

COURT REPORTER AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill amends provisions defining court reporter designations and professional standards. It clarifies the prohibition against conflict of interest, provides for the revocation of licensure for noncompliance, and makes technical changes.

Highlighted Provisions:

This bill:

- ▶ changes the designation from "shorthand reporter" to "court reporter";
- ▶ adds new definitions of "voice reporting" and "voice writing";
- ▶ allows for a new designation of "C.V.R." for voice reporters;
- ▶ reiterates the impartiality of court reporters; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-74-101, as enacted by Chapter 372, Laws of Utah 1997

58-74-102, as enacted by Chapter 372, Laws of Utah 1997

58-74-201, as enacted by Chapter 372, Laws of Utah 1997

58-74-301, as enacted by Chapter 372, Laws of Utah 1997

58-74-302, as enacted by Chapter 372, Laws of Utah 1997

58-74-501, as enacted by Chapter 372, Laws of Utah 1997

58-74-502, as enacted by Chapter 372, Laws of Utah 1997

78-56-102, as enacted by Chapter 372, Laws of Utah 1997

78-56-103, as renumbered and amended by Chapter 372, Laws of Utah 1997

78-56-104, as renumbered and amended by Chapter 372, Laws of Utah 1997

78-56-106, as enacted by Chapter 372, Laws of Utah 1997

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **58-74-101** is amended to read:

CHAPTER 74. CERTIFIED COURT REPORTERS LICENSING ACT

58-74-101. Title.

This chapter is known as the "Certified [~~Shorthand~~] Court Reporters Licensing Act."

Section 2. Section **58-74-102** is amended to read:

58-74-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Certified [~~Shorthand~~] Court Reporters Licensing Board created in Section 58-74-201.

(2) "Certified Shorthand Reporter" means any person licensed under this chapter who is engaged in the practice of shorthand reporting.

(3) "Certified court reporter" means any person who engages in the practice of court reporting who is:

(a) a shorthand reporter certified by the National Court Reporters Association; or

(b) a voice reporter certified by the National Verbatim Reporters Association.

(4) "Certified Voice Reporter" means any person licensed under this chapter who engages in the practice of voice reporting.

~~[(3)]~~ (5) "Official court reporter" means a certified shorthand reporter employed by the courts.

~~[(4)]~~ (6) "Official court transcriber" means a person certified in accordance with rules of the Judicial Council as competent to transcribe into written form an audio or video recording of

court proceedings.

(7) "Practice of court reporting" means the making of a verbatim record of any trial, legislative public hearing, state agency public hearing, deposition, examination before trial, hearing or proceeding before any grand jury, referee, board, commission, master or arbitrator, or other sworn testimony given under oath.

~~[(5)] (8) "Practice of shorthand reporting" means the practice of making a verbatim record, using symbols or abbreviations[, of any trial, proceeding, or hearing before any court, or before any referee, master, board, or commission of this state or its political subdivisions].~~

~~[(6) "Registered Professional Reporter" means any person who has successfully completed and passed the Registered Professional Reporter Examination of the National Court Reporters Association and holds a certificate from that organization to that effect.]~~

(9) "Practice of voice reporting" means the practice of making a verbatim record, using voice writing.

(10) "Voice writing" means the making of a verbatim record of the spoken word by means of repeating the words of the speaker into a device capable of either digital translation into English text or creation of a tape or digital recording.

~~[(7)] (11) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-74-501.~~

~~[(8)] (12) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-74-502 and as may be further defined by rule.~~

Section 3. Section **58-74-201** is amended to read:

58-74-201. Board.

(1) There is created the Certified ~~[Shorthand]~~ Court Reporters Licensing Board consisting of four persons licensed in accordance with this chapter and engaged as ~~[shorthand]~~ court reporters within this state continuously for at least five years previous to appointment and one member of the general public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent

or rotating basis to:

(a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(b) advise the division in its investigation of these complaints.

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer of an administrative proceeding concerning the complaint.

Section 4. Section **58-74-301** is amended to read:

58-74-301. Licensure required.

(1) A license is required to engage in the practice of [~~shorthand~~] court reporting.

(2) The division shall issue to any person who qualifies under this chapter a license to practice [~~shorthand reporting~~] as a certified court reporter.

Section 5. Section **58-74-302** is amended to read:

58-74-302. Qualifications for licensure.

(1) Each applicant for licensure as a certified [~~shorthand~~] court reporter under this chapter shall:

(a) be at least 18 years of age;

(b) be a citizen of the United States;

(c) submit an application in a form prescribed by the division;

(d) pay a fee determined by the department under Subsection 63-38-3(2);

(e) possess a high degree of skill and ability in the art of [~~shorthand~~] court reporting;

(f) produce satisfactory evidence of good moral character; and

(g) submit evidence that they have completed and passed the Registered Professional Reporter Examination of the National Court Reporters Association or the Certified Verbatim Reporter Examination of the National Verbatim Reporters Association.

(2) Any person granted a certificate to practice as a certified shorthand reporter [~~shall be known as a certified shorthand reporter and~~] may use the abbreviation[;] "C.S.R."[;] as long as [~~their~~] the person's certificate is current and valid.

(3) Any person granted a certificate to practice as a certified voice reporter may use the abbreviation "C.V.R." as long as the person's certificate is current and valid.

Section 6. Section **58-74-501** is amended to read:

58-74-501. Unlawful conduct.

(1) It is unlawful for any person not licensed in accordance with this chapter to assume the title or use the abbreviation C.S.R. or C.V.R. or any other similar words, letters, figures, or abbreviation to indicate that the person using ~~them~~ that title or abbreviation is a certified ~~shorthand~~ court reporter.

(2) Violation of this provision is a class A misdemeanor.

Section 7. Section **58-74-502** is amended to read:

58-74-502. Unprofessional conduct.

"Unprofessional conduct" includes:

(1) conduct unbecoming a person licensed as a certified ~~shorthand~~ court reporter or which is detrimental to the interests of the public;

(2) willful or negligent betrayal or disclosure of confidential information about which the licensee becomes knowledgeable as a result of or incidental to his practice as a licensee;

(3) false or deceptive representation of a licensee's skills, competence, capability, or resources as a certified ~~shorthand~~ court reporter;

(4) offering, undertaking, or agreeing to undertake an assignment as a certified ~~shorthand~~ court reporter for which the licensee is not qualified, for which the licensee cannot complete the assignment in a timely manner, or for which the licensee does not have the resources to complete the assignment as agreed in a professional manner;

(5) the use of any chemical, drug, or alcohol in any unlawful manner or in any manner which negatively affects the ability of the licensee to competently practice as a certified ~~shorthand~~ court reporter;

(6) willfully and intentionally making any false or fraudulent record in the performance of his duties as a certified ~~shorthand~~ court reporter;

(7) any conduct contrary to the recognized standards and ethics of the profession of a

certified [~~shorthand~~] court reporter;

(8) gross incompetence in practice as a certified [~~shorthand~~] court reporter;

(9) violation of any provision of this chapter, Section 78-56-104, or rules promulgated to regulate the practice of [~~shorthand~~] court reporters;

(10) conviction of a felony or any other crime which is considered by the board to represent activity detrimental to the public interest as that interest is reflected in the licensee continuing to practice as a certified [~~shorthand~~] court reporter; or

(11) attesting to or "signing off" on the transcript of any recorded proceeding unless that proceeding was recorded by that person while physically present at the proceeding or was personally transcribed by that person from an electronically recorded process.

Section 8. Section **78-56-102** is amended to read:

78-56-102. Definitions.

As used in this chapter:

(1) "Certified [~~Shorthand~~] court reporter" has the same meaning as in Title 58, Chapter 74, Certified [~~Shorthand~~] Court Reporters Licensing Act.

(2) "Folio" means 100 words. A number expressed as a numeral counts as one word; however, any portion of the last folio is not counted.

(3) "Official court reporter" means a certified [~~shorthand~~] court reporter employed by the courts.

(4) "Official court transcriber" means a person certified in accordance with rules of the Judicial Council as competent to transcribe into written form an audio or video recording of court proceedings.

Section 9. Section **78-56-103** is amended to read:

78-56-103. Appointment of reporters -- Eligibility -- Oath -- Bond -- Action on bond.

(1) A person may not be appointed to the position of court reporter nor act in the capacity of a court reporter in any court of record of this state, or before any referee, master, board, or commission of this state without a currently valid license from the Division of

Occupational and Professional Licensing as provided in Title 58, Chapter 74, Certified
[~~Shorthand~~] Court Reporters Licensing Act.

(2) Before any court reporter begins his duties, he shall:

(a) take, subscribe, and file the constitutional oath; and

(b) give a bond with sufficient surety, conditioned for the faithful performance of his duties, in the sum of \$2,500, or larger sum if ordered by the judge.

(3) The bond shall run to the state of Utah, but an action on it may be maintained by any person whose rights are affected by the failure of the reporter to perform his official duties.

Section 10. Section **78-56-104** is amended to read:

78-56-104. Court reporters -- Contract restrictions.

(1) Any contract for court reporting services, not related to a particular case or reporting incident, is prohibited between a court reporter or any other person with whom a court reporter has a principal and agency relationship and any attorney, party to an action, or party having a financial interest in an action. Negotiating or bidding reasonable fees, equal to all the parties, on a case-by-case basis may not be prohibited.

(2) A certified court reporter is an officer of the court whose impartiality shall remain beyond question.

~~[(2)]~~ (3) This section does not apply to the courts or the administrative tribunals of this state.

~~[(3)]~~ (4) Violation of this section shall be considered unprofessional conduct as provided in Sections 58-74-102 and 58-74-502, and shall be grounds for revocation of licensure only.

Section 11. Section **78-56-106** is amended to read:

78-56-106. Substitute reporters.

A certified [~~shorthand~~] court reporter other than an official court reporter may be assigned temporarily to the duties of an official court reporter in accordance with rules of the Judicial Council.