

**H. B. 4294**

(By Delegates Ashley, Westfall, Manchin,  
Hunt, Skinner, Ellem, McCuskey, Shott, Morgan,  
Craig and Lane)

[Introduced January 24, 2014; referred to the  
Committee on the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto four new sections, designated §47-27-1,  
§47-27-2, §47-27-3 and §47-27-4, all relating to the  
establishment of standards for court reporters and entities  
that provide court reporting services; providing certain  
conduct by court reporters and persons utilizing court  
reporters; exempting certain reporters and reporting services;  
authorizing disclosure of certain information on certain  
practices; and creating civil penalties for violations.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended  
by adding thereto a new article, designated §47-27-1, §47-27-2,  
§47-27-3 and §47-27-4, all to read as follows:

**ARTICLE 27. COURT REPORTER SERVICES.**

**§47-27-1. Fair trade standards for use of court reporter services.**

1       (a) The purpose of this article is to ensure the integrity of  
2 the use of court reporter services by establishing standards for  
3 private court reporters and entities that provide court-reporting  
4 services. It is declared the policy of the State of West Virginia  
5 that fair and impartial selection and use of court reporting  
6 services are an integral part of the equitable administration of  
7 justice.

8       (b) The provisions described in this section apply to court  
9 reporting services performed in this state that are:

10       (1) Provided by a court reporter, business, entity or firm,  
11 wherever based, in connection with a court or other legal  
12 proceeding commenced or maintained in this state;

13       (2) Provided by a court reporter, business, entity or firm  
14 based in this state in connection with a court or other legal  
15 proceeding that is commenced or maintained in a foreign  
16 jurisdiction; and

17       (3) Provided by a court reporter, business, entity or firm  
18 based in this state whether the parties appear in person or by  
19 remote means.

20       (c) The provisions of this article do not apply to the actions  
21 of official court reporters or their substitutes, appointed by  
22 judges pursuant to section one, article seven, chapter fifty-one of  
23 this code, or reporters of government proceedings not relating to  
24 a legal proceeding. A legal proceeding includes, but is not limited

1 to, the following:

2 (1) A court proceeding;

3 (2) A deposition; and

4 (3) An arbitration hearing.

5 (d) Court reporters, businesses, entities or firms providing  
6 or arranging for court reporting services are subject to the  
7 provisions of this section even if the businesses, entities or  
8 firms are not subject to registration or other regulatory oversight  
9 in the state.

10 **§47-27-2. Prohibited conduct.**

11 (a) A legal proceeding may not be reported by:

12 (1) An individual who engages in a prohibited action as  
13 provided in this section:

14 (2) A party to the action;

15 (3) A relative, employee or attorney of one of the parties;

16 (4) Someone with a financial interest in the action or its  
17 outcome; or

18 (5) A relative, employee or attorney of someone with a  
19 financial interest in the action or its outcome.

20 (b) Court reporters or businesses, entities or firms that  
21 provide or arrange for court reporting services may not:

22 (1) Give an economic or other advantage to a party, a party's  
23 attorney, representative, agent, insurer or employee without  
24 offering it to all parties. This includes failing to offer

1 comparable services, including price or credit terms, to all  
2 parties or otherwise requiring the court reporter or entity  
3 providing court reporting services to provide financial terms or  
4 other services that are not offered at the same time and on the  
5 same terms to all other parties in the legal proceeding. Different  
6 credit terms can be offered based on payment experience and credit  
7 worthiness.

8       (2) Base the compensation for the court reporting services on  
9 the outcome of the proceeding or otherwise giving the court  
10 reporter or court reporting business, entity or firm a financial  
11 interest in the action. Court reporters or businesses, entities or  
12 firms providing or arranging for court reporting services may not  
13 offer or provide court reporting services where payment for those  
14 services will be made contingent on the outcome of the action.

15       (3) Enter into an agreement for court reporting services that  
16 restricts the noticing attorney from using the court reporter or  
17 entity providing court reporting services of the attorney's  
18 choosing, including a court reporter or business, entity, firm or  
19 third-party in interest in litigation providing or arranging for  
20 court reporter services on any list of preferred providers of court  
21 reporting services that is maintained by a person, business,  
22 entity, firm or third-party in interest in litigation that has  
23 entered into an oral or written contractual agreement for more than  
24 one case, action or proceeding with an attorney, party to an

1 action, insurance company, third-party administrator or other  
2 person or entity that has a financial interest in the case, action,  
3 or proceeding.

4 (4) Allow the format, content or body of the transcript as  
5 certified by the court reporter to be manipulated in a manner that  
6 increases the cost of the transcript.

7 **§47-27-3. Disclosure and limitations on practices.**

8 (a) (1) At any time during or following the conclusion of a  
9 legal proceeding, an attorney or a party to that proceeding has the  
10 right to an itemized statement of all rates and charges for all  
11 services that have been or will be provided by the court reporter  
12 or business, entity or firm providing or arranging for court  
13 reporting services to any party to the litigation.

14 **§47-27-4. Penalties for violations; civil actions; and damages.**

15 (a) Upon finding a violation or violations of the provisions  
16 of sections one, two or three of this article, a court may order a  
17 transcript of a legal proceeding to be void and ineligible for  
18 admission into a court or for use or submission in any legal or  
19 administrative proceeding as a matter of law.

20 (b) A court reporter, business, entity or firm that provides  
21 or arranges for court reporting services which violate the  
22 prohibitions of sections one, two or three of this article is  
23 subject to civil penalty in a court of competent jurisdiction as  
24 follows:

1       Any party to a civil action, a court reporter, attorney or  
2 other person who has been subject to a violation of the provisions  
3 of sections one, two or three of this article, may recover a civil  
4 penalty for any willful violation of this section and the court  
5 shall assess a civil penalty of no less than \$2,500 for each  
6 violation, and if the court finds that the defendant has engaged in  
7 a course of repeated and willful violations of this section, it may  
8 assess a civil penalty of up to \$5,000 for each violation of this  
9 section.

NOTE: The purpose of this bill is to establish standards for court reporters and entities that provide court reporting services.

This article is new; therefore, it has been completely underscored.