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SENATE BILL NO. 1330

Offered January 21, 2005

A BILL to amend the Code of Virginia by adding in Title 54.1 a chapter numbered 38.1 consisting of sections numbered 54.1-3813 through 54.1-3829, relating to the creation of the Virginia Board of Court Reporting.

Patron—Quayle

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 54.1 a chapter numbered 38.1, consisting of sections numbered 54.1-3813 through 54.1-3829, as follows:

CHAPTER 38.1.

VIRGINIA BOARD OF COURT REPORTING.

§ 54.1-3813. Definitions.

As used in this chapter unless the context requires a different meaning:

"Board" means the Virginia Board of Court Reporting.

"Certified Court Reporter" or "CCR," means designation of certification given by the Virginia Court Reporters Association for its certified members.

"Court reporter" means any person who is engaged in the practice of court reporting as a profession as defined in this chapter. The term "court reporter" shall include not only those who actually report judicial proceedings in courts but also those who make verbatim records.

"Court reporting" means the making of a verbatim record by means of manual shorthand, machine shorthand, voice writer, or by other means of personal verbatim reporting of any testimony given under oath before, or for submission to, any court, referee, or court examiner or any board, commission, or other body created by statute, or by the Constitution of Virginia or in any other proceeding where a verbatim record is required. The taking of a deposition is the making of a verbatim record as defined in this chapter.

"NCRA" means the National Court Reporters Association.

"NVRA" means the National Verbatim Reporters Association.

"Secretary" means a person selected by the Board to serve as secretary of administration and finance.

"VCRA" means the Virginia Court Reporters Association.

§ 54.1-3814. Practice of court reporting.

No person, except as otherwise provided by law, shall practice or attempt to practice court reporting in the Commonwealth or hold himself out as a court reporter unless he is a certified court reporter.

§ 54.1-3815. Virginia Board of Court Reporting created; members; terms; officers; meetings; duties; expenses.

A. There is created the Virginia Board of Court Reporting. The Board shall consist of seven members appointed by the Governor as follows:

1. Four members certified as court reporters at a professional level by NCRA or NVRA. A list of nominations for each of these positions shall be submitted to the Governor by VCRA.

2. Two members of the Virginia State Bar in good standing. A list of nominations for each of these positions shall be submitted to the Governor by the Virginia State Bar.

3. One member of the Virginia Judicial Council. A nomination for this position shall be submitted to the Governor by the Chief Justice of the Supreme Court.

B. All members of the board shall be citizens of the United States and citizens of the Commonwealth of Virginia.

C. A list of three nominees for each position shall be submitted to the Governor by the designated organizations by October 1, 2005. The initial terms shall begin January 1, 2006.

D. The initial members of the board shall serve the following terms as designated by the Governor: (i) three of the initial members shall serve for two years; (ii) two of the initial members shall serve for three years; and (iii) two of the initial members shall serve for four years.

E. Subsequent terms of office shall be four years. No board member may serve more than two consecutive terms. In the event of a vacancy, the Governor shall fill the vacancy from the remaining names on the list of nominees for that position. Each board member shall serve until his successor is duly appointed and qualified.

F. At its first meeting each year, the Board will elect a chair, a vice-chair, and a secretary. No

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59 member shall be elected to serve more than two consecutive years in the same office.

60 G. After the initial appointments to the Board are made, the Board shall meet by January 31 of the
61 following year for the purpose of organizing and transacting business as may properly come before it.
62 Subsequently, the Board shall meet no less than twice annually, and as frequently as it deems necessary,
63 at such time and places as it designates. A quorum necessary to transact business shall consist of four
64 of the members of the Board.

65 H. The Board shall have all of the following duties:

66 1. Act on matters concerning licensure and permitting, and the process of granting, suspending,
67 reinstating, and revoking a license or permit.

68 2. Set a fee schedule for granting licenses and permits and renewals of licenses and permits. The
69 fees shall be sufficient to cover the cost of the continued operation and administration of the Board.

70 3. Develop a mechanism for processing applications for licenses, permits, and renewals.

71 4. Establish a procedure to enable the investigation of complaints concerning the violation of ethical
72 practices for licenses or permitted reporters.

73 5. Maintain a current register of licensed reporters and a current register of permitted reporters.
74 These registers shall be matters of public record.

75 6. Maintain a complete record of all Board proceedings.

76 7. Submit an annual report detailing the proceedings of the Board to the Governor and file a copy
77 with the Secretary of State.

78 8. Adopt continuing education requirements no later than October 1 of the year in which the initial
79 Board is appointed. These requirements shall be implemented by January 1 of the year following for
80 renewal of a license or permit.

81 1. Board members shall receive the same travel expenses and per diem as state employees. The
82 compensation and expenses shall be paid out of the funds of the Board. Reimbursement shall be made if
83 available funds are insufficient for this purpose.

84 J. The Board is charged with the duty and vested with the power and authority to determine the
85 content of examinations to be given to applicants for licensure as certified court reporters and to issue
86 numbered licenses to those found qualified as certified court reporters who are in compliance with this
87 chapter.

88 § 54.1-3816. Charges of fraud, deceit, etc., against holder of license or permit; hearing; appeal;
89 reapplication.

90 A. Any person may bring charges of fraud, deceit, negligence, incompetence, or misconduct against a
91 licensee or permit holder. All charges shall be made in writing or by videotape and sworn to by the
92 person making the charges. All charges shall be submitted to the chair of the Board within 90 days of
93 the alleged occurrence. After a review of the charges, the Board shall conduct a hearing at which it
94 may dismiss the charges, or may impose a fine not to exceed \$1000, or may suspend or revoke the
95 license or permit of the person charged.

96 B. The licensee or permit holder may appeal a decision of the Board imposing an administrative fine
97 or revoking or suspending a license or permit by submitting a request to the Board for reconsideration
98 within 90 days following the decision of the Board. If no resolution is achieved, further appeals shall be
99 submitted to the circuit court in the jurisdiction of the residence of the licensee or permit holder. Any
100 licensee or permit holder whose application for renewal of licensure or permitting was denied or whose
101 license or permit was revoked may reapply after 12 months. The Board may then reissue a license or
102 permit or rescind any disciplinary action if a majority of the members, which shall be no less than four
103 members, vote in favor of the action.

104 §54.1-3817. Rules and regulations.

105 The Board may promulgate rules and regulations necessary to implement and accomplish its
106 objectives. The rules and regulations shall be made available to all licensees and permit holders.

107 § 54.1-3818. Violations; penalties.

108 After January 1, 2006, any person who undertakes or attempts to undertake the practice of court
109 reporting for remuneration among consumers without first having procured a valid license or permit, or
110 who knowingly presents or files false information with the Board for the purpose of obtaining a license
111 or permit, or who violates this chapter shall be guilty of a Class 3 misdemeanor. A person who is not
112 licensed or permitted may not bring or maintain an action to enforce any contract for court reporting
113 services that was entered into in violation of this chapter. Whenever it appears to the Board that any
114 court reporter has violated or is about to violate this chapter, the Board may, in its own name, petition
115 the circuit court of the county or city wherein the violation occurred or is about to occur to issue a
116 temporary restraining order enjoining the violation.

117 § 54.1-3819. Actions by Board to recover damages; liability of Board members.

118 A. The Board may sue and be sued in its own name to recover actual or compensatory damages,
119 including interest and court costs, sustained within the Commonwealth of Virginia as the result of
120 conduct of any licensee or permit holder who violates this chapter or the rules and regulations of the

Board.

B. All members of the Board shall be immune from civil liability while acting within the scope of their duties as Board members.

§ 54.1-3820. Educational requirements, examinations; applications for licensure; fees.

To be licensed as a court reporter, an applicant must have passed the NCRA RPR Examination or the NVRA CVR Examination. Applications for such licenses, signed and sworn by the applicants, shall be made on forms furnished by the Board. All applicants who are found qualified to engage in the practice of court reporting under the provisions of this chapter will be issued a license as a certified court reporter and an identifying number. The license shall be valid until July 31st of the year of its issuance.

§ 54.1-3821. Reciprocity agreements authorized.

A. The Board may enter into a reciprocal agreement with any state, agency, or other organization that licenses, certifies, or registers professional court reporters, if the Board finds that the state, agency, or organization has substantially the same requirements or more stringent requirements.

B. The reciprocity agreement shall provide that the Board shall license anyone who is currently licensed, certified, or registered in that state, agency, or other organization if that state, agency, or other organization agrees to license, certify, or register any practitioners who are currently licensed pursuant to this chapter.

C. The Board shall set by regulation the fees appropriate in processing reciprocity.

§ 54.1-3822. Annual fee; fund.

A. The annual fee may be increased or decreased by the Board, provided the Board shall not set an annual fee at an amount that would not provide sufficient revenues to pay all the costs and expenses incurred by the Board in enforcing this chapter. The annual fee shall cover a license or permit for the 12-month period beginning March 15 of each year.

B. There is created in the State Treasury the Virginia Board of Court Reporting Fund. All fees collected by the Board shall be paid into the state treasury to the credit of the fund. Moneys in the fund shall be subject to withdrawal only upon warrant of the State Comptroller to be issued upon certification of the secretary or treasurer of the board.

C. Any funds remaining in the State Treasury to the credit of the Board at the end of each year in excess of \$250,000 shall be available to provide for the education and training of court reporters. At all times the Board may retain a sum not in excess of \$250,000 to meet any emergency that may affect the efficient operation of the Board. No funds shall be withdrawn or expended except as budgeted and allocated pursuant to sections within this act and only in amounts as stipulated in the general appropriations bill or other appropriations bills. There shall be appropriated from the fund to the Board for the fiscal years 2005-2006 an amount deemed necessary by the Board to fund the costs of its operations.

§ 54.1-3823. Renewal; change of address.

Each person licensed hereunder shall apply by dates determined by the Board for renewal of his license and pay a fee determined by the secretary of administration and finance to the Board and thereupon the Board shall issue a numbered license showing that the holder is entitled to practice for the period covered by said payment. The Board will require specific continuing education as a condition for license renewal. The Board may provide for the late renewal of a license that has lapsed and may require the payment of a late fee or an examination prior to issuing said renewed license. Certified court reporters must notify the Board in writing of any change of address within 30 days.

§ 54.1-3824. Licensure without examination.

A. An applicant who has been engaged in the practice of court reporting for a minimum of one year prior to the effective date of this chapter and who provides to the Board an affidavit setting forth his past education and work experience as a court reporter and the affidavits of three attorneys unrelated to him who are licensed to practice law in the Commonwealth and who have utilized the services of the applicant, which attest to the applicant's proficiency in court reporting, shall, upon payment of a fee determined by the secretary of administration and finance, be licensed to practice as a court reporter.

B. Any current member in good standing of the Virginia Court Reporters Association currently certified under the voluntary Certified Court Reporter (CCR) Program, upon payment of a fee determined by the secretary of administration and finance, shall be automatically granted a certified court reporter license by the Board and thereby licensed to practice as a court reporter in the Commonwealth of Virginia.

C. VCRA Members who hold the voluntary CCR certification and do not apply for certification under the Virginia Board of Court Reporting within one year of the enactment of this bill will be required to take the RPR or CVR examination in order to become a certified court reporter.

§ 54.1-3825. Reciprocity for Applicants certified or registered outside the Commonwealth.

The Board may license as a court reporter any applicant who furnishes the Board with a valid

182 Registered Professional Reporter (RPR) certificate, Certified Verbatim Reporter (CVR) certificate,
183 Certificate of Merit (CM) certificate, or Registered Merit Reporter (RMR) certificate, or similar
184 certificate issued by the National Court Reporters Association, the National Verbatim Reporters
185 Association or its successors.

186 § 54.1-3826. Inactive status.

187 The Board shall establish an inactive status for persons who are not actively engaged in the practice
188 of court reporting. The holder of an inactive license or certificate issued pursuant to this section shall
189 not engage in any activity for which a license is required. An inactive license or certificate issued
190 pursuant to this section shall be renewed during the same time period in which an active license or
191 certificate is renewed. The holder of an inactive license or certificate is exempt from any continuing
192 education requirement for renewal of an active license. The renewal fee for a license or certification in
193 an active status shall apply also for a renewal or a license or certification in an inactive status, unless
194 a lesser renewal fee is specified by the Board. In order for the holder of an inactive license or
195 certificate issued pursuant to this section to restore his or her license or certificate to an active status,
196 the holder of an inactive license or certificate shall: (i) pay the required renewal fee, and (ii) if the
197 Board requires completion of continuing education for renewal of an active license or certificate,
198 complete continuing education equivalent to that required for renewal of an active license or certificate,
199 unless a different requirement is specified by the Board.

200 § 54.1-3827. Temporary licensure.

201 An applicant who has engaged in the practice of court reporting in the Commonwealth of Virginia
202 for less than one year on the effective date of this chapter and provides to the Board satisfactory proof
203 of graduation from an accredited high school or its equivalent and the affidavits of three attorneys,
204 unrelated to him who are licensed to practice law in the jurisdiction and who have utilized the services
205 of the applicant, which attest to the applicant's proficiency in court reporting, shall, upon application to
206 the Board on forms approved by the Board and payment of a fee determined by the Board, be issued a
207 temporary license or certificate to practice as a court reporter. Such temporary licenses or certification
208 shall expire on the sixtieth day following the date upon which the next Board-approved examination for
209 licensure or certification is given. No more than two additional temporary licenses shall be issued to
210 any applicant who fails to pass the scheduled examination for licensure or certification.

211 § 54.1-3828. Records of Board; rules and regulations; reports.

212 The Board shall maintain records of its proceedings and a registry of all persons licensed by it,
213 which shall be public records and open to inspection. The Board shall make such rules and regulations
214 as may be necessary for the proper conduct of its duties.

215 § 54.1-3829. Fees.

216 All funds collected under the provisions of this chapter shall be deposited into a special fund, hereby
217 created in the state treasury. All expenses incurred by the Board in implementing the provisions of this
218 chapter shall be paid out of such special fund provided that the expenses of the Board shall not be in
219 excess of the receipts from registration and other sources that have been received from the Board. The
220 Board shall be entitled to charge and collect, as determined by the Secretary, the following fees: (i) an
221 applicant fee for any temporary or regular certificate, (ii) a renewal fee for any regular or temporary
222 certificate, (iii) a reinstatement fee for any application for reinstatement of a temporary certificate or for
223 a regular certificate which has been revoked or suspended, (iv) the fee to be paid for the renewal of a
224 certificate after the due date shall be increased 20 percent for each month or fraction of a month that
225 payment of renewal is delayed. However, delinquency of more than six months shall result in revocation
226 of certification.