

1 SB387
2 199659-1
3 By Senator Livingston
4 RFD: Finance and Taxation General Fund
5 First Read: 07-MAY-19

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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 provide further for the
15 authority of the board to hire staff.

16 This bill would provide further for the
17 investigation of and hearings regarding complaints
18 pursuant to the Administrative Procedure Act, and
19 penalties for violations.

20 This bill would provide further for the
21 qualifications for licensure and temporary
22 licensure and practice pursuant to a temporary
23 license.

24 This bill would provide further for
25 requirements and procedures relating to lapsed and
26 expired licenses.

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

3
4 A BILL
5 TO BE ENTITLED
6 AN ACT

7
8 To amend Sections 34-8B-2, 34-8B-4, 34-8B-5,
9 34-8B-6, 34-8B-8, 34-8B-10, 34-8B-12, 34-8B-13, 34-8B-15,
10 34-8B-16, and 34-8B-17, Code of Alabama 1975, relating to the
11 Alabama Board of Court Reporting; to provide further for the
12 definitions of freelance, official, and supervising court
13 reporters; to provide further for the authority of the board
14 to hire staff; to provide further for the investigation of and
15 hearings regarding complaints pursuant to the Administrative
16 Procedure Act; to provide penalties for violations; to provide
17 further for the qualifications for licensure and temporary
18 licensure; to provide further for practice pursuant to a
19 temporary license; to provide further for requirements and
20 procedures relating to lapsed and expired licenses; and to
21 provide further for the fees that may be charged by the board.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Sections 34-8B-2, 34-8B-4, 34-8B-5,
24 34-8B-6, 34-8B-8, 34-8B-10, 34-8B-12, 34-8B-13, 34-8B-15,
25 34-8B-16, and 34-8B-17 of the Code of Alabama 1975, are
26 amended to read as follows:

27 "§34-8B-2.

1 "As used in this chapter, the following terms shall
2 have the following meanings:

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

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

5 "(3) CERTIFIED COURT REPORTER (C.C.R.). Any ~~person~~
6 individual licensed pursuant to this chapter to practice
7 verbatim reporting.

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

11 "(5) COURT REPORTER. Any ~~person~~ individual who is
12 engaged in the practice of court reporting as a profession,
13 including ~~persons~~ individuals who actually report judicial
14 proceedings in courts and ~~persons~~ individuals who make
15 verbatim records.

16 "(6) COURT REPORTING. The making of a verbatim
17 record by means of manual shorthand, machine shorthand, closed
18 microphone voice dictation silencer, or by other means of
19 personal verbatim reporting of any testimony given under oath
20 before, or for submission to, any court, referee, or court
21 examiner or by any board, commission, or other body, or in any
22 other proceeding where a verbatim record is required. The
23 taking of a deposition is the making of a verbatim record.

24 "(7) CVR. Certified verbatim reporter.

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

26 "(9) FREELANCE COURT REPORTER. A court reporter who
27 works as an independent contractor or for a court reporting

1 agency, or both, who may be hired by a law firm, an attorney,
2 a corporation, or other organization.

3 ~~"(9)~~ (10) FUND. The Alabama Board of Court Reporting
4 Fund.

5 ~~"(10)~~ (11) NCRA. The National Court Reporters
6 Association.

7 ~~"(11)~~ (12) NVRA. The National Verbatim Reporters
8 Association.

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

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

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

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

18 "§34-8B-4.

19 "(a) There is created the Alabama Board of Court
20 Reporting. ~~The board shall be operative within 60 days of June~~
21 ~~1, 2006. ACRA shall provide administrative support to the~~
22 ~~board until such time as the board employs sufficient~~
23 ~~employees to implement and administer this chapter.~~

24 "(b) The board shall consist of seven members as
25 follows:

26 "(1) Four court reporters certified by ABCR, NCRA,
27 NVRA, or by the board, two of whom shall be employed in

1 official capacities and two of whom shall be employed in a
2 freelance setting.

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

5 "(3) One additional member.

6 "(c) Appointments to the board shall be made as
7 follows:

8 "(1) The Governor shall appoint one official court
9 reporter, one freelance court reporter, and one member of the
10 Alabama State Bar Association. ACRA, NCRA, NVRA, and the
11 Alabama State Bar Association shall respectively submit a list
12 of three names for each appointment to the Governor for
13 consideration.

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

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

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

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

26 "(d) All members of the board shall be citizens of
27 the United States and residents of the State of Alabama. The

1 lists of names for consideration for appointment to the board
2 shall be submitted to the board by the designated
3 organizations ~~on or before June 1, 2006. The initial terms~~
4 ~~shall begin January 1, 2007, and all appointments shall be~~
5 ~~made prior to January 1 of every year.~~

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

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

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

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

11 ~~"(f) Subsequent terms~~ (e) Terms of office shall be
12 for four years. No member shall serve more than two
13 consecutive terms. In the event of a vacancy, the appointing
14 authority for the position shall fill the vacancy. Each member
15 shall serve until his or her successor is duly appointed and
16 qualified.

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

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

26 ~~"(h)(g)~~ At its first meeting each calendar year, the
27 board shall elect a chair, vice chair, and secretary from its

1 membership. No member shall be elected to serve more than two
2 consecutive years in the same office.

3 ~~"(i) After the initial appointments have been made,~~
4 ~~the board shall meet by January 2007, for the purpose of~~
5 ~~organizing and transacting business. Thereafter, the~~ (h) The
6 board shall meet not less than twice annually and as
7 frequently as deemed necessary by the chair or a majority of
8 the members for the purpose of transacting business. The board
9 shall meet at such time and place as designated by the board.
10 A quorum shall consist of four members.

11 "(i) The board shall employ and compensate
12 sufficient employees including, but not limited to, an
13 executive director, consultants, attorneys, and investigators,
14 under contract or on a part-time basis and without regard to
15 the State Merit System, to implement and administer this
16 chapter.

17 "(j) Board members shall receive the same travel
18 expenses and per diem as state employees pursuant to Article
19 2, commencing with Section 36-7-20, Chapter 7, Title 36. The
20 expenses shall be paid out of the funds of the board.
21 Reimbursement shall not be made if funds are insufficient.

22 "§34-8B-5.

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

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

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

4 "(3) Set a fee schedule for granting licenses and
5 renewals of licenses subject to the Alabama Administrative
6 Procedure Act.

7 "(4) Maintain a current register of licensed court
8 reporters and a current register of temporarily licensed court
9 reporters. Registers shall be matters of public record.

10 "(5) Maintain a complete record of all proceedings
11 of the board.

12 "(6) Adopt continuing education requirements ~~no~~
13 ~~later than October 1, 2007. Requirements shall be implemented~~
14 ~~no later than January 1, 2008, and, which~~ shall include all
15 courses approved by the Alabama State Bar for continuing legal
16 education.

17 "(7) Determine the content of and administer
18 examinations to be given to applicants for licensure as
19 certified court reporters and issue numbered licenses to
20 applicants found qualified.

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

24 "(9) Adopt standards of professional conduct for
25 licensees.

26 "§34-8B-6.

1 "(a) On the verified complaint of any individual
2 that a court reporter has violated this chapter, the board
3 shall investigate the complaint and may bring an action in its
4 own name to hear and make a determination regarding the
5 complaint. All complaints shall be in writing, signed by the
6 ~~person~~ individual making the complaint, and addressed to the
7 ~~chair~~ executive director of the board. All complaints shall
8 contain the name and address of the ~~person~~ individual against
9 whom the complaint is brought and a description of the conduct
10 giving rise to the complaint. ~~Complaints shall be submitted~~
11 ~~within 90 days of such conduct and a~~ A copy of the complaint
12 shall be provided to the ~~licensed~~ court reporter within five
13 business days of receipt by the board. The copy shall be sent
14 by certified mail or by such other means of delivery to ensure
15 that the ~~licensed~~ court reporter charged in the complaint
16 shall receive actual notice. After investigation of the
17 charges, the board shall ~~conduct a hearing at which time it~~
18 ~~may dismiss the charges,~~ determine if a hearing is warranted,
19 dismiss the complaint, issue a reprimand, or take other action
20 to resolve the complaint by agreement. Any hearing deemed
21 warranted shall be conducted in accordance with the Alabama
22 Administrative Procedure Act, Chapter 22, Title 41. The board
23 may issue subpoenas, compel the attendance of witnesses, and
24 administer oaths to individuals giving testimony at hearings.
25 Upon a finding that a violation has occurred, the board may
26 refuse to issue a license, may impose a fine not to exceed one
27 thousand dollars (\$1,000) per violation, or may issue a

1 reprimand or letter of instruction, place the licensee on
2 probation, or revoke or suspend the license of the licensee.

3 "(b) The licensee may appeal ~~a~~ an adverse decision
4 of the board ~~imposing an administrative fine or revoking or~~
5 ~~suspending a license~~ by submitting a written request to the
6 board for reconsideration within ~~90~~ 30 days following the
7 adverse decision ~~of the board. If no resolution is achieved,~~
8 ~~further appeals shall be submitted to the circuit court in the~~
9 ~~jurisdiction of the residence of the licensee~~ Appeals from a
10 board decision following a request for reconsideration, or
11 from a final decision of the board, shall lie with the Circuit
12 Court of Montgomery County, in accordance with the Alabama
13 Administrative Procedure Act. The filing of the request for
14 reconsideration shall be at the option of either party and may
15 not be deemed as a prerequisite to, or hindrance of, the right
16 of a party to judicial review of a board decision in
17 accordance with the Alabama Administrative Procedure Act.

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

23 "§34-8B-8.

24 "After January 1, 2007, any ~~person~~ individual who
25 undertakes or attempts to undertake the practice of court
26 reporting for remuneration without first having procured a
27 license, or who knowingly presents or files false information

1 with the board for the purpose of obtaining a license or who
2 violates this chapter, upon conviction, shall be guilty of a
3 Class C misdemeanor. ~~A person~~ An individual who is not
4 licensed may not bring or maintain an action to recover fees
5 for court reporting services that he or she performed in
6 violation of this chapter. Whenever it appears to the board
7 that any ~~court reporter~~ individual has violated this chapter,
8 the board ~~may~~, in its own name, ~~petition the circuit court of~~
9 ~~the county in which the violation occurred~~ may apply to any
10 court of competent jurisdiction to enjoin the violation.
11 Injunctions under this section shall be applied for in
12 accordance with the civil remedies and procedures provided in
13 Article 10, commencing with Section 6-6-500, of Chapter 6,
14 Title 6, and the Alabama Rules of Civil Procedure. An
15 application for an injunction under this section shall be in
16 addition to and not in lieu of all penalties and other
17 remedies provided in this chapter or any right of criminal
18 prosecution otherwise provided by law.

19 "§34-8B-10.

20 "(a) (1) To be licensed as a court reporter, an
21 applicant shall be a United States citizen or, if not a
22 citizen of the United States, ~~a person~~ an individual who is
23 legally present in the United States with appropriate
24 documentation from the federal government, and shall satisfy
25 either of the following requirements:

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

4 "b. Provide documentation of having passed the NCRA
5 Registered Professional Reporter Examination or NVRA CVR
6 Examination.

7 "(2) The board shall ~~examine or establish, or both,~~
8 examination and testing procedures to enable the board to
9 ascertain the competency of applicants for licensure. ~~Each~~
10 ~~such skills examination shall be given at least twice each~~
11 ~~calendar year.~~ Applications for licensure shall be signed and
12 sworn by the applicants and submitted on forms furnished by
13 the board. An applicant who furnishes the board with
14 satisfactory proof of graduation from a court reporting
15 program or its equivalent ~~shall,~~ upon payment of a reasonable
16 fee in an amount determined by the board, ~~be examined by the~~
17 ~~board. All applicants who are found qualified to engage in the~~
18 ~~practice of court reporting pursuant to this chapter shall~~ and
19 proof of passage of the required examinations, shall be issued
20 a license as a certified court reporter and an identifying
21 number. The license shall be valid until September 30th of the
22 year of its issuance.

23 "(b) No certified court reporter may authorize the
24 use of his or her license number on any transcript not
25 produced through his or her personal effort or supervision, or
26 both. Violation of this subsection may be grounds for license
27 suspension or revocation.

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

17 ~~"§34-8B-12.~~

18 ~~"The annual fees for licensure pursuant to this~~
19 ~~chapter shall be established by the board and shall cover a~~
20 ~~12-month period beginning October 1 of each year. All fees~~
21 ~~collected by the board shall be paid into the State Treasury~~
22 ~~to the credit of the Board of Court Reporting Fund which is~~
23 ~~hereby created. Moneys in the fund shall be subject to~~
24 ~~withdrawal only upon warrant of the state Comptroller to be~~
25 ~~issued upon certification of the secretary. Any funds~~
26 ~~remaining in the fund at the end of each fiscal year in excess~~
27 ~~of two hundred fifty thousand dollars (\$250,000), shall be~~

1 available to the board to provide for the education and
2 training of court reporters. At all times the board shall
3 retain a sum not in excess of two hundred fifty thousand
4 dollars (\$250,000), to meet any emergency which may affect the
5 efficient operation of the board. No funds shall be withdrawn
6 or expended except as budgeted and allocated pursuant to this
7 chapter and only in amounts as stipulated in the general
8 appropriations bill or other appropriations bills.

9 "§34-8B-13.

10 "(a) Each ~~person~~ individual licensed pursuant to
11 this chapter shall apply for renewal of his or her license
12 pursuant to dates established by the board. A renewal fee in
13 an amount determined by the board shall be paid and thereupon
14 the board shall issue a numbered license establishing that the
15 holder is entitled to practice court reporting for the period
16 determined by the board. The board shall require specific
17 continuing education as a condition for license renewal. The
18 board may provide for the late renewal of a license which has
19 lapsed and may require the payment of a late fee or an
20 examination, or both, prior to issuing a renewal license. It
21 shall be unlawful for any individual to practice or attempt to
22 practice court reporting in this state during the time his or
23 her license to practice has lapsed, and upon a finding that a
24 violation has occurred, the individual shall be subject to
25 disciplinary action by the board pursuant to the Alabama
26 Administrative Procedure Act.

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

17 "(c) Licensees shall notify the board in writing of
18 any change in their name, of address, or employer within 30
19 days of the change. Failure to notify the board of such change
20 may subject a licensee to disciplinary action imposed pursuant
21 to board rule.

22 "§34-8B-15.

23 "(a) (1) Commencing on August 1, 2012, any person Any
24 individual who is a graduate of a court reporting program may
25 apply to the board to receive a temporary license to practice
26 as a court reporter from the board. Application for the
27 temporary graduate license shall be made to the board, on

1 ~~forms approved by the board, and the payment of a fee in an~~
2 ~~amount determined by the board. The temporary license shall be~~
3 ~~valid for 18 months from the date of issuance. An application~~
4 ~~for a temporary license must be received by the board within~~
5 ~~30 days after graduation from a school of court reporting and~~
6 ~~may be subject to review and approval by the board, or a~~
7 ~~subcommittee of the board, before a temporary license is~~
8 ~~issued. The board may issue a six-month temporary license to~~
9 ~~any applicant who satisfies all of the following requirements:~~

10 "a. Submits proof to the board of graduation from a
11 school of court reporting.

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

15 "c. Submits to the board completed application forms
16 for both the applicant and the supervising court reporter, on
17 forms approved by the board.

18 "d. Submits to the board payment of temporary
19 license fees and application fees for both the applicant and
20 the supervising court reporter, as established by rule of the
21 board.

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

1 "(b) The holder of a temporary license may only
2 provide court reporting services under the direct supervision
3 of a freelance court reporter, who shall assume responsibility
4 for the practice of court reporting by the temporary licensee.
5 The board, by rule, shall establish the responsibilities and
6 qualifications for a supervising court reporter and
7 requirements governing the practice of court reporting by a
8 temporary licensee. Any violation of this chapter or board
9 rule by a temporary licensee may also subject the supervising
10 court reporter to disciplinary action by the board pursuant to
11 the Alabama Administrative Procedure Act.

12 "(c) A temporary license shall be renewable only
13 once, for an additional six-month period, if the temporary
14 licensee fails to pass the examination for full licensure by
15 the end of the initial six-month licensure period.

16 ~~"(b)~~ (d) In the event that a temporary license
17 expires at the end of the 12-month period without the
18 temporary licensee having passed the examination for full
19 licensure, ~~court reporting services by the temporary licensee~~
20 shall immediately cease and desist ~~immediately upon the~~
21 ~~expiration of the temporary license~~ the practice of court
22 reporting, and the board may not be held liable for lost
23 income to the temporary licensee or to the employer of the
24 temporary licensee ~~court reporting firm.~~

25 "(e) A temporary licensee may not serve as an
26 official court reporter, and an official court reporter may
27 not serve as a supervising court reporter.

1 "§34-8B-16.

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

6 "§34-8B-17.

7 "All moneys collected pursuant to this chapter shall
8 be deposited into the Board of Court Reporting Fund. All
9 expenses incurred by the board in implementing and
10 administering this chapter shall be paid out of the fund,
11 provided that the expenses of the board shall not be in excess
12 of the moneys in the fund. The board may charge and collect
13 the following fees which shall be deposited into the fund:

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

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

17 "~~(3)~~ (2) A license renewal fee ~~for any temporary or~~
18 ~~regular license.~~

19 "~~(4)~~ (3) A reinstatement fee for any application for
20 reinstatement of a ~~temporary or regular~~ license which has been
21 revoked or suspended.

22 "~~(5)~~ (4) A fee for the renewal of a license after the
23 due date which shall be increased 20 percent for each month or
24 fraction thereof that payment is delayed, unless the delay is
25 caused by conditions resulting from additional requirements
26 imposed by the board. Notwithstanding the foregoing,

1 delinquency of more than 60 days shall result in ~~revocation of~~
2 ~~licensure~~ an expired license.

3 ~~"(6)(5)~~ A change of information fee.

4 ~~"(7)(6)~~ Necessary administrative fees including, but
5 not limited to, reasonable costs for copying, labels, and
6 lists, replacing licenses, and verifying licensure."

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