



# House of Representatives

General Assembly

**File No. 587**

February Session, 2018

Substitute House Bill No. 5472

*House of Representatives, April 19, 2018*

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING THE CERTIFICATION OF SHORTHAND REPORTERS AND CONCERNING A STUDY OF VIDEO COURT APPEARANCES BY DEFENDANTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2019*) As used in this section  
2 and sections 2 to 6, inclusive, of this act, unless the context otherwise  
3 requires:

4 (1) "Commissioner" means the Commissioner of Consumer  
5 Protection;

6 (2) "Certified shorthand reporter" means any person who holds a  
7 certification to practice shorthand reporting in this state pursuant to  
8 sections 3 and 4 of this act; and

9 (3) "Shorthand reporting" means making a verbatim record of the  
10 spoken word by the use of written symbols, either manually or by the  
11 use of a stenotype machine or computer-aided stenotype transcription  
12 machine, for the purpose of reporting arbitration proceedings,

13 administrative hearings, depositions or other proceedings or matters  
14 for the use of the courts of this state.

15 Sec. 2. (NEW) (*Effective January 1, 2019*) Except as provided in  
16 section 6 of this act, on and after January 1, 2019, no person shall,  
17 unless such person is certified in accordance with the provisions of  
18 sections 3 and 4 of this act, (1) use the title "shorthand reporter", "court  
19 reporter" or similar designation, or display or use any words, letters,  
20 figures, title, advertisement or other device to indicate that such person  
21 is a shorthand reporter, or (2) practice shorthand reporting for  
22 compensation in this state.

23 Sec. 3. (NEW) (*Effective January 1, 2019*) (a) Any person seeking a  
24 certification to practice shorthand reporting in this state shall apply to  
25 the commissioner, in writing, on a form provided by the  
26 commissioner. Such application shall include the applicant's name,  
27 residence address, business address and such other information as the  
28 commissioner may require.

29 (b) Each application for a certification to practice shorthand  
30 reporting in this state shall be accompanied by a nonrefundable  
31 application fee of one hundred dollars and a certification fee of one  
32 hundred ninety dollars. The fee for the renewal of such certification  
33 shall be one hundred ninety dollars.

34 Sec. 4. (NEW) (*Effective January 1, 2019*) (a) No person shall receive a  
35 certification to practice shorthand reporting in this state under this  
36 section and section 3 of this act unless such person has passed an  
37 examination which is substantially similar to the examination of the  
38 National Court Reporters Association, or has submitted evidence  
39 satisfactory to the Department of Consumer Protection that such  
40 person is a Registered Professional Reporter of the National Court  
41 Reporters Association or its equivalent.

42 (b) If the applicant satisfies the requirements of this section and  
43 pays the fee required by section 3 of this act, the commissioner shall  
44 issue a certification to the applicant, showing that the person named in

45 such certification is authorized to practice shorthand reporting in this  
46 state. Any such certification shall be valid for a period of three years.

47 (c) Any certification issued under the provisions of this section and  
48 section 3 of this act may be renewed every three years upon payment  
49 of the fee required under section 3 of this act.

50 (d) A person who has failed to renew such certification for a period  
51 of over two years from the date of expiration of such certification may  
52 have such certification reinstated only upon complying with the  
53 examination requirements of subsection (a) of this section.

54 (e) Notwithstanding the provisions of subsection (d) of this section,  
55 upon application and fee, the commissioner may reinstate a lapsed  
56 certification without examination, provided such application for  
57 reinstatement is accompanied by a notarized letter and supporting  
58 documentation attesting to the applicant's related experience in the  
59 field of shorthand reporting or similar work practice satisfactory to the  
60 commissioner from the time such applicant's certification lapsed. Such  
61 applicant, upon approval by the commissioner, shall pay such  
62 applicant's back certification and late fees.

63 Sec. 5. (NEW) (*Effective January 1, 2019*) (a) The commissioner, after a  
64 hearing conducted in accordance with chapter 54 of the general  
65 statutes, may suspend or revoke the certification of a shorthand  
66 reporter if the holder of such certification: (1) Has been convicted of a  
67 felony, subject to the provisions of section 46a-80 of the general  
68 statutes, or (2) has been found by the commissioner to have knowingly  
69 made a false, misleading or deceptive representation relating to his or  
70 her work as a shorthand reporter.

71 (b) Any person who has had a certification suspended or revoked  
72 pursuant to subsection (a) of this section may reapply to the  
73 commissioner for reinstatement of such person's certification  
74 immediately after the certification suspension period has elapsed or  
75 not earlier than ninety days after the certification has been revoked.

76 (c) In addition to any action that may be taken by the commissioner  
77 pursuant to subsection (a) of this section, the commissioner may  
78 suspend or revoke the certification of a shorthand reporter for:

79 (1) Failing to deliver a transcript to a client or a court in a timely  
80 manner;

81 (2) Producing an incomplete transcript, unless such incomplete  
82 transcript was produced upon the order of a court, agreement of the  
83 parties or request of a party;

84 (3) Failing to charge all parties or their attorneys the same rate or  
85 charge for like services performed in a proceeding, including any  
86 charge for a copy of the transcript;

87 (4) Failing to notify all parties or their attorneys of a request for all  
88 or part of a transcript in sufficient time for other parties or their  
89 attorneys to request copies to be prepared and delivered to such other  
90 parties or attorneys simultaneously with the delivery of the original  
91 request;

92 (5) (A) Giving, directly or indirectly, any gift, incentive, reward or  
93 other thing of value to an attorney, the attorney's clients, or the  
94 representatives or agents of such attorney or clients, or (B) directly or  
95 indirectly benefiting from any gift or being employed as a result of any  
96 incentive, reward or other thing of value given by any person to an  
97 attorney, the attorney's clients, or the representatives or agents of such  
98 attorney or clients;

99 (6) The reporting of any proceeding where the certified shorthand  
100 reporter is a relative of a party to the proceeding or an attorney  
101 representing a party to the proceeding within the second degree by  
102 affinity or consanguinity;

103 (7) The reporting of any proceeding where the certified shorthand  
104 reporter has a financial interest in the proceeding or is associated with  
105 a firm which has a financial interest in the proceeding; or

106 (8) Producing a materially inaccurate transcript.

107 (d) A shorthand reporter certified pursuant to sections 3 and 4 of  
108 this act shall display his or her shorthand reporter certified number on  
109 any business card, stationery, transcript, advertisement or other  
110 document used by such reporter and pertaining to his or her practice  
111 of shorthand reporting.

112 (e) The commissioner may, after a hearing conducted in accordance  
113 with chapter 54 of the general statutes, impose a civil penalty of not  
114 more than one thousand dollars on any person who violates any  
115 provision of this section or sections 2 to 4, inclusive, of this act or any  
116 person who wilfully employs or supplies for employment or as an  
117 independent contractor a person who engages in the practice of  
118 shorthand reporting in this state in violation of section 2 of this act.

119 Sec. 6. (NEW) (*Effective January 1, 2019*) The provisions of sections 2  
120 to 5, inclusive, of this act do not apply to: (1) Any person who is  
121 employed by this state as a court reporter or shorthand reporter,  
122 whether compensated on a salary or a per diem basis, but only to the  
123 extent such person performs such court reporting or shorthand  
124 reporting in the course of such person's employment with the state;  
125 and (2) any person who is employed by the United States as a court  
126 reporter for the federal courts located in this state.

127 Sec. 7. (*Effective from passage*) (a) The Commissioner of Correction  
128 and the executive director of the Court Support Services Division of  
129 the Judicial Branch shall jointly study the concept of permitting or  
130 requiring a defendant in a criminal matter who is in the custody of the  
131 Department of Correction to attend hearings on motions in such  
132 matter by means of video conference from the correctional facility in  
133 which such defendant is being held. Such study shall consider (1)  
134 which types of hearings could be attended by a defendant by means of  
135 video conference, (2) how to maintain and secure sufficient video  
136 conferencing capabilities to permit or require such defendants to  
137 attend such hearings by means of video conference, and (3) any other  
138 topic the commissioner and executive director deem relevant to such

139 issues.

140 (b) Not later than January 1, 2019, the Commissioner of Correction  
 141 and the executive director of the Court Support Services Division of  
 142 the Judicial Branch shall jointly report, in accordance with section 11-  
 143 4a of the general statutes, their findings pursuant to subsection (a) of  
 144 this section and recommendations for legislation, if any, to the joint  
 145 standing committee of the General Assembly having cognizance of  
 146 matters relating to the judiciary.

|   |                 |             |
|---|-----------------|-------------|
| This act shall take effect as follows and shall amend the following sections: |                 |             |
| Section 1   | January 1, 2019 | New section |
| Sec. 2  | January 1, 2019 | New section |
| Sec. 3  | January 1, 2019 | New section |
| Sec. 4  | January 1, 2019 | New section |
| Sec. 5  | January 1, 2019 | New section |
| Sec. 6  | January 1, 2019 | New section |
| Sec. 7  | from passage    | New section |

**Statement of Legislative Commissioners:**

In Sections 1 to 6, language changes were made for the purposes of consistency, clarification and grammar.

**JUD** Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

| Agency Affected                                  | Fund-Effect       | FY 19 \$        | FY 20 \$  |
|--|-------------------|-----------------|-----------|
| Consumer Protection, Dept.                       | GF - Cost         | 64,927          | 64,927    |
| State Comptroller - Fringe Benefits <sup>1</sup> | GF - Cost         | 22,680          | 22,680    |
| Consumer Protection, Dept.                       | GF - Revenue Gain | At least 72,500 | See Below |

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

This bill requires shorthand reporters to receive a certification from the Department of Consumer Protection (DCP) and results in a cost and a revenue gain to the state.

To administer, verify, and process the applications DCP will need to hire a part-time License and Applications Specialist (\$33,107 salary and \$12,028 fringe benefits) and a part-time License and Applications Analyst (\$29,320 and \$10,652 fringe benefits) along with \$2,500 other expenses for the two positions.

The bill results in an estimated revenue gain of at least \$72,500 in FY 19 due to an estimated 250 people applying for this certification and paying the associated fees. The revenue gain in FY 20 is expected to be

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 36.33% of payroll in FY 19 and FY 20.

minimal due to the majority of shorthand reporters already having received the certification in FY 19 and not having to renew for three years.

The Commissioner of DCP may impose a civil penalty up to \$1,000 for any violation outlined in the bill. To the extent that civil penalties are imposed, there is a potential revenue gain to the state.

The bill requires the Commissioner of Correction and the executive branch director of the Court Support Services Division of the Judicial Branch to study the concept of permitting a defendant to attend hearings by video conference and results in no fiscal impact because the departments have the expertise to conduct the study.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation, the number of certifications, and the number of civil penalties.



**OLR Bill Analysis****sHB 5472*****AN ACT CONCERNING THE CERTIFICATION OF SHORTHAND REPORTERS AND CONCERNING A STUDY OF VIDEO COURT APPEARANCES BY DEFENDANTS.*****SUMMARY**

This bill, starting January 1, 2019, requires shorthand reporters who work for compensation in the state to receive Department of Consumer Protection (DCP) certification, under a process the bill creates. Each certification application must be accompanied with a \$100 nonrefundable application fee and a \$190 certification fee. The certification renewal fee is \$190.

The bill expressly prohibits anyone without such certification from (1) using the title "shorthand reporter," "court reporter," or similar designation, or displaying or using any words, letters, figures, title, advertisement, or other device to indicate that such person is a shorthand reporter or (2) practicing shorthand reporting for compensation. The DCP commissioner may impose a civil penalty of up to \$1,000 on violators.

The bill does not apply to court or shorthand reporters employed by the (1) state, whether compensated on a salary or a per diem basis, or (2) United States for federal courts in Connecticut.

"Shorthand reporting" means making a verbatim record of the spoken word by using written symbols, either manually or using a stenotype machine or computer-aided stenotype transcription machine, for reporting arbitration proceedings, administrative hearings, depositions, or other proceedings or matters for the use of the state courts in Connecticut.

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The bill also requires the Department of Corrections (DOC) and the

Judicial Branch's Court Support Services Division (CSSD) to (1) study the concept of permitting or requiring a criminal defendant who is in DOC custody to attend hearings on motions by means of video conference and (2) report its findings and recommendations to the Judiciary Committee by January 1, 2019.

EFFECTIVE DATE: January 1, 2019, except the video court appearance study provision is effective upon passage.

### **§§ 3-5 — SHORTHAND REPORTING CERTIFICATION PROCESS**

#### ***Certification Application and Fee (§ 3)***

***Application.*** The bill requires anyone seeking a certification to practice shorthand reporting in the state to apply to the DCP commissioner, in writing, on a form she provides. The application must include the applicant's name, home and business address, and any other information she requires.

#### ***Qualifications (§ 4)***

The bill prohibits anyone from receiving a shorthand reporter certification unless he or she has (1) passed an examination which is substantially similar to the National Court Reporters Association examination or (2) submitted evidence, satisfactory to the DCP, that he or she is a registered professional reporter of the National Court Reporters Association or its equivalent.

#### ***Initial and Renewal Certification (§§ 4 & 5)***

The bill requires the commissioner to issue a certification to an applicant who satisfies the qualifications to practice shorthand reporting and pays the application fee. The initial certification is valid for three years and may be renewed every three years upon renewal fee payment.

The certification must state that the person is authorized to practice shorthand reporting in the state and the shorthand reporter must display his or her certified number on any business card, stationery, transcript, advertisement, or other document such reporter uses and

that pertains to his or her shorthand reporting practice.

***Reinstatement of a Lapsed Certification (§ 4)***

Under the bill, if a shorthand reporter fails to renew the certification for more than two years after its expiration, he or she may have the certification reinstated by complying with the examination requirements described above.

The commissioner may reinstate a lapsed certification without examination after two years, if the reinstatement application is accompanied by the application fee, a notarized letter and supporting documentation attesting to the applicant's related experience in the field of shorthand reporting or similar work practice satisfactory to the commissioner from the time such applicant's certification lapsed. If the commissioner approves the reinstatement application, the applicant must pay all back certification and late fees. (The bill does not specify what "back certification" and the "late fees" are.)

***Shorthand Reporters' Prohibited Actions (§ 5)***

The bill allows the DCP commissioner to suspend or revoke a shorthand reporter's certification for:

1. failing to deliver a transcript to a client or a court in a timely manner;
2. producing an incomplete transcript, unless it was produced pursuant to a court order, the parties' agreement, or a party's request;
3. failing to charge all parties or their attorneys the same rate or charge for like services performed in a proceeding, including any charge for a copy of the transcript;
4. failing to notify all parties or their attorneys of a request for all or part of a transcript in sufficient time for other parties or their attorneys to request copies to be prepared and delivered to such other parties or attorneys simultaneously with the delivery of

the original request;

5. giving, directly or indirectly, any gift, incentive, reward, or other thing of value to an attorney, the attorney's clients, or the representatives or agents of such attorney or clients,
6. directly or indirectly benefiting from any gift or being employed as a result of any incentive, reward, or other thing of value given by any person to an attorney, the attorney's clients, or the representatives or agents of such attorney or clients;
7. reporting a proceeding where the certified shorthand reporter is a relative of a party to the proceeding or an attorney representing a party to the proceeding within the second degree by affinity or consanguinity (i.e., blood relative)(The bill does not specify the intended relations.);
8. reporting a proceeding where the certified shorthand reporter has a financial interest in the proceeding or is associated with a firm which has a financial interest in the proceeding; or
9. producing a materially inaccurate transcript.

#### ***Certification Suspension or Revocation (§ 5)***

Under the bill, after a hearing conducted pursuant to the Uniform Administrative Procedure Act, the commissioner may suspend or revoke a shorthand reporter's certification if he or she has (1) been convicted of a felony or (2) been found by the commissioner to have knowingly made a false, misleading, or deceptive representation relating to his or her work as a shorthand reporter. Under the law, a person generally may not be disqualified from certification solely because of a prior conviction of a crime.

#### ***Reinstatement After Suspension or Revocation (§ 5)***

Under the bill, anyone whose certification was suspended or revoked may reapply to the commissioner for reinstatement immediately after the suspension period has elapsed or at least 90 days

after the certification was revoked.

### ***Penalty for Non-Compliance (§ 5)***

The bill allows the DCP commissioner, after a hearing, to impose a civil penalty of up to \$1,000 on anyone who (1) violates the bill's provisions or (2) willfully employs or supplies for employment or employs as an independent contractor a person who engages in the practice of shorthand reporting in the state in violation of the bill's provisions.

## **§ 7 — VIDEO COURT APPEARANCE STUDY**

### ***Study Requirements***

The bill requires the DOC commissioner and the CSSD executive director to jointly study the concept of permitting or requiring a criminal defendant in DOC custody to attend hearings on motions by means of video conference from the correctional facility in which such defendant is being held.

The study must consider:

1. the types of hearings that a defendant could attend using a video conference,
2. how to maintain and secure sufficient video conferencing capabilities to allow or require defendants to attend such hearings by video conference, and
3. any other topic the commissioner and executive director deem relevant to these issues.

### ***Reporting***

The bill requires the DOC commissioner and the CSSD executive director, by January 1, 2019, to jointly report their findings and any legislative recommendations to the Judiciary Committee.

## **BACKGROUND**

### ***Shorthand Reporter License***

PA 17-75 eliminated the shorthand reporter's license, which was required to practice shorthand reporting in arbitration proceedings, administrative hearings, depositions, or other proceedings or matters in state.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 0 (04/04/2018)