

SENATE BILL NO. 413

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

1105S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 492.340, 492.350, 492.540, and 492.590, RSMo, and to enact in lieu thereof five new sections relating to court reporters, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 492.340, 492.350, 492.540, and 492.590, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 485.160, 492.340, 492.350, 492.540, and 492.590, to read as follows:

485.160. 1. As used in this section, the following terms mean:

(1) "Board", the board of certified court reporter examiners as established by supreme court rule 14.01;

(2) "Certified court reporter", a person who is certified as a court reporter by the board to engage in court reporting;

(3) "Court reporting", the practice of shorthand reporting for use in litigation in courts of this state by making a verbatim record of a court proceeding, deposition, or proceeding before a grand jury or court commissioner using machine stenography or oral stenography;

(4) "Court reporting firm", an entity wholly or partly in the business of providing court reporting or other related services in this state. A court reporting firm is considered to be providing court reporting or other related services in this state if:

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 (a) Any act that constitutes a court reporting service
19 occurs wholly or partly in this state;

20 (b) The court reporting firm recruits a resident of
21 this state through an intermediary located inside or outside
22 of this state to provide court reporting services or other
23 related services in this state;

24 (c) The court reporting firm contracts with a resident
25 of this state by mail or otherwise and either party is to
26 perform court reporting services or other related services
27 wholly or partly in this state.

28 2. Any person who:

29 (1) Undertakes or attempts to undertake the practice
30 of court reporting for remuneration without first having
31 procured a license from the board;

32 (2) Knowingly presents or files false information with
33 the board for the purpose of obtaining a license; or

34 (3) Violates this section;

35 is guilty of a class A misdemeanor. Each day in which a
36 violation occurs is a separate offense.

37 3. A person who is not licensed shall not bring or
38 maintain an action to recover fees for court reporting
39 services that the person performed in violation of this
40 section.

41 4. A person shall not assume or use the title or
42 designation "court reporter", "court recorder", or
43 "shorthand reporter", or any abbreviation, title,
44 designation, words, letters, sign, card, or device tending
45 to indicate that the person is a court reporter, court
46 recorder, or shorthand reporter, unless the person is
47 certified as a certified court reporter by the board.
48 Nothing in this subsection shall be construed to sanction or

49 prohibit the use of electronic recording equipment operated
50 within the courtroom according to supreme court rules.

51 5. Any person who holds a license as a certified court
52 reporter from the board who knowingly signs and affixes his
53 or her signature and license number to a transcript for
54 which he or she was not personally present and did not
55 personally report stenographically by machine or voice the
56 proceedings reflected in the transcript is guilty of a class
57 A misdemeanor. Each transcript violation is a separate
58 offense. Nothing in this section shall be construed to
59 sanction or prohibit the transcription methods used in
60 conjunction with the use of electronic recording equipment
61 operated within the courtroom according to the supreme court
62 rules.

63 6. The provisions of subsections 2 to 5 of this
64 section are applicable to a court reporting firm. The court
65 may enforce subsections 2 to 5 of this section by assessing
66 a reasonable fee against a court reporting firm.

67 7. This section shall not apply to court reporting
68 services performed outside of this state by a foreign court
69 reporter who is not certified in this state for use in a
70 court proceeding in this state, provided that the work
71 resulting from those services is produced and billed wholly
72 outside of this state.

73 8. A certified court reporter or court reporting firm
74 shall not enter into or provide services under any
75 contractual agreement, written or oral, exclusive or
76 nonexclusive, that:

77 (1) Undermines the impartiality of the certified court
78 reporter or that may result in the appearance that the
79 impartiality of the certified court reporter has been
80 compromised;

81 (2) Requires a certified court reporter to provide any
82 service not made available to all parties to an action;

83 (3) Gives or appears to give an exclusive advantage to
84 any party to an action;

85 (4) Restricts an attorney's choice in the selection of
86 a certified court reporter or court reporting firm; or

87 (5) Specifies fixed prices to perform court reporting
88 services in two or more actions or for future court
89 reporting services whether or not the services are actually
90 requested.

91 9. The provisions of subdivisions (4) and (5) of
92 subsection 8 of this section shall not apply to a contract
93 for court reporting services for a court or agency of this
94 state.

 492.340. When the testimony **taken before a certified**
2 **court reporter** is fully transcribed the deposition shall be
3 submitted to the witness for examination and shall be read
4 to or by him, unless such examination and reading are waived
5 by the witness and by the parties. Any changes in form or
6 substance which the witness desires to make shall be entered
7 upon [the deposition by the officer] **an errata sheet** with a
8 statement of the reasons given by the witness for making
9 them. The deposition shall then be signed by the witness,
10 unless the parties by stipulation waive the signing or the
11 witness is ill or cannot be found, or is dead or refuses to
12 sign. [If the deposition is not signed by the witness, the
13 officer shall sign it and state on the record the fact of
14 the waiver or of the illness, or death or absence of the
15 witness or the fact of the refusal to sign together with the
16 reason, if any, given therefor; and the deposition may then
17 be used as fully as though signed, unless on a motion to
18 suppress the court holds that the reasons given for the

19 refusal to sign requires rejection of the deposition in
20 whole or in part.]

492.350. To every deposition or examination, taken by
2 virtue of sections 492.080 to 492.400 shall be appended the
3 certificate of the [person or officer by or] **certified court**
4 **reporter** before whom the same shall be taken, showing that
5 the deposition or examination was **reported stenographically**
6 **by machine or voice and** reduced to writing in his **or her**
7 presence, and was subscribed and sworn to by the witnesses,
8 and the place at which, and the days, and within the hours,
9 when the same was taken, **and shall include the certified**
10 **court reporter's license number.**

492.540. The [officer taking] **certified court reporter**
2 **before whom** such depositions **were reported stenographically**
3 **by machine or voice** shall attach thereto his **or her**
4 certificate, stating the time and place when and where such
5 depositions were taken, that the witnesses were duly sworn
6 as to the truth of their depositions, and that they
7 subscribed the same[, and shall enclose them, together with
8 the commission and the evidence of notice; and the whole,
9 being carefully sealed up, shall be delivered by the officer
10 to the recorder of the county in which the suit is pending,
11 or in which the property or matter is situate or belongs, to
12 which such depositions relate].

492.590. 1. The costs and expenses of depositions,
2 whether originals or copies, or related **certified court**
3 **reporter**, notarial, or other fees of recording the same,
4 shall be awarded as a judgment in favor of the party or
5 parties requesting the same, and collected in the manner
6 provided by section [514.460] **488.432**. Any party incurring
7 any such costs or expenses may request the taxing of such
8 costs or expenses actually incurred by that party whether or

9 not such depositions were taken at the instance of that
10 party or some other party to the suit or suits[, provided,
11 however, that any judgment awarded for copies of depositions
12 shall be limited to the cost of one copy per party, except
13 upon leave of court].

14 2. The costs and expenses so incurred shall be
15 certified by the **certified court** reporter [taking] **who**
16 **reported stenographically by machine or voice** the same and
17 shall be further limited by the court in which the action is
18 pending at the request of either party with said limitation
19 based on:

20 (1) The relevancy and probative value of the testimony
21 offered by deponent;

22 (2) The time required in the taking of the deposition;

23 (3) The reasonableness of the charge made by the
24 **certified court** reporter; **and**

25 (4) [The availability of stenographers or shorthand
26 reporters in the area where the deposition is taken;

27 (5)] Charges made by other [stenographers or
28 shorthand] **certified court** reporters in the community.

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