

Senate Study Bill 3041 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED JUDICIAL BRANCH
BILL)

A BILL FOR

- 1 An Act relating to the ethical standards of certified shorthand
- 2 reporters and shorthand reporting firms.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 602.3204 Ethical standards for
2 shorthand reporters and shorthand reporting firms.

3 1. *Definitions.* As used in this section, unless the context
4 otherwise requires:

5 a. "Board" means board of examiners of shorthand reporters.

6 b. "Proceeding" means a court proceeding, deposition,
7 administrative hearing, arbitration hearing, an examination
8 under oath, a sworn statement, or any other proceeding where
9 the reporting services of a shorthand reporter certified by the
10 board is used.

11 c. "Shorthand reporter" means a shorthand reporter certified
12 by the board.

13 d. "Shorthand reporting firm" means a shorthand reporting
14 firm that employs or contracts with a shorthand reporter
15 certified by the board, or an entity that bills for the
16 reporting services of such a shorthand reporter.

17 2. *Purpose of standards.* The purpose of this section is to
18 ensure the integrity of the record and comparable treatment of
19 all parties in proceedings reported by a shorthand reporter,
20 by establishing ethical standards for shorthand reporters
21 and shorthand reporting firms. A shorthand reporter serves
22 as an officer of the court. The appearance and existence of
23 impartiality are no less important for officers who report
24 proceedings than they are for the judicial officers and other
25 persons whose responsibilities are integral to the fair and
26 impartial administration of justice.

27 3. *Applicability.* This section applies to shorthand
28 reporting services performed by a shorthand reporter or
29 shorthand reporting firm under the following circumstances:

30 a. Any proceeding in the courts of this state.

31 b. Any proceeding that may be presented to a court in this
32 state for resolution.

33 c. Any proceeding in the courts of another state and
34 reported using the services of a shorthand reporter certified
35 by the board, but only to the extent this section does not

1 conflict with the laws or rules of the other state.

2 *d.* Any other proceeding that may be presented to a court
3 of another state for resolution, and is reported using the
4 services of a shorthand reporter certified by the board, but
5 only to the extent this section does not conflict with the laws
6 or rules of the other state.

7 4. *Duties.* Before accepting a reporting engagement or
8 assignment, a shorthand reporter or shorthand reporting firm is
9 obligated to make reasonable efforts to ascertain whether any
10 circumstances exist that would violate this section.

11 5. *Conflicts of interest.*

12 *a.* A proceeding shall not be reported by a party or employee
13 of a party, a person financially interested in the proceeding,
14 an attorney or an employee of an attorney for a party, or a
15 person related within the fourth degree of consanguinity or
16 affinity to a party, a party's attorney, or an employee of a
17 party or party's attorney.

18 *b.* The compensation of a shorthand reporter or a shorthand
19 reporting firm shall not be based or contingent upon the
20 outcome of the proceeding.

21 *c.* A shorthand reporter or a shorthand reporting firm shall
22 not acquire a financial interest in the proceeding.

23 *d.* A shorthand reporter or shorthand reporting firm shall
24 not provide additional advocacy or litigation support services
25 in a proceeding reported by the shorthand reporter or shorthand
26 reporting firm, including but not limited to trial preparation
27 assistance or deposition summaries.

28 6. *Integrity of transcripts.*

29 *a.* The supreme court, with the advice of the board, shall
30 adopt rules prescribing the format of transcripts subject to
31 this section. The rules adopted by the supreme court shall
32 apply whether the transcript is produced in print or electronic
33 format. If the format of a transcript materially varies
34 from the format adopted by the supreme court, the parties to
35 the proceeding shall not be required to pay any fee for the

1 transcript.

2 *b.* The supreme court, after consultation with the board,
3 shall also adopt rules establishing dissemination standards to
4 protect the integrity of transcripts subject to this section.

5 7. *Fair and reasonable treatment of parties.*

6 *a.* A shorthand reporter or shorthand reporting firm shall
7 not enter into an agreement for reporting services which
8 provide special or different financial terms or payment dates
9 or other services that are not offered to all other parties in
10 the proceeding. However, different credit terms may be offered
11 based on payment history and credit worthiness of a party to
12 a proceeding.

13 *b.* Upon the request of a party to a proceeding, the
14 shorthand reporter or shorthand reporting firm shall provide
15 the requesting party an itemized disclosure of all rates and
16 charges for the services performed during the proceeding. The
17 supreme court, after consultation with the board, shall adopt
18 rules prescribing the form to be used for such a disclosure.
19 If the disclosure is not provided, or if the disclosure is
20 not provided in sufficient time to allow all parties the
21 opportunity to effectively negotiate for any changes necessary
22 to ensure that comparable terms and conditions be made
23 available to all parties, the fee for the original transcript,
24 any copy of the transcript, or of any incidental services shall
25 not exceed the fee set by the supreme court by rule after
26 consultation with the board.

27 *c.* A shorthand reporter or shorthand reporting firm shall
28 not charge a fee for a copy of a transcript that exceeds sixty
29 percent of the fee charged for the original transcript. In all
30 cases, fees for incidental services other than the original
31 transcript or a copy of a transcript shall be billed at the
32 same rate for all parties.

33

EXPLANATION

34 The inclusion of this explanation does not constitute agreement with
35 the explanation's substance by the members of the general assembly.

1 This bill relates to the ethical standards of certified
2 shorthand reporters and shorthand reporting firms.

3 The bill defines "shorthand reporter" to mean a shorthand
4 reporter certified by the Iowa board of examiners of shorthand
5 reporters.

6 The bill defines "shorthand reporting firm" to mean a
7 shorthand reporting firm that employs or contracts with a
8 certified shorthand reporter, or an entity that bills for the
9 reporting services of a certified shorthand reporter.

10 The bill also defines "proceeding" to mean a court
11 proceeding, deposition, administrative hearing, arbitration
12 hearing, an examination under oath, a sworn statement, and any
13 other proceeding where the services of a certified shorthand
14 reporter are used.

15 The bill applies ethical standards to any proceeding in the
16 courts of Iowa; any proceeding that may be presented to an Iowa
17 state court for resolution; any proceeding in the court of
18 another state and reported using an Iowa certified shorthand
19 reporter, but only to the extent the provisions of the bill do
20 not conflict with the laws or rules of the other state; and any
21 proceeding that may be presented in the court of another state
22 and reported using an Iowa certified shorthand reporter, but
23 only to the extent the provisions of the bill do not conflict
24 with the laws or rules of the other state.

25 Under the bill, a proceeding shall not be reported by a party
26 or employee of any party, a person financially interested in
27 the proceeding, an attorney or an employee of an attorney for
28 any party, or any person related within the fourth degree of
29 consanguinity or affinity to a party, a party's attorney, or an
30 employee of such a party or attorney.

31 The bill prohibits the compensation of a shorthand reporter
32 or a shorthand reporting firm based or contingent upon the
33 outcome of the proceeding being reported. The bill also
34 prohibits a shorthand reporter or a shorthand reporting firm
35 from acquiring a financial interest in any such proceeding.

1 Under the bill, a shorthand reporter or shorthand reporting
2 firm shall not provide additional advocacy or litigation
3 support services in a proceeding reported by the reporter,
4 including but not limited to trial preparation assistance or
5 deposition summaries.

6 The supreme court, with the advice of the board of examiners
7 for shorthand reporters, shall adopt rules prescribing the
8 format of transcripts subject to the bill. The rules adopted
9 by the supreme court shall apply whether the transcript
10 is produced in print or electronic format. The bill also
11 provides that if the format of a transcript materially
12 varies from the format adopted by the supreme court, the
13 parties to the proceeding shall not be required to pay any
14 fee for the transcript. The bill also requires the supreme
15 court, in consultation with the board, to adopt rules
16 establishing dissemination standards to protect the integrity
17 of transcripts.

18 The bill provides that a shorthand reporter or shorthand
19 reporting firm shall not enter into an agreement for reporting
20 services which provide special or different financial terms
21 or payment dates, or other services that are not offered to
22 all other parties in a proceeding. The bill does permit
23 a shorthand reporter or shorthand reporting firm to offer
24 different credit terms based on payment history and credit
25 worthiness of a party to a proceeding.

26 Upon the request of any party to a proceeding, the bill
27 requires a shorthand reporter or shorthand reporting firm
28 to provide the requesting party an itemized disclosure of
29 all rates and charges for the services performed during
30 the proceeding. If a requested itemized disclosure is not
31 provided, or if the disclosure is not provided in a sufficient
32 time, the bill requires that the fee for the original
33 transcript, a copy of the transcript, or of any incidental
34 services shall not exceed the fees that are set out by rule
35 by the supreme court. The bill requires the supreme court to

1 consult with the board of examiners of shorthand reporters
2 prior to establishing this rule.

3 The bill specifies that a shorthand reporter or shorthand
4 reporting firm shall not charge a fee for a copy of a
5 transcript that exceeds 60 percent of the fee charged for the
6 original transcript. The bill further specifies that fees for
7 incidental services other than the original transcript or a
8 copy of a transcript shall be billed at the same rate for all
9 parties to a proceeding.

10 A person who violates article 3 of Code chapter 602
11 (certification and regulation of shorthand reporters) commits a
12 simple misdemeanor pursuant to Code section 602.3302.