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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2014

HB 4294

ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4294

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

Passed March 8, 2014

In effect ninety days from passage.

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H. B. 4294

(BY DELEGATES ASHLEY, WESTFALL, MANCHIN, HUNT, SKINNER,
ELLEM, MCCUSKEY, SHOTT, MORGAN, CRAIG AND LANE)

[Passed March 8, 2014; in effect ninety days from passage.]

AN ACT 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 providing court reporting services; prohibiting certain conduct by court reporters and persons utilizing or arranging for court reporting services; exempting certain court reporters and court reporting services; authorizing disclosure and certification of certain information; 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:

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ARTICLE 27. COURT REPORTER SERVICES.

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

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

8 (b) For purposes of this article, "court reporter" means
9 private court reporters providing court reporting services, as well
10 as businesses, entities or firms that provide or arrange for court
11 reporting services, and "original transcript" means the original
12 transcription requested by a party along with a certified copy of
13 same for purposes of filing with a court.

14 (c) The provisions described in this article apply to court
15 reporting services performed in this state that are:

16 (1) Provided by a court reporter, wherever based, in
17 connection with a legal proceeding commenced or maintained in
18 this state; and

19 (2) Provided by a court reporter based in this state, whether
20 the parties appear in person or by remote means.

21 (d) The provisions of this article do not apply to the conduct
22 of official court reporters or their substitutes, appointed by
23 judges pursuant to section one, article seven, chapter fifty-one of
24 this code, when acting in their official capacities, reporters of
25 government proceedings not relating to a legal proceeding, local
26 or federal courts, providing real-time services for hard-of-
27 hearing litigants, the provision of pro bono services to litigants
28 who would qualify for the same through West Virginia Legal
29 Aid or other similar organizations, workers' compensation
30 proceedings or legal proceedings recorded with sound-and-visual

31 ~~defined~~. A legal proceeding includes, but is not limited to, the
32 following:

- 33 (1) A court proceeding;
- 34 (2) A deposition;
- 35 (3) An arbitration hearing; and
- 36 (4) An examination under oath.

37 (e) Court reporters, businesses, entities, insurers or firms
38 providing or arranging for court reporting services are subject to
39 the provisions of this section even if the businesses, entities,
40 insurers or firms are not subject to registration or other
41 regulatory oversight in the state.

§47-27-2. Prohibited conduct.

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

- 2 (1) An individual who engages in a prohibited action as
3 provided in this section;
- 4 (2) A party to the action;
- 5 (3) A relative, employee or attorney of one of the parties;
- 6 (4) Someone with a financial interest in the action or its
7 outcome; or
- 8 (5) A relative, employee or attorney of someone with a
9 financial interest in the action or its outcome.

10 (b) Court reporters may not:

- 11 (1) Base the compensation for the court reporting services on
12 the outcome of the proceeding or otherwise giving the court
13 reporter or court reporting business, entity or firm a financial
14 interest in the action. Court reporters or businesses, entities or
15 firms providing or arranging for court reporting services may not

16 offer or provide court reporting services where payment for
17 those services will be made contingent on the outcome of the
18 action.

19 (2) Enter into an agreement, whether formal or informal, for
20 court reporting services which restricts the noticing attorney or
21 party to a legal proceeding from selecting and using the court
22 reporter of his or her own choosing or otherwise requires the
23 noticing attorney or party to a legal proceeding to select or use
24 a court reporter not of his or her own choosing. Before accepting
25 an assignment for court reporting services, the court reporter is
26 obligated to make reasonable efforts to ascertain whether any
27 arrangement exists which is prohibited under this article.

28 (3) Allow the format, content or body of the transcript as
29 certified by the court reporter to be manipulated in a manner that
30 increases the cost of the transcript.

31 (4) Charge a fee for the electronic copy or paper copy of a
32 transcript that is more than fifty-five percent of the cost of the
33 original transcript, except by agreement of all parties to a legal
34 proceeding. This prohibition does not apply to real-time court
35 reporting services or accelerated transcript delivery requests
36 made by the party requesting a copy of the transcript when the
37 party requesting the original has not requested accelerated
38 delivery.

39 (5) Require the attorney purchasing the original or a copy of
40 the transcript to purchase extra services that were neither ordered
41 nor desired from the court reporter as a condition for the sale of
42 the transcript.

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

1 (a) Prior to the commencement of a legal proceeding, and at
2 any time during or following the conclusion of a legal
3 proceeding, an attorney or a party to that legal proceeding has
4 the right to an itemized statement of all rates and charges for all
5 services that have been or will be provided by the court reporter

6 or business, entity or firm providing or arranging for court
7 reporting services to any party to the legal proceeding.

8 (b) A court reporter shall certify on the certification page of
9 each transcript of a legal proceeding, the following: "I certify
10 that the attached transcript meets the requirements set forth
11 within article twenty-seven, chapter forty-seven of the West
12 Virginia Code."

13 (c) Each transcript of a legal proceeding shall conform to the
14 following minimum standards:

15 (1) No fewer than twenty-four typed lines on standard 8-1/2
16 by 11 inches pages.

17 (2) No fewer than nine characters to the typed inch.

18 (3) A full line of text shall be no less than fifty-six characters
19 and/or spaces unless timestamping is used, in which case no
20 fewer than forty-eight characters and/or spaces shall be used on
21 a full line of text.

22 (4) Timestamping may only be printed on a transcript under
23 any of the following circumstances: (A) when a deposition is
24 videotaped; (B) when requested by counsel on the record; and
25 (C) when a transcript will have not less than forty-eight
26 characters per line.

27 (5) The page numbers, headers and footers do not count as
28 a line of text. Line numbers and the spaces preceding text do not
29 count as a character.

30 (6) Each question and answer to begin on a separate line.

31 (7) Each question and answer to begin no more than five
32 spaces from the left-hand margin with no more than five spaces
33 from the question and answer to the text.

34 (8) Carry-over question and answer lines to begin at the left-
35 hand margin.

36 (9) Colloquy material to begin no more than fifteen spaces
37 from the left-hand margin, with carryover colloquy to the left-
38 hand margin. In colloquy, text shall begin no more than two
39 spaces after the colon following speaker identification.

40 (10) Quoted material to begin no more than fifteen spaces
41 from the left-hand margin, with carry-over lines to begin no
42 more than ten spaces from the left-hand margin.

43 (11) Parentheticals and exhibit markings to begin no more
44 than fifteen spaces from the left-hand margin, with carry-over
45 lines to begin no more than fifteen spaces from the left-hand
46 margin.

47 (d) The provisions of sections one, two or three of this article
48 may not be waived or otherwise modified.

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

1 A court reporter or the entity that produces and bills for the
2 transcript which violates the provisions of sections two or three
3 of this article is subject to civil penalty in a court of competent
4 jurisdiction as follows: Any party to a civil action, a court
5 reporter, attorney or other person who has been subject to a
6 violation of the provisions of sections two or three of this article
7 may recover, payable to the prevailing party, a civil penalty for
8 any willful violation of this section and the court shall assess a
9 civil penalty of no less than \$2,500 for each violation: *Provided,*
10 That no more than one civil penalty under this section may be
11 assessed in any one matter pending before the court; and if the
12 court finds that the court reporter has engaged in a course of
13 repeated and willful violations of this section, it may assess an
14 additional civil penalty of up to \$5,000 for each violation of this
15 section. For any action filed pursuant to this section, the court,
16 in its discretion, may award all or a portion of the costs of
17 litigation, including reasonable attorney fees, court costs and
18 fees, to the prevailing party.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Danny Wells

Chairman, House Committee

[Signature]
Member ~~Chairman~~, Senate Committee

Originating in the House.

In effect ninety days from passage.

Gregory M. Sawyer

Clerk of the House of Delegates

Joseph M. Minard

Clerk of the Senate

Steve Hoyer

Speaker of the House of Delegates

[Signature]

President of the Senate

The within is approved this the 28th
day of March, 2014.

Carl Ray Tomblin
Governor

PRESENTED TO THE GOVERNOR

MAR 28 2017

Time 10:45hr