

1 SB139
2 204335-1
3 By Senator Livingston
4 RFD: Governmental Affairs
5 First Read: 06-FEB-20

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8 SYNOPSIS: Under existing law, the Alabama Board of
9 Court Reporting is responsible for the regulation
10 of the practice of court reporting in the state.

11 This bill would provide further for the
12 definitions of freelance court reporter, official
13 court reporter, and supervising court reporter.

14 This bill would require a court reporter,
15 when on assignment, to produce his or her license
16 upon request.

17 This bill would provide further for the
18 authority of the board to hire staff.

19 This bill would provide further for the
20 investigation of and hearings regarding complaints
21 pursuant to the Administrative Procedure Act, and
22 penalties for violations.

23 This bill would provide further for the
24 qualifications for licensure and temporary
25 licensure and practice pursuant to a temporary
26 license.

1 This bill would provide further for
2 requirements and procedures relating to lapsed and
3 expired licenses.

4 This bill would also provide further for the
5 fees that may be charged by the board.

6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To amend Sections 34-8B-2, 34-8B-3, 34-8B-4,
12 34-8B-5, 34-8B-6, 34-8B-8, 34-8B-10, 34-8B-12, 34-8B-13,
13 34-8B-15, 34-8B-16, and 34-8B-17, Code of Alabama 1975,
14 relating to the Alabama Board of Court Reporting; to provide
15 further for the definitions of freelance, official, and
16 supervising court reporters; to require a court reporter to
17 produce his or her license upon request when on assignment; to
18 provide further for the authority of the board to hire staff;
19 to provide further for the investigation of and hearings
20 regarding complaints pursuant to the Administrative Procedure
21 Act; to provide penalties for violations; to provide further
22 for the qualifications for licensure and temporary licensure;
23 to provide further for practice pursuant to a temporary
24 license; to provide further for requirements and procedures
25 relating to lapsed and expired licenses; and to provide
26 further for the fees that may be charged by the board.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 34-8B-2, 34-8B-3, 34-8B-4,
2 34-8B-5, 34-8B-6, 34-8B-8, 34-8B-10, 34-8B-12, 34-8B-13,
3 34-8B-15, 34-8B-16, and 34-8B-17 of the Code of Alabama 1975,
4 are amended to read as follows:

5 "§34-8B-2.

6 "As used in this chapter, the following terms shall
7 have the following meanings:

8 "(1) ACRA. The Alabama Court Reporters Association.

9 "(2) BOARD. The Alabama Board of Court Reporting.

10 "(3) CERTIFIED COURT REPORTER (C.C.R.). Any ~~person~~
11 individual licensed pursuant to this chapter to practice
12 verbatim reporting.

13 "(4) CERTIFIED SHORTHAND REPORTER (C.S.R.). A
14 designation of certification given by the Alabama Court
15 Reporters Association for its certified members.

16 "(5) COURT REPORTER. Any ~~person~~ individual who is
17 ~~engaged in the~~ licensed by the state to practice of court
18 reporting as a profession, including ~~persons~~ individuals who
19 actually report judicial proceedings in courts and ~~persons~~
20 individuals who make verbatim records.

21 "(6) COURT REPORTING. The making of a verbatim
22 record by means of manual shorthand via a pen writer, machine
23 shorthand via a steno machine, or closed microphone voice
24 dictation silencer via a steno mask, ~~or by other means of~~
25 ~~personal verbatim reporting of any testimony~~ given under oath
26 before, or for submission to, any court, referee, or court
27 examiner or by any board, commission, or other body, or in any

1 other proceeding where a verbatim record is required. The
2 taking of a deposition is the making of a verbatim record.

3 "(7) CVR. Certified verbatim reporter.

4 "(8) FISCAL YEAR. October 1 through September 30.

5 "(9) FREELANCE COURT REPORTER. A court reporter who
6 works as an independent contractor or for a court reporting
7 agency, or both, who may be hired by a law firm, an attorney,
8 a corporation, or other organization.

9 "~~(9)~~ (10) FUND. The Alabama Board of Court Reporting
10 Fund.

11 "~~(10)~~ (11) NCRA. The National Court Reporters
12 Association.

13 "~~(11)~~ (12) NVRA. The National Verbatim Reporters
14 Association.

15 "(13) OFFICIAL COURT REPORTER. A court reporter who
16 is appointed by a judge to produce and maintain a verbatim
17 record of the matters adjudicated by that judge.

18 "~~(12)~~ (14) RPR. Registered professional reporter.

19 "~~(13)~~ (15) SECRETARY. ~~A person~~ An individual selected
20 by the board to serve as secretary of the board.

21 "(16) SUPERVISING COURT REPORTER. A freelance court
22 reporter approved by the board to provide direct supervision
23 of the practice of court reporting by a temporary licensee.

24 "§34-8B-3.

25 "No person, except as otherwise provided by law,
26 shall practice or attempt to practice court reporting in this
27 state or hold himself or herself out as a court reporter

1 unless the person is a licensed court reporter. When on
2 assignment, a court reporter shall promptly produce his or her
3 legible and current license upon request.

4 "§34-8B-4.

5 "(a) There is created the Alabama Board of Court
6 Reporting. ~~The board shall be operative within 60 days of June~~
7 ~~1, 2006. ACRA shall provide administrative support to the~~
8 ~~board until such time as the board employs sufficient~~
9 ~~employees to implement and administer this chapter.~~

10 "(b) The board shall consist of seven members as
11 follows:

12 "(1) Four court reporters certified by ABCR, NCRA,
13 NVRA, or by the board, two of whom shall be employed in
14 official capacities and two of whom shall be employed in a
15 freelance setting.

16 "(2) Two members in good standing with the Alabama
17 State Bar Association.

18 "(3) One additional member.

19 "(c) Appointments to the board shall be made as
20 follows:

21 "(1) The Governor shall appoint one official court
22 reporter, one freelance court reporter, and one member of the
23 Alabama State Bar Association. ACRA, NCRA, NVRA, and the
24 Alabama State Bar Association shall respectively submit a list
25 of three names for each appointment to the Governor for
26 consideration.

1 "(2) The Lieutenant Governor shall appoint one
2 member of the Alabama State Bar Association from a list of
3 three names submitted by the Alabama State Bar Association.

4 "(3) The President Pro Tempore of the Senate shall
5 appoint one member who is an official court reporter from a
6 list of three names submitted by ACRA.

7 "(4) The Speaker of the House of Representatives
8 shall appoint one member who is a freelance court reporter
9 from a list of three names submitted by ACRA.

10 "(5) The Chief Justice of the Alabama Supreme Court
11 shall appoint one member from a list of three names submitted
12 by the Administrative Office of Courts.

13 "(d) All members of the board shall be citizens of
14 the United States and residents of the State of Alabama. The
15 lists of names for consideration for appointment to the board
16 shall be submitted to the board by the designated
17 organizations ~~on or before June 1, 2006. The initial terms~~
18 ~~shall begin January 1, 2007, and all appointments shall be~~
19 ~~made prior to January 1 of every year.~~

20 "~~(e) The initial members shall serve the following~~
21 ~~terms as designated by the Governor:~~

22 "~~(1) Three members shall serve for two years.~~

23 "~~(2) Two members shall serve for three years.~~

24 "~~(3) Two members shall serve for four years.~~

25 "~~(f) Subsequent terms~~ (e) Terms of office shall be
26 for four years. No member shall serve more than two
27 consecutive terms. In the event of a vacancy, the appointing

1 authority for the position shall fill the vacancy. Each member
2 shall serve until his or her successor is duly appointed and
3 qualified.

4 ~~"(g) The membership of the board shall be inclusive
5 and reflect the racial, gender, geographic, urban/rural and
6 economic diversity of the state. The board shall annually
7 report to the Legislature by the second legislative day of
8 each regular session to what extent the board has complied
9 with the diversity provisions provided for in this subsection.~~

10 "(f) All appointing authorities shall coordinate
11 their appointments so that diversity of gender, race, and
12 geographical areas is reflective of the makeup of this state.

13 ~~"(h)(g) At its first meeting each calendar year, the~~
14 board shall elect a chair, vice chair, and secretary from its
15 membership. No member shall be elected to serve more than two
16 consecutive years in the same office.

17 ~~"(i) After the initial appointments have been made,~~
18 ~~the board shall meet by January 2007, for the purpose of~~
19 ~~organizing and transacting business. Thereafter, the (h) The~~
20 board shall meet not less than twice annually and as
21 frequently as deemed necessary by the chair or a majority of
22 the members for the purpose of transacting business. The board
23 shall meet at such time and place as designated by the board.
24 A quorum shall consist of four members.

25 "(i) The board shall employ and compensate
26 sufficient employees including, but not limited to, an
27 executive director, consultants, attorneys, and investigators,

1 under contract or on a part-time basis and without regard to
2 the State Merit System, to implement and administer this
3 chapter.

4 "(j) Board members shall receive the same travel
5 expenses and per diem as state employees pursuant to Article
6 2, commencing with Section 36-7-20, Chapter 7, Title 36. The
7 expenses shall be paid out of the funds of the board.
8 Reimbursement shall not be made if funds are insufficient.

9 "§34-8B-5.

10 "(a) The board shall have all of the following
11 duties and responsibilities:

12 "(1) Act on matters concerning competency licensure
13 only and the process of granting, denying, suspending,
14 reinstating, and revoking a license.

15 "(2) Establish a procedure for the investigation of
16 complaints against licensed court reporters and for the
17 conduct of hearings in which complaints are heard.

18 "(3) Set a fee schedule for granting licenses and
19 renewals of licenses subject to the Alabama Administrative
20 Procedure Act.

21 "(4) Maintain a current register of licensed court
22 reporters and a current register of temporarily licensed court
23 reporters. Registers shall be matters of public record.

24 "(5) Maintain a complete record of all proceedings
25 of the board.

26 "(6) Adopt continuing education requirements ~~no~~
27 ~~later than October 1, 2007. Requirements shall be implemented~~

1 ~~no later than January 1, 2008, and, which~~ shall include all
2 courses approved by the Alabama State Bar for continuing legal
3 education.

4 "(7) Determine the content of and administer
5 examinations to be given to applicants for licensure as
6 certified court reporters and issue numbered licenses to
7 applicants found qualified.

8 "(8) Maintain records of its proceedings and a
9 register of all ~~persons~~ individuals licensed by the board
10 which shall be a public record and open to inspection.

11 "(9) Adopt standards of professional conduct for
12 licensees.

13 "§34-8B-6.

14 "(a) On the verified complaint of any individual
15 that a court reporter has violated this chapter, the board
16 shall investigate the complaint and may bring an action in its
17 own name to hear and make a determination regarding the
18 complaint. All complaints shall be in writing, signed by the
19 ~~person~~ individual making the complaint, and addressed to the
20 ~~chair~~ executive director of the board. All complaints shall
21 contain the name and address of the ~~person~~ individual against
22 whom the complaint is brought and a description of the conduct
23 giving rise to the complaint. ~~Complaints shall be submitted~~
24 ~~within 90 days of such conduct and a~~ A copy of the complaint
25 shall be provided to the ~~licensed~~ court reporter within five
26 business days of receipt by the board. The copy shall be sent
27 by certified mail or by such other means of delivery to ensure

1 that the ~~licensed~~ court reporter charged in the complaint
2 shall receive actual notice. After investigation of the
3 charges, the board shall ~~conduct a hearing at which time it~~
4 ~~may dismiss the charges,~~ determine if a hearing is warranted,
5 dismiss the complaint, issue a reprimand, or take other action
6 to resolve the complaint by agreement. Any hearing deemed
7 warranted shall be conducted in accordance with the Alabama
8 Administrative Procedure Act, Chapter 22, Title 41. The board
9 may issue subpoenas, compel the attendance of witnesses, and
10 administer oaths to individuals giving testimony at hearings.
11 Upon a finding that a violation has occurred, the board may
12 refuse to issue a license, may impose a fine not to exceed one
13 thousand dollars (\$1,000) per violation, or may issue a
14 reprimand or letter of instruction, place the licensee on
15 probation, or revoke or suspend the license of the licensee.

16 " (b) The licensee may appeal ~~a~~ an adverse decision
17 of the board ~~imposing an administrative fine or revoking or~~
18 ~~suspending a license~~ by submitting a written request to the
19 board for reconsideration within ~~90~~ 30 days following the
20 adverse decision of the board. ~~If no resolution is achieved,~~
21 ~~further appeals shall be submitted to the circuit court in the~~
22 ~~jurisdiction of the residence of the licensee~~ Appeals from a
23 board decision following a request for reconsideration, or
24 from a final decision of the board, shall lie with the Circuit
25 Court of Montgomery County, in accordance with the Alabama
26 Administrative Procedure Act. The filing of the request for
27 reconsideration shall be at the option of either party and may

1 not be deemed as a prerequisite to, or hindrance of, the right
2 of a party to judicial review of a board decision in
3 accordance with the Alabama Administrative Procedure Act.

4 "(c) Any licensee whose application for licensure
5 or for renewal of licensure was denied, or whose license was
6 revoked, may reapply after 12 months have elapsed. The board
7 may then reissue a license or rescind any disciplinary action
8 if a majority of the members vote in favor of the action.

9 "§34-8B-8.

10 "After January 1, 2007, any ~~person~~ individual who
11 undertakes or attempts to undertake the practice of court
12 reporting for remuneration without first having procured a
13 license, or who knowingly presents or files false information
14 with the board for the purpose of obtaining a license or who
15 violates this chapter, upon conviction, shall be guilty of a
16 Class C misdemeanor. ~~A person~~ An individual who is not
17 licensed may not bring or maintain an action to recover fees
18 for court reporting services that he or she performed in
19 violation of this chapter. Whenever it appears to the board
20 that any ~~court reporter~~ individual has violated this chapter,
21 the board ~~may, in its own name, petition the circuit court of~~
22 ~~the county in which the violation occurred~~ may apply to any
23 court of competent jurisdiction to enjoin the violation.
24 Injunctions under this section shall be applied for in
25 accordance with the civil remedies and procedures provided in
26 Article 10, commencing with Section 6-6-500, of Chapter 6,
27 Title 6, and the Alabama Rules of Civil Procedure. An

1 application for an injunction under this section shall be in
2 addition to and not in lieu of all penalties and other
3 remedies provided in this chapter or any right of criminal
4 prosecution otherwise provided by law.

5 "§34-8B-10.

6 "(a) (1) To be licensed as a court reporter, an
7 applicant shall be a United States citizen or, if not a
8 citizen of the United States, ~~a person~~ an individual who is
9 legally present in the United States with appropriate
10 documentation from the federal government, and shall satisfy
11 either of the following requirements:

12 "a. Pass both ~~pass~~ the Written Knowledge Examination
13 administered by the ~~board,~~ ACRA, NCRA, or NVRA, and ~~shall pass~~
14 an Alabama skills examination ~~or provide.~~

15 "b. Provide documentation of having passed the NCRA
16 Registered Professional Reporter Examination or NVRA CVR
17 Examination.

18 "(2) The board shall ~~examine or establish, or both,~~
19 examination and testing procedures to enable the board to
20 ascertain the competency of applicants for licensure. ~~Each~~
21 ~~such skills examination shall be given at least twice each~~
22 ~~calendar year.~~ Applications for licensure shall be signed and
23 sworn by the applicants and submitted on forms furnished by
24 the board. An applicant who furnishes the board with
25 satisfactory proof of graduation from a court reporting
26 program or its equivalent ~~shall,~~ upon payment of a reasonable
27 fee in an amount determined by the board, ~~be examined by the~~

1 ~~board. All applicants who are found qualified to engage in the~~
2 ~~practice of court reporting pursuant to this chapter shall and~~
3 ~~proof of passage of the required examinations, shall be issued~~
4 a license as a certified court reporter and an identifying
5 number. The license shall be valid until September 30th of the
6 year of its issuance.

7 "(b) No certified court reporter may authorize the
8 use of his or her license number on any transcript not
9 produced through his or her personal effort or supervision, or
10 both. Violation of this subsection may be grounds for license
11 suspension or revocation.

12 ~~"(c) The board shall hold at least two reporter~~
13 ~~examinations each year and may hold such additional~~
14 ~~examinations as are necessary. The secretary shall give public~~
15 ~~notice of the time and place of each examination at least 120~~
16 ~~days prior to the date set for the examination. Any person~~
17 ~~desiring to take the examination shall file his or her~~
18 ~~application with the board at least 30 days prior to the date~~
19 ~~of the examination. The preparation, administration, and~~
20 ~~grading of the examination shall be governed by the rules~~
21 ~~prescribed by the board, but the board may engage ACRA to~~
22 ~~conduct the examination under the supervision of the board.~~
23 ~~Upon determining the results of the examination, the board~~
24 ~~shall notify each applicant as to whether the applicant has~~
25 ~~passed the examination. Notification shall be by written~~
26 ~~notice mailed to the applicant by certified mail to the~~
27 ~~applicant's address as indicated on the application.~~

1 "§34-8B-12.

2 "The annual fees for licensure pursuant to this
3 chapter shall be established by the board and shall cover a
4 12-month period beginning October 1 of each year. All fees
5 collected by the board shall be paid into the State Treasury
6 to the credit of the Board of Court Reporting Fund which is
7 hereby created. Moneys in the fund shall be subject to
8 withdrawal only upon warrant of the state Comptroller ~~to be~~
9 ~~issued upon certification of the secretary.~~ Any funds
10 remaining in the fund at the end of each fiscal year in excess
11 of two hundred fifty thousand dollars (\$250,000), shall be
12 available to the board to provide for the education and
13 training of court reporters. At all times the board shall
14 retain a sum not in excess of two hundred fifty thousand
15 dollars (\$250,000), to meet any emergency which may affect the
16 efficient operation of the board. No funds shall be withdrawn
17 or expended except as budgeted and allocated pursuant to this
18 chapter and only in amounts as stipulated in the general
19 appropriations bill or other appropriations bills.

20 "§34-8B-13.

21 "(a) Each ~~person~~ individual licensed pursuant to
22 this chapter shall apply for renewal of his or her license
23 pursuant to dates established by the board. A renewal fee in
24 an amount determined by the board shall be paid and thereupon
25 the board shall issue a numbered license establishing that the
26 holder is entitled to practice court reporting for the period
27 determined by the board. The board shall require specific

1 continuing education as a condition for license renewal. The
2 board may provide for the late renewal of a license which has
3 lapsed and may require the payment of a late fee or an
4 examination, or both, prior to issuing a renewal license. It
5 shall be unlawful for any individual to practice or attempt to
6 practice court reporting in this state during the time his or
7 her license to practice has lapsed, and upon a finding that a
8 violation has occurred, the individual shall be subject to
9 disciplinary action by the board pursuant to the Alabama
10 Administrative Procedure Act.

11 "(b) Failure to renew a lapsed license within the
12 period for late renewal established by board rule shall result
13 in an expired license. An expired license may not be
14 reinstated until the applicant has paid all delinquent fees
15 and satisfied all certification requirements, including
16 passage of the Written Knowledge Examination and skills
17 examination as required by the board, and any additional
18 requirements imposed by board rule. The holder of an expired
19 license shall cease and desist the practice of court reporting
20 immediately upon the expiration of his or her license, and the
21 board may not be held liable for lost income to the holder of
22 the expired license or to his or her employer. Upon a finding
23 that a violation has occurred, an individual who practices
24 court reporting under an expired license shall be subject to
25 disciplinary action by the board pursuant to the Alabama
26 Administrative Procedure Act.

1 "(c) Licensees shall notify the board in writing of
2 any change in their name, of address, or employer within 30
3 days of the change. Failure to notify the board of such change
4 may subject a licensee to disciplinary action imposed pursuant
5 to board rule.

6 "§34-8B-15.

7 "(a) (1) Commencing on August 1, 2012, any person Any
8 individual who is a graduate of a court reporting program may
9 apply to the board to receive a temporary license to practice
10 as a court reporter from the board. Application for the
11 temporary graduate license shall be made to the board, on
12 forms approved by the board, and the payment of a fee in an
13 amount determined by the board. The temporary license shall be
14 valid for 18 months from the date of issuance. An application
15 for a temporary license must be received by the board within
16 30 days after graduation from a school of court reporting and
17 may be subject to review and approval by the board, or a
18 subcommittee of the board, before a temporary license is
19 issued. The board may issue a six-month temporary license to
20 any applicant who satisfies all of the following requirements:

21 "a. Submits proof to the board of graduation from a
22 school of court reporting.

23 "b. Submits proof to the board of passage of at
24 least one section of the skills examination required under
25 Section 34-8B-10.

1 "c. Submits to the board completed application forms
2 for both the applicant and the supervising court reporter, on
3 forms approved by the board.

4 "d. Submits to the board payment of temporary
5 license fees and application fees for both the applicant and
6 the supervising court reporter, as established by rule of the
7 board.

8 "(2) A temporary licensee shall take the remaining
9 sections of the examination when offered by the ACRA, NCRA, or
10 NVRA and provide proof thereof to the board. Upon passage of
11 all sections of the examination, a temporary licensee shall be
12 required to apply for full licensure in accordance with
13 Section 34-8B-10.

14 "(b) The holder of a temporary license may only
15 provide court reporting services under the direct supervision
16 of a freelance court reporter, who shall assume responsibility
17 for the practice of court reporting by the temporary licensee.
18 The board, by rule, shall establish the responsibilities and
19 qualifications for a supervising court reporter and
20 requirements governing the practice of court reporting by a
21 temporary licensee. Any violation of this chapter or board
22 rule by a temporary licensee may also subject the supervising
23 court reporter to disciplinary action by the board pursuant to
24 the Alabama Administrative Procedure Act.

25 "(c) A temporary license shall be renewable only
26 once, for an additional six-month period, if the temporary

1 licensee fails to pass the examination for full licensure by
2 the end of the initial six-month licensure period.

3 ~~"(b)(d)~~ (d) In the event that a temporary license
4 expires at the end of the 12-month period without the
5 temporary licensee having passed the examination for full
6 licensure, ~~court reporting services~~ by the temporary licensee
7 shall immediately cease and desist ~~immediately upon the~~
8 ~~expiration of the temporary license~~ the practice of court
9 reporting, and the board may not be held liable for lost
10 income to the temporary licensee or to the employer of the
11 temporary licensee ~~court reporting firm.~~

12 "(e) A temporary licensee may not serve as an
13 official court reporter, and an official court reporter may
14 not serve as a supervising court reporter.

15 "§34-8B-16.

16 "The board, by rule, shall establish an inactive
17 status for ~~persons~~ individuals who are not actively engaged in
18 the practice of court reporting, including related
19 requirements and fees.

20 "§34-8B-17.

21 "All moneys collected pursuant to this chapter shall
22 be deposited into the Board of Court Reporting Fund. All
23 expenses incurred by the board in implementing and
24 administering this chapter shall be paid out of the fund,
25 provided that the expenses of the board shall not be in excess
26 of the moneys in the fund. The board may charge and collect
27 the following fees which shall be deposited into the fund:

1 "~~(1) An A license application fee for any temporary~~
2 ~~or regular license.~~

3 "~~(2) An examination fee.~~

4 "~~(3) (2) A license renewal fee for any temporary or~~
5 ~~regular license.~~

6 "~~(4) (3) A reinstatement fee for any application for~~
7 ~~reinstatement of a temporary or regular license which has been~~
8 ~~placed on inactive status, revoked or suspended.~~

9 "~~(5) (4) A fee for the renewal of a license after the~~
10 ~~due date which shall be increased 20 percent for each month or~~
11 ~~fraction thereof that payment is delayed, unless the delay is~~
12 ~~caused by conditions resulting from additional requirements~~
13 ~~imposed by the board. Notwithstanding the foregoing,~~
14 ~~delinquency of more than 60 days shall result in revocation of~~
15 ~~licenseure an expired license.~~

16 "~~(6) (5) A change of information fee.~~

17 "~~(7) (6) Necessary administrative fees including, but~~
18 ~~not limited to, reasonable costs for copying, labels, and~~
19 ~~lists, replacing licenses, and verifying licensure.~~"

20 Section 2. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law.