27 compensation, provides or arranges for the services of a court

1 reporter, shorthand reporter, or transcriptionist or provides
2 referral services for court reporters in this state. A court
3 reporting firm may include any corporation, firm, partnership,
4 sole proprietorship, or other business entity providing or
5 arranging for court reporting services, shorthand reporting
6 services, or transcription services.

7 (7) CREDITS. Anything that may be exchanged by the
8 recipient for something of value or an accumulative-value
9 gift, value-oriented gift, gift, incentive, reward, or any
10 thing of value to attorneys, clients, or their representatives
11 or agents.

12 (8) DESIGNATED REPRESENTATIVE OF A COURT REPORTING
13 FIRM. The person designated to act as the representative of a
14 court reporting firm.

15 (9) FIRM REGISTRATION. Any person or entity that
16 employs certified court reports, shorthand reporters,
17 transcriptionists, or engages independent contractors to
18 provide court or shorthand reporting services, including
19 transcription. A firm shall be required to register any
20 affiliate office under a separate registration number and pay
21 a registration renewal fee.

22 (10) GIFT. As broadly defined in the rules governing
23 the United States Congress, includes any accumulative-value
24 gift, value-oriented gift, gift, incentive, reward, item,
25 gratuity, favor, entertainment, hospitality, or other item
26 having monetary value. This includes points or credits that
27 may be exchanged by the recipient for something of value.

1 (11) GRATUITY. Any accumulative-value gift,
2 value-oriented gift, gift, incentive, reward, or any thing of
3 value to attorneys, clients, or their representatives or
4 agents. This includes points or credits that may be exchanged
5 by the recipient for something of value.

6 (12) INCENTIVES. Any gift, reward, or any thing of
7 value to attorneys, clients, or their representatives or
8 agents. This includes points or credits that may be exchanged
9 by the recipient for something of value.

10 (13) LICENSE. A license issued under this act to
11 conduct business as a court reporting firm.

12 (14) LICENSEE. A person to whom a license has been
13 issued as Certified Court Reporter or a designated
14 representative of a court reporting firm.

15 (15) NCRA. The National Court Reporters Association.

16 (16) ONE HUNDRED DOLLAR (\$100) AGGREGATE LIMIT. Such
17 incentives that do not exceed one hundred dollars (\$100) in
18 aggregate value, per recipient, per year and are nominal in
19 value and are permissible.

20 (17) PERSON. Without limitation, individuals,
21 partnerships, corporations, political subdivisions, and all
22 other legal entities. The term person shall not in any way
23 pertain to state, county, municipal, or city institutions but
24 shall be deemed to include any individual, firm, partnership,
25 corporation, or other entity not licensed to practice court
26 reporting in the State of Alabama.

1 (18) POINTS. Anything that may be exchanged by the
2 recipient for something of value or an accumulative-value
3 gift, value-oriented gift, gift, incentive, reward, or any
4 thing of value to attorneys, clients, or their representatives
5 or agents.

6 (19) PRACTICE OF COURT REPORTING. Reporting, in this
7 state, by use of voice writing or any system of manual,
8 mechanical, or digital shorthand and court reporting
9 transcription.

10 (20) REWARDS. Any accumulative-value gift,
11 value-oriented gift, gift, incentive, reward, or any thing of
12 value to attorneys, clients, or their representatives or
13 agents. This includes points or credits that may be exchanged
14 by the recipient for something of value.

15 Section 3. (a) A court reporter shall refrain from
16 giving, directly or indirectly, any gift or any thing of value
17 to attorneys or their staff, clients or their staff, or any
18 other persons or entities associated with any litigation.
19 Nothing offered in exchange for future work shall be
20 permissible, regardless of its value. Pro bono services as
21 defined by the NCRA Guidelines for Professional Practice or by
22 applicable state and local laws, rules, and regulations shall
23 be permissible in any amount.

24 (b) Incentives shall not be given by individual
25 court reporters, court reporting firms, or any entity or
26 individual engaged in providing services to attorneys or their
27 staff, either directly or indirectly, in the state, other than

1 the receipt of compensation for reporting services. The
2 persons or entities shall include, but not be limited to,
3 attorneys, employees of attorneys, clients, witnesses,
4 insurers, underwriters, or any agents or representatives
5 thereof. A court reporting firm shall not undertake any action
6 that constitutes unprofessional behavior under any statute,
7 rule, or regulation now or hereafter in effect which pertains
8 to court reporting firms. In conducting their practices, court
9 reporting firms shall observe and be bound by such statutes,
10 rules, and regulations to the same extent as a person holding
11 a license pursuant to this act.

12 Section 4. Transcripts of proceedings shall follow
13 Rule 29 of the Alabama Rules of Judicial Administration.

14 Section 5. (a) A shorthand reporting firm may not
15 assume or use the title or designation court recording firm,
16 court reporting firm, shorthand reporting firm, or any
17 abbreviation, title, designation, words, letters, sign, card,
18 or device tending to indicate that the firm offers services of
19 a court reporting firm, unless the firm is registered with
20 ABCR.

21 (b) ABCR may enforce this section against a firm,
22 its affiliate office, or both, if the firm or affiliate office
23 is not registered with the board, by seeking an injunction or
24 by filing a complaint in the circuit court of the county in
25 which the firm or affiliate office is located. An action for
26 an injunction shall be in addition to any other action,
27 proceeding, or remedy authorized by law. The county or

1 district attorney or counsel designated and empowered by the
2 board shall represent the board.

3 (c) Each court reporting firm shall appoint one
4 person affiliated with the court reporting firm to act as the
5 designated representative for the firm. The person appointed
6 shall:

7 (1) Hold a Certified Court Reporter (CCR)
8 certificate.

9 (2) Pass an examination administered by ACRA, which
10 is the equivalent of the written knowledge test taken for
11 licensure of a CCR.

12 (d) ACRA shall administer an examination to
13 determine whether a designated representative of a court
14 reporting firm understands:

15 (1) The ethics and professionalism required for the
16 practice of court reporting.

17 (2) The obligations owed by a court reporter to the
18 parties in any reported proceedings and the obligations
19 created by the provisions of this act and any regulation
20 adopted thereto.

21 Section 6. (a) A license as a court reporting firm
22 shall expire on September 30 of each year and may be renewed
23 if, before that date, the licensee submits to the ABCR an
24 application for renewal on a form prescribed by ABCR.

25 (b) The board shall adopt regulations requiring a
26 designated representative of a court reporting firm who does
27 not hold a CCR certificate to participate in continuing

1 education or training as a condition to the renewal or
2 reinstatement of a license. If a designated representative of
3 a court reporting firm fails to comply with the requirements,
4 ABCR may suspend or revoke the license of the licensee.

5 (c) A license that expires pursuant to this section
6 may be reinstated if the applicant does all of the following:

7 (1) Complies with subsection (a).

8 (2) Submits to ABCR the required fee for
9 reinstatement.

10 Section 7. (a) ABCR may refuse to issue or renew or
11 may suspend or revoke any certificate or license if a court
12 reporter, in performing or attempting to perform any act, has
13 failed to do or has done any of the following:

14 (1) Willfully failed to take full and accurate
15 stenographic notes of a proceeding.

16 (2) Willfully altered any stenographic notes taken
17 at a proceeding.

18 (3) Willfully failed to accurately transcribe
19 verbatim any stenographic notes taken at any proceeding.

20 (4) Willfully altered a transcript of stenographic
21 notes taken at any proceedings.

22 (5) Willfully violated gifting rule as defined to
23 include any accumulative-value gift, value-oriented gift,
24 gift, incentive, reward, item, gratuity, favor, entertainment,
25 hospitality, or other item having monetary value, including
26 points or credits that may be exchanged by the recipient for
27 something of value.

1 (6) Demonstrated unworthiness or incompetency to act
2 as a court reporter in such a manner as to safeguard the
3 interests of the public.

4 (7) Professionally associated with or loaned his or
5 her name to another for the illegal practice by another of
6 court reporting, or professionally associated with any natural
7 person, firm, copartnership, or corporation holding itself out
8 in any manner contrary to this act.

9 (8) Except as otherwise provided in subdivision
10 (11), willfully violated any of the provisions of this act or
11 the regulations adopted by ABCR to enforce this act.

12 (9) Violated any regulation adopted by ABCR relating
13 to any of the following:

14 a. Unprofessional conduct.

15 b. Agreements for the provision as a court reporter
16 or ongoing services which relate to the practice of court
17 reporting.

18 c. The avoidance of a conflict of interest.

19 d. The performance of the practice of court
20 reporting in a uniform, fair, and impartial manner and
21 avoiding the appearance of impropriety.

22 (10) Failed within a reasonable time to provide
23 information requested by ABCR as the result of a formal or
24 informal complaint to ABCR, which would indicate a violation
25 of this act.

1 (11) Failed without excuse to transcribe
2 stenographic notes of a proceeding and file or deliver to an
3 ordering party a transcript of the stenographic notes:

4 a. Within the time required by law or agreed to by
5 verbal or written contract.

6 b. Within a reasonable time required for filing the
7 transcript.

8 c. Within a reasonable time required for delivery of
9 the transcript.

10 Section 8. A firm registration shall be required for
11 all firms operating in the state regardless of where they may
12 be domiciled and regardless of firm size. A firm registration
13 shall not be required for an independent contractor and
14 employee, or both, working for a registered firm or firms.

15 Section 9. Violations to the Court Reporting Ethics
16 Act shall be classified as a business offense. The fines shall
17 be tiered according to the number and severity of the
18 violation. The first offense shall be five thousand dollars
19 (\$5,000), second offense shall be ten thousand dollars
20 (\$10,000), and the third offense shall be twenty-five thousand
21 dollars (\$25,000). After three offenses, violators shall have
22 their individual license and firm registration to practice
23 court reporting in the state suspended for a period of two
24 years. These fines shall be imposed by ABCR and the Ethics
25 Commission.

1 Section 10. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.