

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Introduced**

**Senate Bill 638**

BY SENATOR WELD

[Introduced February 18, 2019; Referred  
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §30-42-1, §30-42-2, §30-42-3, §30-42-4, §30-42-5, §30-42-6, §30-42-7, §30-  
 3 42-8, §30-42-9, §30-42-10, §30-42-11, §30-42-12, §30-42-13, §30-42-14, and §30-42-15,  
 4 all relating to the creation of the Court Reporter Act of 2019; and providing for the  
 5 administration and certification of court reporters, including application, fees, criteria for  
 6 approval or denial of certification, resolution of complaints concerning certified reporters,  
 7 and the discipline and administrative hearing process.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 42. COURT REPORTER ACT OF 2019.**

**§30-42-1. Short title.**

1 This article shall be known, and may be cited, as the “Court Reporter Act of 2019”.

**§30-42-2. Applicability.**

1 (a) This article applies to the standard and temporary certification of reporters. It  
 2 addresses all components of the certification process including application, fees, criteria for  
 3 approval or denial of certification, resolution of complaints concerning certified reporters and the  
 4 discipline and administrative hearing process. If there is any conflict, this article shall govern. If  
 5 there is any conflict between the applicable portions of §47-27-1 et seq., §57-4-1, or §57-4-2 of  
 6 this code and this article, this article governs.

7 (b) This article applies to persons or entities that use stenographic, sound-only, or voice  
 8 writing means of recording but does not apply to other means of recording. This article does not  
 9 apply to official court reporters or their substitutes appointed by judges pursuant to §51-7-1 of this  
 10 code when acting solely in their official capacities, or reporters employed by local or federal courts.  
 11 This article does not limit the contempt powers of the court or the authority of the court to discipline  
 12 court employees.

13 (c) Any person holding a certified reporter’s certification pursuant to this article is exempt  
 14 from paying general consumers sales and service tax pursuant to §11-15-1 et seq. of this code.

15 This exemption is retroactive from the date of enactment of this legislation.

**§30-42-3. Certification required.**

1 A person may not report any testimony given under oath before or for submission to, any  
2 court, referee or court examiner, by any board, commission or other body or in any proceeding  
3 where a verbatim record is required, including depositions in this state unless the person is  
4 certified pursuant to this article. It is unlawful for any person who is not certified pursuant to this  
5 article to represent oneself as a certified reporter. For eligibility to report a verbatim record in any  
6 sworn proceeding in this state for use in any court in this state, all persons shall hold a valid  
7 certificate and comply with the requirements of this article.

**§30-42-4. Definitions.**

1 As used in this article, unless the context requires a different meaning:

2 “Affiliate” means an individual or entity that directly or indirectly, through one or more  
3 intermediaries, controls, is controlled by, or is under common control with, the individual or entity  
4 specified.

5 “Board” means “the board of certified reporters” as provided in this article.

6 “Certify” means “board authorization to engage in activities regulated by the board” as provided in  
7 this article.

8 “Certification” and “certificate holder” means certification and temporary certification that is issued  
9 by the board that authorizes the individual to perform reporting as a certified reporter within West Virginia.

10 “Certified reporter” means a person, including a temporary certificate holder, who is certified by the  
11 board and who records and transcribes a verbatim record in any sworn proceeding by means of written  
12 symbols or abbreviations in shorthand, machine writing, voice writing, or sound-only recording.

13 “Registered reporting firm” means an individual or entity that is registered pursuant to this article  
14 and for compensation offers to provide or provides reporting services or related services but does not  
15 personally provide the service as a certified reporter.

16 “Report” means to stenographically, by voice writing, or sound-only recording to record and  
17 transcribe sworn proceedings.

18 “Voice writing” means the making of a verbatim record of the spoken word by means of  
19 repeating words of the speaker into a device that produces a recording of the same.

**§30-42-5. Administration.**

1 Role and Responsibilities of the board. -- In addition to the requirements of this article  
2 relating to the certification and licensing program, there is hereby established the “Certified  
3 Reporters Fund” which shall be administered by the board shall. The board may receive and  
4 expend moneys from the fund.

**§30-42-6 Board of certified reporters.**

1 (a) Composition. –

2 (1) The board of certified reporters is hereby established consisting of the following seven  
3 members who are citizens of the United States and the State of West Virginia: *Provided, That the*  
4 initial court reporters and reporting firm owner may not be required to be licensed pursuant to this  
5 article until after July 1, 2019:

6 (A) One registered reporting firm owner who is a resident of this state or who owns a court  
7 reporting business incorporated in this state;

8 (B) One certified reporter who is a resident of this state, who has been an official court  
9 reporter for at least five years and who is appointed by the Governor;

10 (C) Three certified reporters who are residents of this state, who have been freelance  
11 reporters for at least five years and who are appointed by the Governor;

12 (D) One attorney who is a resident of this state, who has been licensed to practice law in  
13 this state for at least five years and who is appointed by the Governor; and

14 (E) One public member who is appointed by the Governor.

15 (2) Members who are appointed pursuant to subsection 6, paragraphs (a)(1)(A) through  
16 (E) of this section, shall serve the following terms: The initial members who are appointed shall  
17 begin July 1, 2019, and all appointments shall be made by the Governor prior to July 1 in any year  
18 for which appointments are to be made. In making court reporter appointments to the board, the

19 Governor shall receive, but may not be bound by, recommendations from interested court reporter  
20 groups, including, but not limited to, the West Virginia Court Reporters Association. The initial  
21 members shall serve the following terms as designated by the Governor:

22 (A) Three members shall serve for two years;

23 (B) Two members shall serve for three years; and

24 (C) Two members shall serve for four years.

25 (3) Subsequent terms of office shall be for four years. No member may serve more than  
26 two consecutive terms. If there is a vacancy, the Governor shall fill the vacancy for the unexpired  
27 term. Each member shall serve until a successor is duly appointed and qualified.

28 (4) At its first meeting each calendar year, the board shall elect a president, vice-president  
29 and secretary from its membership. No member may be elected to serve more than two  
30 consecutive years in the same office.

31 (5) After the initial appointments have been made, the board shall meet during the month  
32 of July 2019, or as soon thereafter as practicable, for the purpose of organizing and transacting  
33 business. Thereafter, the board shall meet not less than twice annually and as frequently as  
34 considered necessary by the president or a majority of the members. The board shall meet at a  
35 time and place designated by the board. A quorum shall consist of four members.

36 (6) Board members shall receive reasonable travel expenses as prescribed by law.

37 (7) A majority of the members shall elect a president.

38 (b) Duties and responsibilities of the board. – The board may:

39 (1) Act on matters concerning competency licensure and firm registration and the process  
40 of granting, suspending, reinstating and revoking a license or firm registration;

41 (2) Establish and maintain requirements for the ethical behavior of court reporters and  
42 reporting firms, including, but not limited to, conflict of interest provisions, inappropriate  
43 relationships with a party or a party's attorney, failure to honor a contract or commitment to furnish  
44 transcripts, and adherence to all requirements of law relating to court reporters, reporting firms,

45 or reporting entities;

46 (3) Establish a procedure for the investigation of complaints against licensed court  
47 reporters and reporting firms;

48 (4) Set a fee schedule for granting licenses and renewals of licenses;

49 (5) Maintain records of its proceedings and a current registry of licensed court reporters,  
50 a current registry of registered reporting firms, and a current registry of temporarily licensed court  
51 reporters. Registries shall be matters of public record;

52 (6) Maintain a complete record of all proceedings of the board;

53 (7) Adopt continuing education requirements no later than one month following the  
54 effective date of the enactment of this. The requirements shall be implemented no later than  
55 November 30, 2019; and

56 (8) Issue numbered licenses to applicants found qualified.

57 (c) Board to propose rules. -- The board shall propose rules for legislative approval in  
58 accordance with §29A-3-1 et seq. of this code necessary to implement, administer and otherwise  
59 effectuate the purposes of this article. Upon legislative enactment, the rules shall be published in  
60 the standards of professional practice and made available to all licensees.

**§30-42-7. Initial certification.**

1 (a) Eligibility for Application. – An applicant for standard certification as a certified reporter  
2 at a minimum shall:

3 (1) Be at least 18 years of age.

4 (2) Be a citizen or legal resident of the United States and West Virginia.

5 (3) Satisfy the exam requirements of this article.

6 (4) Be of good moral character.

7 (5) Possess a high school diploma or a general equivalency diploma or a similar document  
8 or certificate.

9 (6) Pursuant to rules adopted by the Secretary of State demonstrate reasonable

10 proficiency in making verbatim records of trial or judicial or related proceedings.

11 (7) Comply with the laws and rules and orders adopted by the Secretary of State governing  
12 certified reporters in this state.

13 (8) Pay the fees established pursuant to this article and the board.

14 (9) Attest to being familiar with, and will adhere to the other provisions of this code relating  
15 to court reporting, including §57-4-1 et seq., §57-4-2, §47-27-1 et seq. of this code, and the West  
16 Virginia Rules of Civil Procedure Rules 28 through 32.

17 (b) An applicant shall provide proof of passing: –

18 (1) The registered professional reporter's examination (RPR) by NCRA; or

19 (2) The certified verbatim reporter's examination (CVR) by NVRA; or

20 (3) The certified court reporter examination by the West Virginia Supreme Court of  
21 Appeals (WV-CCR); or

22 (4) The certified electronic court reporter (CER) and certified electronic transcriber (CET)  
23 examinations by AAERT.

24 (c) Eligibility for Application without Examination (Grandfather Clause): –

25 (1) If an applicant has been actively engaged in the practice of court reporting in the State  
26 of West Virginia for a period of 24 months preceding the effective date of this article, and has not  
27 passed a certification test, the applicant shall be issued a certificate, if the person verifies upon  
28 written affidavit from three current members of the West Virginia Bar in good standing that the  
29 person has been actively engaged in the practice of court reporting in this state in the 24 months  
30 preceding the effective date of this article; or

31 (2) If an applicant who has been actively engaged in the practice of court reporting in the  
32 State of West Virginia for less than 24 months preceding the effective date of this article and has  
33 not met the criteria, the applicant has 24 months after the effective date of this article to pass the  
34 certified court reporter examination. The person may be awarded a temporary certificate by the  
35 board upon application and payment of the required application fees. The temporary certificate

36 shall be valid for a period of 24 months and may not be renewable.

37 No certificate may issue after December 31, 2019.

38 (d) Temporary Certification. -- A graduate of an approved court reporting program or its  
39 equivalent recognized by the board shall be awarded a temporary certificate upon initial  
40 application for certification testing to the board and payment of the required application fees. The  
41 temporary certificate shall be valid for a period of 24 months. Additional temporary licenses  
42 following expiration may be issued at the discretion of the board.

43 (e) Inactive Status. -- The board shall establish an inactive status for persons who are not  
44 actively engaged in the practice of court reporting. The holder of an inactive license issued  
45 pursuant to this section may not engage in any activity for which a license is required. An inactive  
46 license issued pursuant to this section may not engage in any activity for which a license is  
47 required. An inactive license issued pursuant to this section shall be renewed during the same  
48 time period in which an active license is renewed. The holder of an inactive license is exempt  
49 from any continuing education requirement for renewal of an active license. The renewal fee for  
50 a license or certification in an active status shall also apply to a renewal or a license or certification  
51 in an inactive status, unless a lesser renewal fee is specified by the board. In order for the holder  
52 of an inactive license to restore his license to an active status, the holder of an inactive license  
53 shall pay the required renewal fee and complete the continuing education equivalent, if required  
54 by the board, for renewal of an active license, unless a different requirement is specified by the  
55 board.

56 (f) Application for Initial Certification. -- An applicant shall submit a full set of fingerprints  
57 with the fee prescribed in this article to the Secretary of State for the purpose of obtaining a state  
58 and federal criminal records check.

**§30-42-8. Role and responsibilities of certified reporters.**

1 In addition to the requirements of this article relating to certification and licensure, the  
2 following requirements apply:



3           (a) Code of Conduct. -- Each certified reporter shall adhere to the code of conduct adopted  
4 by the board.

5           (b) Identification. -- A certified reporter shall include the title "certified reporter" or the  
6 abbreviation "CR" and the reporter's certificate number (e.g. CR-1234) on the title or cover page  
7 of any transcript, on any business card, advertisement or letterhead and on the certificate of any  
8 transcript.

9           (c) Certification of Transcripts, Billings and Business Terms. -- A certified reporter and  
10 registered reporting firm (if the certified reporter is engaged by a registered reporting firm) shall  
11 sign and certify each transcript that the certified reporter prepares before the transcript may be  
12 used in court. Certification shall provide that the certified reporter and registered reporting firm, if  
13 applicable, have complied with the ethical obligations set forth in this article.

14           (d) Transcript Production. -- The following requirements apply to transcript production:

15           (1) Transcript Format. A certified reporter shall prepare transcripts in a format consistent  
16 with the standards in this article.

17           (2) Production after Expiration of Certificate, Inactive Status or Voluntary Resignation. A  
18 reporter who is no longer certified, or who is in inactive status may not practice as a reporter or  
19 produce transcripts except for those proceedings that took place while their certificate was valid  
20 and active. The reporter shall use the same certificate number on the title or cover page of any  
21 transcript and letterhead that was used while the reporter was certified.

22           (e) Oaths and Affirmations. A certified reporter may administer oaths and affirmations.--

23           The parties may agree or the court may order that a deposition be taken by telephone or  
24 other remote means. For the purposes of this article, the deposition takes place where the  
25 deponent answers the questions. If the deponent is not in the certified reporter's physical  
26 presence, the certified reporter may nonetheless place the deponent under oath or affirmation  
27 with the same force and effect as if the deponent was in the certified reporter's physical presence.

28           The certified reporter whose physical presence is outside the State of West Virginia may

29 administer oaths and affirmations if the proceeding involves a West Virginia action or the action  
30 is managed within a court in West Virginia.

**§30-42-9. Renewal of certificate.**

1 (a) Expiration Date. -- A certificate issued pursuant to this article is subject to renewal and  
2 expiration as prescribed by the rules adopted by the board. All certifications expire at midnight on  
3 June 30 of each even numbered year.

4 (b) Application. -- The certificate holder is responsible for applying for a renewal certificate.  
5 A certified reporter shall submit a completed renewal application, applicable fees pursuant to this  
6 article and documentation by the renewal application deadline established by the board to remain  
7 eligible to serve as a certified reporter in West Virginia.

8 (c) Continuing Education. -- A certificate holder shall include with the application for  
9 renewal documentation satisfactory to the board that the certificate holder has successfully  
10 completed at least 20 hours total of approved continuing education for the two-year cycle. The  
11 certificate holder shall comply with the provisions regarding continuing education contained in this  
12 article.

13 (d) Decision Regarding Renewal. --

14 (1) On receipt of the renewal application and the renewal fee, the board shall issue the  
15 applicant a new certificate unless the board finds that the applicant does not meet the  
16 requirements for renewal.

17 (2) The board may deny renewal of a certificate for any of the reasons specified as follows:

18 (A) The applicant does not meet to the board's satisfaction the requirements of this article.

19 (B) The applicant has not been fingerprinted and the supreme court has not received and  
20 reviewed the criminal records check analysis.

21 (C) The applicant has not submitted the applicable documents and fees.

22 (D) The applicant committed fraud, dishonesty, and corruption or material  
23 misrepresentation in applying for a certificate or on a certificate examination in this state or

24 another state.

25 (E) The applicant has a record of conviction by final judgment of a felony offense or any  
 26 other offense involving moral turpitude.

27 (F) The applicant is currently on probation, parole or community supervision for a felony  
 28 offense or is named in an outstanding warrant.

29 (G) The court has ordered treatment for the applicant or has found the applicant to be  
 30 incapacitated.

31 (H) The applicant is subject to revocation or suspension of a certificate or has had any  
 32 occupational or professional license denied, revoked or suspended.

33 (I) The applicant has been found civilly liable in an action involving fraud,  
 34 misrepresentation, material omission, misappropriation, theft or conversion.

**§30-42-10. Complaints, investigations, disciplinary action proceedings and certification**  
**and disciplinary hearings.**

1 The board may dismiss complaints that are not within the jurisdiction of the board;  
 2 complaints that are insufficient; or complaints that contain allegations that if true, would not  
 3 constitute a violation of the applicable statutes or court rules. Notwithstanding these provisions  
 4 the Secretary of State may not dismiss these complaints but shall forward these complaints to the  
 5 board with a written recommendation for dismissal. The board shall enter the final decision  
 6 regarding the disposition of the complaints.

**§30-42-11. Code of conduct.**

1 The following code of conduct applies to all certified reporters. The purpose of this code  
 2 of conduct is to establish minimum standards for performance by certified reporters and registered  
 3 reporting firms.

4 (a) Ethics. –

5 (1) A certified reporter and registered reporting firm shall avoid impropriety and the  
 6 appearance of impropriety in all professional activities, shall respect and comply with the laws

7 and shall act at all times in a manner that promotes public confidence in the integrity and  
8 impartiality of the judicial system.

9 (2) A certified reporter and registered reporting firm shall exercise fairness and impartiality  
10 toward each participant in all aspects of reported proceedings and always offer to provide  
11 comparable service to all parties in a proceeding.

12 (3) A certified reporter and registered reporting firm may have no personal or financial self-  
13 interest in the reporting of a proceeding and shall exercise caution to avoid any appearance of  
14 self-interest.

15 (4) A certified reporter and registered reporting firm shall be alert to situations that are  
16 conflicts of interest that may give the appearance of a conflict of interest or create an appearance  
17 of partiality.

18 (5) A certified reporter and registered reporting firm shall promptly make full disclosure to  
19 all parties or their representatives of any relationships which may give the appearance of a conflict  
20 of interest or partiality.

21 (6) A certified reporter shall refrain from knowingly making misleading, deceptive, untrue  
22 or fraudulent representations while in the practice of reporting. A certified reporter may not engage  
23 in unethical or unprofessional conduct that is harmful or detrimental to the public in the practice  
24 of reporting.

25 (7) A certified reporter or registered reporting firm's certification as required by this article  
26 means the certified reporter or registered reporting firm affirms the following:

27 (A) The transcript is a full, true, and accurate record of the proceeding;

28 (B) The preparation, production, distribution, and billing of the transcript and copies of the  
29 transcript comply with the West Virginia Code and the West Virginia Rules of Civil Procedure;

30 (C) All billings and invoicing to all the parties related in any manner to the reporting of the  
31 proceedings or cases and the production of the transcript and any products or services ancillary  
32 thereto comply with other provision of this code, including §57-4-1 et seq., §57-4-2, §47-27-1 et

33 seq. of this code and the West Virginia Rules of Civil Procedure;

34 (D) All financial terms and other services have been offered on the same terms to all  
35 parties to the litigation;

36 (E) Each party was able to purchase the transcript and such ancillary services as  
37 requested by that party without regard to the ancillary services purchased by any party;

38 (8) A certified reporter or registered reporting firm shall not provide reporting services in  
39 any action if they are:

40 (A) A party to the action;

41 (B) A relative, employee, or attorney of one of the parties;

42 (C) Someone with a financial interest in the action or its outcome; or

43 (D) A relative, employee, or attorney of someone with a financial interest in the action or  
44 the outcome; or

45 (E) Retained to provide court reporting services in the action by an individual or entity  
46 other than a party, a party's attorney or a registered reporting firm.

47 (9) A judicial officer may declare a deposition void if a certified reporter with an association  
48 to a matter takes a deposition.

49 (10) Except as expressly set forth in this article, the provisions of this article may not be  
50 waived by disclosure, agreement, stipulation, or otherwise, including West Virginia Rule of Civil  
51 Procedure 29(a), and in sound-and-visual legal proceedings, or any transcripts produced  
52 therefrom, reported by a certified reporter or registered reporting firm.

53 (11) Enter into an agreement, whether formal or informal, for court reporting services  
54 which restricts the noticing attorney or party to a legal proceeding from selecting and using the  
55 court reporter of his or her own choosing or otherwise requires the noticing attorney or party to a  
56 legal proceeding to select or use a court reporter not of his or her own choosing. Before accepting  
57 an assignment for court reporting services, the court reporter shall make reasonable efforts to  
58 ascertain whether any arrangement exists which is prohibited under this article.

59           (12) Provisions of this article may not apply to certified reporting services for the courts,  
60 agencies, or instrumentalities of the United States or of the State of West Virginia.

61           (b) Professionalism. –

62           (1) A certified reporter and registered reporting firm shall ensure the confidentiality and the  
63 security of information, verbal or written, entrusted to the certified reporter by the court or any of  
64 the parties in the proceeding is preserved. If the certified reporter or registered reporting firm uses  
65 a third party for any aspect of the preparation, production, distribution or storage of a transcript,  
66 the certified reporter or registered reporting firm, as appropriate, shall ensure that the third party  
67 maintains the confidentiality and security of the information. Unless authorized by court order or  
68 upon agreement of the parties, a certified reporter and registered reporting firm may release the  
69 transcript only to the witness, a party, and the witness' or party's attorneys. A certified reporter  
70 and registered reporting firm shall not violate or knowingly aid, assist or facilitate a third party's  
71 violation of a court order regarding confidentiality. A registered reporting firm shall have in place  
72 procedures to ensure its awareness of court orders and agreements regarding confidentiality  
73 when notified by counsel and/or the certified court reporter.

74           (2) A certified reporter and registered reporting firm shall be truthful and accurate when  
75 advertising or representing the certified reporter's qualifications, skills, abilities, or the services  
76 provided.

77           (3) A certified reporter and registered reporting firm shall maintain and observe the highest  
78 standards of integrity and truthfulness in all professional dealings.

79           (4) A certified reporter shall keep abreast of current literature, technological advances and  
80 developments and shall fulfill ongoing training requirements to maintain professionalism.

81           (5) As part of the judicial department's commitment to the principle of access to justice for  
82 all and the integral role of certified reporters, certified reporters are encouraged to provide pro  
83 bono services, when requested through qualified legal assistance organizations providing free  
84 legal services to the indigent. Certified reporters providing pro bono services pursuant to this

85 subsection shall disclose the pro bono services to all parties in the case.

86 (c) Fees and Services. –

87 (1) Except as otherwise provided in this article, a certified reporter shall charge all parties  
88 or their attorneys in the same action the same price for an initial copy of a transcript (A “copy”  
89 does not include the “original” of the transcript as defined §47-27-1(b) of this code). Additional  
90 copies purchased by the same ordering party may be charged at a reduced rate provided  
91 disclosure is made to all parties involved in the case and the same reduced rate for additional  
92 copies is provided to all parties involved in the case. Each party shall be treated as an individual  
93 party to the action and is required to purchase an initial copy at the same rate provided to all  
94 parties requesting a copy in the same action before they may obtain additional copies at a reduced  
95 rate. A certified reporter’s and registered reporting firm’s obligation to charge each party equally,  
96 includes, but is not limited to, complementary services, volume discounts, rebates, waivers, or fee  
97 reductions to any party because of the individual or cumulative effect of performing reporting  
98 services in said action. A certified reporter may provide services on a pro bono basis as provided  
99 in this article.

100 (2) Prior to the commencement of a legal proceeding, and at any time during or following  
101 the conclusion of a legal proceeding, upon request, an attorney or a party to that legal proceeding  
102 is entitled to an itemized statement of all rates and charges for all services that have been or will  
103 be provided by the court reporter or business, entity or firm providing or arranging for court  
104 reporting services to any party to the legal proceeding.

105 (3) A certified reporter and registered reporting firm may not enter into an agreement  
106 concerning fees that is unlawful or inconsistent with this article or this code.

107 (4) A certified reporter and registered reporting firm may not charge a fee for the electronic  
108 copy or paper copy of a transcript that is more than 55 percent of the cost of the original transcript,  
109 except by agreement of all parties to a legal proceeding. This prohibition does not apply to real-  
110 time court reporting services or accelerated transcript delivery requests made by the party

111 requesting a copy of the transcript when the party requesting the original has not requested  
112 accelerated delivery, or to pro bono transcripts provided for in this article.

113 (5) A certified reporter and registered reporting firm shall at all times be aware of and avoid  
114 impropriety or the appearance of impropriety, which may include, but is not limited to, offering any  
115 party, their attorney or the attorney's staff, representative, agent, insurer, or insured, or someone  
116 with a financial interest in the outcome of the litigation:

117 (A) Establishing contingent fees as a basis of compensation;

118 (B) Directly or indirectly receiving of any gift, incentive, reward, or anything of value as a  
119 condition of the performance of professional services;

120 (C) Directly or indirectly offering to pay any commission or other consideration in order to  
121 secure professional assignments;

122 (D) Directly or indirectly giving, for the benefit of employment, any gift, incentive, reward,  
123 or anything of value to attorneys, clients, witnesses, insurance companies or any other persons  
124 or entities associated with the litigation, or to the representatives or agents of any of the foregoing,  
125 except for:

126 (i) Nominal items that do not exceed \$25 per transaction and \$150 in the aggregate per  
127 recipient each year; and

128 (ii) Pro bono services; and

129 (E) Entering into any written or verbal financial relationship with counsel, parties of interest  
130 or their intermediaries that would require a certified reporter to violate any provision of this section.

131 (F) Notwithstanding any other provision of this article, the certified reporter or registered  
132 firm may establish such individual payment terms for each party as the certified reporter or  
133 registered reporting firm considers commercially reasonable.

134 (d) Skills and Practice. –

135 (1) A certified reporter shall take full and accurate stenographic notes or voice written or  
136 sound-only recordings of any proceeding and may not willfully alter the notes or recordings.



137 (2) A certified reporter shall accurately transcribe verbatim any stenographic notes, or  
138 voice written, or sound-only recordings taken at any proceeding, and may not willfully alter the  
139 transcript.

140 (3) A certified reporter shall provide a transcript to a client or court in a timely manner. The  
141 certified reporter shall meet promised delivery dates and make timely delivery of transcripts when  
142 no date is specified. A certified reporter shall meet transcript preparation deadlines in accordance  
143 with rules, statutes, court orders, or agreements with the parties. A certified reporter shall provide  
144 immediate notification of delays, including to the registered reporting firm.

145 (4) A certified reporter may not go "off the record" during a deposition or court proceeding  
146 unless agreed to by all parties or their attorneys, or ordered by the court.

147 (5) A certified reporter shall accept only those assignments for which the reporter's level  
148 of competence will result in the preparation of an accurate transcript. The certified reporter shall  
149 decline an assignment when the reporter's abilities are inadequate.

150 (6) A certified reporter shall prepare the record in accordance with applicable laws, rules,  
151 or court order.

152 (7) A certified reporter shall preserve the stenographic notes or voice written or sound-  
153 only recordings in accordance with this code, federal laws and the West Virginia Rules of Civil  
154 Procedure.

155 (8) A certified reporter shall have at least one backup recording that is separate from the  
156 primary recording method used to report the proceeding. Absent a court order to do so, the  
157 reporter's audio backup is the reporter's work product, and is not to be provided to a party  
158 requesting the same as it may contain inadvertent, off-the-record, or privileged information.

159 (e) Performance in Accordance with Law. –

160 (1) A certified reporter shall perform all duties and discharge all obligations in accordance  
161 with applicable laws, rules, or court orders.

162 (2) A certified reporter shall perform the duties of the profession using only the method of

163 reporting the applicant used to obtain certification.

**§30-42-12. Fee schedule.**

1 (a) Certification Fees. -- The following fees may be charged and collected:

2 (1) Initial Certification for Two Year Certification Period \$200.

3 (A) For certification expiring more than one year after application date \$200.

4 (B) For certification expiring less than one year after application date \$100.

5 (2) Fingerprint Processing -- (Rate as set by West Virginia law and subject to change).

6 (3) Other fees as set by the Secretary of State's office and the board of court reporting.

7 (b) Fees collected shall be deposited into the "Certified Reporters Fund".

**§30-42-13. Continuing education policy.**

1 (a) Purpose. -- Reporting is integrally related to the prompt, effective, and impartial  
2 operation of the judicial system. Certified reporters are required to demonstrate a basic level of  
3 competency to become certified and practice in West Virginia. Ongoing, continuing education is  
4 one means to ensure a certified reporter maintains continuing competence in the field of reporting  
5 after certification is obtained. Continuing education also provides opportunities for certified  
6 reporters to keep abreast of changes in the reporting and legal professions and the West Virginia  
7 judicial system.

8 (b) Applicability. --

9 (1) All certified reporters shall complete at least 20 hours of continuing education each  
10 two-year cycle to be completed on or before December 31 of every odd numbered year. Five  
11 hours of participation are transferable to the next upcoming certification period.

12 (2) All certified reporters shall comply with the continuing education policies in this  
13 subsection.

14 (c) Responsibilities of Certified Reporters. --

15 (1) Each certified reporter shall ensure compliance with the continuing education  
16 requirements, maintain documentation of completion of continuing education, and provide the

17 documentation upon the request of the board.

18 (2) Upon request of the board, a certified reporter shall provide any additional information  
19 required by the board or division staff when reviewing continuing education applications and  
20 documentation.

21 (3) Continuing education not recognized for credit upon board review does not in any way  
22 relieve the certified reporter of the responsibility to complete the required hours of continuing  
23 education.

24 (d) Authorized Continuing Education Activities. –

25 (1) Continuing education is designed to provide an understanding of current  
26 developments, skills, or procedures related to the practice of reporting. Continuing education shall  
27 address the areas of proficiency, competency, and performance of stenographic, voice written, or  
28 sound-only reporting, and impart knowledge and understanding of the profession of reporting, the  
29 West Virginia judiciary and the legal process, and increase the participant's understanding of the  
30 responsibilities of a certified reporter and the reporter's impact on the judicial process. The  
31 certified reporter shall complete the continuing education requirements in one or more of the  
32 following subject areas:

33 (A) English, including grammar and punctuation, vocabulary and etymology, proofreading  
34 and editing, and regional and minority dialects, colloquialisms, and commonly heard slang.

35 (B) Medical terminology presented by subject matter experts on terminology and concepts,  
36 commonly encountered by certified reporters including Greek and Latin roots, homonyms and  
37 sound-alikes, abbreviations, pharmacy, anatomy and physiology, and specialized medical fields,  
38 (for example, neurology, dentistry, radiology, and forensic medicine).

39 (C) Legal terminology presented by subject matter experts on terminology and concepts  
40 commonly encountered by certified reporters including etymology, substantive law, procedural  
41 law, various subdivisions of law, (for example, criminal, domestic, juvenile, and civil), and how  
42 cases are processed and argued.

43 (D) Other technical subjects presented by subject matter experts with emphasis on  
44 terminology and concepts commonly encountered by certified reporters (for example, accident  
45 reconstruction, chemistry, construction, workman's compensation, and product liability).

46 (E) Reporting technology including computer-aided transcription (CAT) skills: CAT  
47 equipment, hardware and software, DOS, ASCII and compressed transcript; computer skills  
48 including word processing, spreadsheets, database applications, windows, and Internet  
49 applications; equipment maintenance, and computer-integrated courtrooms.

50 (F) Realtime reporting including writing for realtime, communicating with the hearing  
51 impaired, working with an interpreter, the Americans with Disabilities Act, and realtime  
52 certification.

53 (G) Certification tests, including the Registered Merit Reporter, Registered Diplomat  
54 Reporter, Certified Realtime Reporter, Certified Realtime Captioner, Certified Manager of  
55 Reporting Services and Certificate of Merit, Realtime Verbatim Reporter, Realtime Verbatim  
56 Reporter – Master, Registered Broadcast Captioner – Master, and Registered CART Provider -  
57 Master. A certified reporter may receive continuing education credit for these activities in  
58 accordance with the standards established by the NCRA and the NVRA.

59 (H) Ethics for certified reporters and court employees, including cooperation with lawyers,  
60 judges, court staff, and fellow certified reporters, professional attire, courtesy, and impartiality to  
61 all litigants, information verses legal advice, and public relations.

62 (I) The West Virginia court system including the state and federal constitution, branches  
63 of government, West Virginia court jurisdiction and responsibilities, resource materials including  
64 the West Virginia Statutes, the West Virginia Rules of Civil Procedure, case law and administrative  
65 orders, and rules; and current issues in the West Virginia court system.

66 (J) Role and responsibilities of certified reporters, including §57-4-1, §57-4-2, §47-27-1, et  
67 seq., of this article, and the West Virginia Rules of Civil Procedure through 32 for certified  
68 reporters.

69 (K) Writing and editing skills including transcript style and setups, appropriate editing,  
70 scoping, scanning and printing, writing for a note reader, scopist or editor; indexing of witnesses,  
71 and exhibits and transcript formats.

72 (L) Research skills including utilizing reference materials, libraries, and research  
73 techniques.

74 (M) Management issues including public relations and customer service; accounting,  
75 ergonomics, time management, and office management.

76 (N) Continuing education units (CEUs) or personal development credits (PDCs) approved  
77 by NCRA, NVRA, or the AAERT.

78 (e) Conferences. – A certified reporter may receive continuing education credit for  
79 attendance at a conference relevant to the profession of reporting. A certified reporter may receive  
80 100 percent of the continuing education credits for attendance at the conference, if the conference  
81 is directly related to the reporting profession. Introductory remarks, breaks, meals, business  
82 meetings, and general sessions of the conference do not qualify as continuing education hours.

83 (f) University, College and Other Educational Institution Courses. – A certified reporter  
84 may receive continuing education credit for a course provided by a university, college or other  
85 institutionally accredited educational program if the reporter successfully completes the course  
86 with a grade of “C” or better or a “pass” on a pass/fail system. A certified reporter may receive  
87 continuing education credit if the course is relevant to the reporting profession and may receive  
88 credit up to two times the number of credit hours awarded by the educational institution. The  
89 maximum total hours of continuing education credits earned from educational course work shall  
90 not exceed 50 percent of the total number of continuing education hours required for renewal.

91 (g) Authoring or Coauthoring Articles. – A certified reporter may receive continuing  
92 education credit for authoring or coauthoring an article directly related to reporting, if the article is  
93 published in a state or nationally recognized professional journal of court reporting or law and if  
94 the article is a minimum of 1,000 words in length. A certified reporter may receive a maximum of

95 three hours of continuing education credit for authoring an article or articles during a renewal  
96 period. A certified reporter shall not receive continuing education credit for the same article  
97 published in more than one publication or republished in the same publication in later editions.

98 (h) *Self Study.* – A certified reporter may receive continuing education credit for self-study  
99 activities, including video and audio tapes, and other methods of independent learning. A certified  
100 reporter shall not receive continuing education credit for simply reading books, seminar or other  
101 printed materials. The maximum hours of continuing education credits earned in a self-study  
102 format shall not exceed 50 percent of the total number of continuing education hours required for  
103 renewal. However, if the self-study activities are NCRA, NVRA, or AAERT courses, a court  
104 reporter may receive up to 100 percent of the total number of continuing education hours required  
105 for renewal.

106 (i) *Serving as Faculty.* – A certified reporter may receive continuing education credit for  
107 serving as an instructor, speaker, panel member or faculty of a continuing education seminar  
108 directly related to the profession of reporting. A certified reporter may receive continuing education  
109 credit for the actual presentation time and up to two hours of preparation time for each hour of  
110 presentation. The maximum hours of continuing education credits earned as faculty credit shall  
111 not exceed 50 percent of the total number of continuing education hours required for renewal and  
112 a certified reporter shall not receive duplicate credit for repeating a presentation during the  
113 certificate period.

114 (j) *Minimum Time.* – Each continuing education activity shall consist of at least 30 minutes  
115 of “actual clock time” spent by a certified reporter in actual attendance at and completion of an  
116 approved continuing education activity. “Actual clock time” includes the total number of hours  
117 attended, minus the time spent for introductory remarks, breaks, meals, and business meetings.  
118 After completion of the first 30 minutes of a continuing education activity, credit shall be  
119 recognized in 15-minute increments.

120 (k) *Maximum Credit.* – Unless the board otherwise determines a continuing education

121 activity is directly related to the reporting profession, a certified reporter shall not receive more  
122 than 50 percent of the credit requirement for the certificate period through one activity.

123 (l) Non-Qualifying Activities. –

124 (1) The following activities, regardless of whether or not the activity is approved for credit  
125 by NCRA, NVRA, or AAERT shall not qualify for continuing education credit for certified reporters:

126 (A) Programs completed for qualification for initial certification;

127 (B) Programs with a primary focus on teaching nonverbal skills that are not directly related  
128 to reporting;

129 (C) Attendance or participation at professional or association business meetings, general  
130 sessions, elections, policymaking sessions, or program/employee orientation;

131 (D) Serving on committees or councils or as an officer in a professional organization;

132 (E) Activities completed as required by the board as part of a disciplinary action; and

133 (F) Mentoring activities by a certified reporter.

134 (2) Repeat of an Activity. – Continuing education activities repeated during a certificate  
135 period do not qualify for credited duplicate hours.

136 (3) If a certified reporter attends part, but not all of a continuing education activity, the  
137 certified reporter is not eligible to claim partial credit.

138 (m) Documentation of Attendance or Completion.-- When attending or completing a  
139 continuing education activity, each certified reporter shall obtain documentation of attendance or  
140 completion from the sponsoring entity. -- At a minimum, the proposal shall include the:

141 (1) Name of the sponsor;

142 (2) Name of the participant;

143 (3) Topic of the subject matter;

144 (4) Number of hours actually attended or the number of credit hours awarded by the  
145 sponsoring entity;

146 (5) Date and place of the program; and

147 (6) Signature of the sponsor, or an official document from the sponsoring entity.

148 (n) Compliance and Non-Compliance. –

149 (1) Affidavit of Compliance. A certified reporter shall submit an affidavit of continuing  
150 education compliance when applying for renewal of certification. The certified reporter shall  
151 submit the affidavit in the format provided by the secretary of state. The board and secretary of  
152 state may request documentation or additional information from a certified reporter applying for  
153 renewal to verify compliance with the continuing education requirements. If the certified reporter  
154 fails to provide the requested documentation or additional information, the board may deem the  
155 application for renewal incomplete and deny renewal of certification.

156 (2) Proration of Continuing Education Requirement. A certified reporter whose certificate  
157 expires less than six months from the effective date of certification shall complete no less than  
158 five hours of continuing education credit during the balance of the certification period. In  
159 subsequent certification periods, the certified reporter shall complete the 20-hour total continuing  
160 education requirement. Proration of the continuing education requirement does not apply to  
161 certified reporters who previously held certification and allowed their certification to lapse. A  
162 certified reporter who attends approved continuing education prior to the date of their initial  
163 certification, but within the certification renewal period may claim these continuing education  
164 hours as fulfilling the continuing education requirements for their first renewal of certification  
165 provided the continuing education meets all provisions of subsection L.

166 (3) Extension of Continuing Education Requirements. A certified reporter seeking renewal  
167 of certification who has not fully complied with the continuing education requirement may request  
168 an extension of the requirement under the following conditions:

169 (A) The certified reporter submits a notarized written statement to the board, explaining  
170 the facts regarding noncompliance and requesting an extension of the requirements no later than  
171 the expiration of the certificate. Upon a showing of extenuating circumstances, the board may  
172 grant an extension of a maximum of 90 days for the certified reporter to complete the continuing



173 education requirement.

174 (B) The board shall determine whether extenuating circumstances exist. In reviewing the  
175 request, the board shall consider if the certified reporter has been unable to devote sufficient  
176 hours to fulfill the requirements during the certificate period because of:

177 (i) Full-time service in the armed forces of the United States during a substantial part of  
178 the certificate period;

179 (ii) An incapacitating illness documented by a statement from a currently licensed  
180 physician;

181 (iii) A physical inability to travel to the sites of approved programs documented by a  
182 statement from a currently licensed physician; or

183 (iv) Any other special circumstances the board deems appropriate.

184 (C) A certified reporter whose certificate has been suspended or revoked by the board is  
185 not eligible to request an extension of the continuing education requirement.

186 (4) Random Audits of Compliance. During each renewal review period, the board shall  
187 randomly select a specified number of certified reporters to demonstrate continuing education  
188 compliance through submission of proof of continuing education participation. Refusal or failure  
189 to respond to a board request for continuing education compliance documentation may result in  
190 denial of renewal of certification or disciplinary action.

191 (5) A certified reporter who fails to meet the continuing education requirement, falsifies  
192 continuing education documents, completes any portion of the continuing education requirement  
193 after December 31 or willfully misrepresents continuing education activities and attendance at  
194 continuing education activities is subject to any or all of the following actions by the board:

195 Assessment of the delinquent continuing education fee;

196 Denial of renewal of certification; and

197 (C) Disciplinary action.

198 (o) Board Decision Regarding Continuing Education Credits. –

199 (1) Upon a review of continuing education documentation and any applicable additional  
200 information requested, the board may:

201 (A) Recognize compliance by the certified reporter with the continuing education  
202 requirement;

203 (B) Require additional information from the certified reporter seeking renewal before  
204 making a decision;

205 (C) Recognize partial compliance with the requirement and order remedial measures; and

206 (D) Enter a finding of noncompliance.

207 (2) Secretary of state staff shall notify the certified reporter, in writing, within 10 days of  
208 the board's decision. A certified reporter may appeal the decision by submitting a written request  
209 for review by the board with secretary of state staff within 15 days of receipt of notification of the  
210 board's decision. The certified reporter may request to appear before the board at the next  
211 available regularly scheduled board meeting.

212 (3) The certification of a reporter who timely appeals a decision by the board regarding  
213 continuing education shall continue in force until a final decision is made by the board.

214 (4) The board shall make the decision on the appeal in writing. The decision is final and  
215 binding.

**§30-42-14. Transcript format standards.**

1 Transcripts prepared by certified reporters and registered reporting firms in courts in the  
2 State of West Virginia shall conform to the following standards:

3 (a) No fewer than 24 typed lines on standard 8-1/2 by 11 inches pages.

4 (b) No fewer than nine characters to the typed inch.

5 (c) A full line of text shall be no less than 56 characters and/or spaces unless timestamping  
6 is used, in which case no fewer than 48 characters and/or spaces shall be used on a full line of  
7 text.

8 (d) Timestamping may only be printed on a transcript under any of the following

9 circumstances:

10 (1) When a deposition is videotaped;

11 (2) When requested by counsel on the record; and

12 (3) When a transcript will have not less than 48 characters per line.

13 (e) The page numbers, headers and footers do not count as a line of text. Line numbers  
14 and the spaces preceding text do not count as a character.

15 (f) Each question and answer to begin on a separate line.

16 (g) Each question and answer to begin no more than five spaces from the left-hand margin  
17 with no more than five spaces from the question and answer to the text.

18 (h) Carry-over question and answer lines to begin at the left-hand margin.

19 (i) Colloquy material to begin no more than 15 spaces from the left-hand margin, with  
20 carryover colloquy to the left-hand margin. In colloquy, text shall begin no more than two spaces  
21 after the colon following speaker identification.

22 (j) Quoted material to begin no more than 15 spaces from the left-hand margin, with carry-  
23 over lines to begin no more than 10 spaces from the left-hand margin.

24 (k) Parentheticals and exhibit markings to begin no more than 15 spaces from the left-  
25 hand margin, with carry-over lines to begin no more than 15 spaces from the left-hand margin.

26 (l) The name of the certified reporter, title ("certified reporter" or "CR") and certificate  
27 number on the title page and certificate page.

28 (m) The certified reporter and registered reporting firm shall certify on a certification page  
29 of each transcript of a legal proceeding, the following: "I certify that the attached transcript and its  
30 preparation, production, distribution, and billing meets the requirements set forth in §57-4-1, §57-  
31 4-2, §47-27-1, et seq. and §30-41-1, et seq." The language in this certification replaces the  
32 language in §47-27-3(b).

33 (n) Rough Drafts. An uncertified rough draft transcript shall not include a title page,  
34 appearance page, or certificate page.

35 (1) An uncertified rough draft transcript shall include a header or footer on each page  
36 stating “UNCERTIFIED UNEDITED ROUGH DRAFT TRANSCRIPT”.

37 (2) In lieu of a title page, each rough draft shall begin with a disclaimer stating the  
38 uncertified rough draft transcript cannot be quoted in any pleading or for any other purpose and  
39 may not be filed with any court. The disclaimer shall contain a brief identification of the contents,  
40 for example, John Smith deposition, 6/17/19. The certified reporter should keep a copy of the  
41 disclaimer.

**§30-42-15. Registered reporting firm.**

1 A reporting firm that employs, arranges for, or contracts with a certified reporter to provide  
2 services regulated pursuant to this article must be registered with the board in accordance with  
3 the provisions of this article.

4 (a) A reporting firm shall register with the board by providing to the board on a form  
5 approved by the same, the following information:

6 (1) Full legal name;

7 (2) Address;

8 (3) Telephone number;

9 (4) Email address; and

10 (5) Contact individual, including name, address, telephone number, and email address.

11 (b) Before the registration is effective:

12 (1) The reporting firm shall certify, on a form acceptable to the board, that the firm agrees  
13 to comply with §57-4-1, §57-4-2, 47-27-1, et seq., and 30-41-1, et seq. of this code in the same  
14 manner in which it would need to comply if it were a certified reporter;

15 (2) The reporting firm shall agree to submit to the jurisdiction of the Secretary of State to  
16 the extent it has performed activities regulated by this article; and

17 (3) The reporting firm shall pay the fee set forth in this article.

18 (c) A registered reporting firm registration expires on June 30 of each even numbered year

19 following its issuance, and may be renewed by filing a renewal application on a form acceptable  
20 to the board that provides the information and certifications set forth in this section.

21 (d) A registered reporting firm that contracts with, arranges for, or employs a certified  
22 reporter to perform services regulated by this article shall ensure that in the performance of those  
23 duties the certified reporter, and registered reporting firm adhere to the provisions of this article.

24 (e) A registered reporting firm that fails to comply with its obligations as set forth in this  
25 article may have its registration revoked, suspended, or the registered reporting firm may receive  
26 such other discipline as a certified reporter may receive upon finding by the board that the  
27 registered reporting firm violated the provisions of this article. Any disciplinary action imposed  
28 upon a registered reporting firm is also imposed upon the registered reporting firm's affiliates. If  
29 the registered reporting firm's registration is revoked the firm may not reapply for registration for  
30 12 months, and before being re-registered the board must determine that the conduct resulting in  
31 the revocation is unlikely to reoccur.

NOTE: The purpose of this bill is to create of the "Court Reporter Act of 2019" for the administration and certification of court reporters. This includes application, fees, criteria for approval or denial of certification, resolution of complaints concerning certified reporters and the discipline and administrative hearing process.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.