

FIRST REGULAR SESSION

HOUSE BILL NO. 423

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE OVERCAST.

1391H.01I

DANA RADEMAN MILLER, Chief Clerk

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Section A. Sections 492.340, 492.350, 492.540, and 492.590, RSMo, are repealed
2 and five new sections enacted in lieu thereof, to be known as sections 485.160, 492.340,
3 492.350, 492.540, and 492.590, to read as follows:

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

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

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (b) The court reporting firm recruits a resident of this state through an
16 intermediary located inside or outside of this state to provide court reporting services or
17 other related services in this state;

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

21 2. Any person who:

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

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

26 (3) Violates this section

27

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

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

32 4. A person shall not assume or use the title or designation "court reporter",
33 "court recorder", or "shorthand reporter", or any abbreviation, title, designation,
34 words, letters, sign, card, or device tending to indicate that the person is a court
35 reporter, court recorder, or shorthand reporter, unless the person is certified as a
36 certified court reporter by the board. Nothing in this subsection shall be construed to
37 sanction or prohibit the use of electronic recording equipment operated within the
38 courtroom according to supreme court rules.

39 5. Any person who holds a license as a certified court reporter from the board
40 who knowingly signs and affixes his or her signature and license number to a transcript
41 for which he or she was not personally present and did not personally report
42 stenographically by machine or voice the proceedings reflected in the transcript is guilty
43 of a class A misdemeanor. Each transcript violation is a separate offense. Nothing in
44 this section shall be construed to sanction or prohibit the transcription methods used in
45 conjunction with the use of electronic recording equipment operated within the
46 courtroom according to the supreme court rules.

47 6. The provisions of subsections 2 to 5 of this section are applicable to a court
48 reporting firm. The court may enforce subsections 2 to 5 of this section by assessing a
49 reasonable fee against a court reporting firm.

50 7. This section shall not apply to court reporting services performed outside of
51 this state by a foreign court reporter who is not certified in this state for use in a court

52 proceeding in this state, provided that the work resulting from those services is
53 produced and billed wholly outside of this state.

54 8. A certified court reporter or court reporting firm shall not enter into or
55 provide services under any contractual agreement, written or oral, exclusive or
56 nonexclusive, that:

57 (1) Undermines the impartiality of the certified court reporter or that may result
58 in the appearance that the impartiality of the certified court reporter has been
59 compromised;

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

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

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

65 (5) Specifies fixed prices to perform court reporting services in two or more
66 actions or for future court reporting services whether or not the services are actually
67 requested.

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

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

492.350. To every deposition or examination, taken by virtue of sections 492.080 to
2 492.400 shall be appended the certificate of the ~~[person or officer by or]~~ **certified court**
3 **reporter** before whom the same shall be taken, showing that the deposition or examination
4 was **reported stenographically by machine or voice and** reduced to writing in his **or her**
5 presence, and was subscribed and sworn to by the witnesses, and the place at which, and the

6 days, and within the hours, when the same was taken, **and shall include the certified court reporter's license number.**

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

492.590. 1. The costs and expenses of depositions, whether originals or copies, or related **certified** court reporter, notarial, or other fees of recording the same, shall be awarded as a judgment in favor of the party or parties requesting the same, and collected in the manner provided by section ~~[514.469]~~ **488.432**. Any party incurring any such costs or expenses may request the taxing of such costs or expenses actually incurred by that party whether or not such depositions were taken at the instance of that party or some other party to the suit or suits ~~[; provided, however, that any judgment awarded for copies of depositions shall be limited to the cost of one copy per party, except upon leave of court].~~

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

- (1) The relevancy and probative value of the testimony offered by deponent;
- (2) The time required in the taking of the deposition;
- (3) The reasonableness of the charge made by the **certified court** reporter; **and**
- (4) ~~[The availability of stenographers or shorthand reporters in the area where the deposition is taken;~~
- ~~(5)]~~ Charges made by other ~~[stenographers or shorthand]~~ **certified court** reporters in the community.

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