

Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**SFA****BILL ANALYSIS**

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

House Bill 5604 (Substitute H-2 as passed by the House)  
Sponsor: Representative Ted Wallace  
House Committee: Judiciary  
Senate Committee: Judiciary

Date Completed: 5-19-98

### **CONTENT**

The bill would amend the Revised Judicature Act (RJA) to require court reporting firms and court reporters, recorders, and stenomask reporters, including those from out of State, to register with the State Court Administrative Office (SCAO); and to specify certain prohibitions and requirements for a court reporter, court recorder, stenomask reporter, or owner of a court reporting firm. The bill would not apply, however, to an official court stenographer, recorder, reporter, or stenomask reporter appointed under the RJA to serve in the probate, circuit, or district court while in the performance of his or her official duties, or to a court stenographer, recorder, reporter, or stenomask reporter appointed to serve in a municipal court while in the performance of his or her official duties.

The bill specifies that, "...the legislature does not intend to unduly interfere with fair competition between and among certified court reporters, court recorders, stenomask recorders, or court reporting firms, where that competition does not involve financial arrangements that tend to, or appear to, compromise that impartiality". The bill states that it "...is to be construed and applied in a manner consistent with this purpose".

#### **Registration**

Court reporting firms and court reporters, recorders, and stenomask reporters, including out-of-state firms, recorders, and reporters, would have to register with the SCAO by completing an application in a form adopted by the SCAO. Rules applicable to court reporters and court recorders also would apply to court reporting firms. If a court reporting firm or a court reporter, recorder, or stenomask reporter failed to comply with the registration requirement, the SCAO could assess a reasonable administrative fine that was prescribed by Supreme Court rule, that did not exceed \$500, and that was payable to the State General Fund.

#### **Prohibitions**

A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm could not provide or arrange to provide court reporting or recording services if he or she were a relative, employee, attorney, or counsel of any of the parties, or were a relative or employee of an attorney or counsel of any of the parties, without disclosing that familial relationship. A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm could not provide or arrange to provide court reporting or recording services if he or she were financially interested in the legal action.

A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm could not do any of the following:

- Enter into or arrange for any financial relationship that compromised the impartiality of court reporters, court recorders, or stenomask reporters or that could result in the appearance that impartiality had been compromised.
- Enter into a "blanket contract" with parties, litigants, attorneys, or their representatives unless parties to the action were informed of and consented in writing to the fees to be charged for original transcripts, copies of transcripts, and any other court services to be provided. (This prohibition would not apply to contracts for court reporting or recording services for the courts, agencies, or instrumentalities of local units of government, the State, or the United States.)
- Give, directly or indirectly, any incentive, reward, or anything else of value to attorneys, clients, or their representatives or agents, except for nominal items that did not exceed \$25 per transaction or \$100 in the aggregate per recipient each year.
- Charge more than two-thirds of the price of an original transcript for a copy of that transcript.

"Blanket contract" would mean a contract under which a court reporter, court recorder, stenomask reporter, or court reporting firm agreed to perform all court reporting or court recordings services for a client for two or more cases at a rate of compensation fixed in the contract.

### Requirements

A court reporter, court recorder, or stenomask reporter would have to do all of the following in the performance of his or her duties:

- Deliver a transcript or statement of facts to a client or court in a timely manner as determined by law, court order, or agreement of the parties.
- Produce an accurate transcript or statement of facts.
- Produce complete transcripts or statements of facts, unless an excerpt of a transcript was authorized by court order, agreement of the parties, or request of a party.
- Before accepting an assignment as an independent contractor or employee to provide court reporting or recording services, request information from the person, employer, or entity engaging his or her services as to the existence and nature of the contract between the person, employer, or entity and the client, in order to confirm that the contract was not a blanket contract in violation of the bill. A person, employer, or entity who was party to a blanket contract and who knowingly provided false information in reply to an inquiry required under the bill would be considered to have committed an act that was grounds for discipline or censure. (This provision would not apply to contracts for court reporting or recording services for the courts, agencies, or instrumentalities of local units of government, the State, or the United States.)
- Advertise or represent truthfully that he or she was a certified court reporter, court recorder, or stenomask reporter and that only a certified person would be making the record.
- Charge all parties or their attorneys to an action the same price for an original transcript or statement of facts and charge all parties or their attorneys the same price for a copy of a transcript or statement of facts or for like services performed in an action.
- Stay "on the record" during a deposition unless agreed to by all parties or their attorneys or unless otherwise ordered by the court.

### Enforcement

The SCAO would be responsible for enforcing the bill through the Court Recording and Reporting Board of Review or by other administrative means. Any violation of the bill's prohibitions, requirements, or registration provision would be cause for refusal of the SCAO's board of review to

issue renewal certificates to certified court reporters, court recorders, or stenomask reporters. Any willful violation of the bill would be grounds for discipline or censure or suspension or revocation of certification as a Michigan certified court reporter, court recorder, stenomask reporter, or court reporting firm.

Proposed MCL 600.1490-600.1494

Legislative Analyst: P. Affholter

**FISCAL IMPACT**

The State Court Administrative Office reports that additional responsibilities under the bill would result in new administrative costs; however, no specific costs have been provided.

Fiscal Analyst: B. Bowerman