

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND THIRTEEN

S.P. 543 - L.D. 1469

An Act To Ensure Ethical Standards for Court Reporters

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 4 MRSA c. 15, sub-c. 4 is enacted to read:

SUBCHAPTER 4

GENERAL PROVISIONS; ETHICAL STANDARDS

§771. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Court reporter. "Court reporter" means a person who records legal proceedings by stenotype machine or other means allowed under the Maine Rules of Civil Procedure, Rule 30 and provides prompt preparation of an accurate, verbatim written transcript. "Court reporter" does not include an employee of the Judicial Branch or a person transcribing legal proceedings for the Judicial Branch.

2. Court reporting services. "Court reporting services" means services provided by a court reporter.

3. Court reporting services provider. "Court reporting services provider" means a business, entity or firm that provides or arranges for court reporting services.

4. Governmental entity. "Governmental entity" has the same meaning as in Title 14, section 8102, subsection 2.

5. Legal proceeding. "Legal proceeding" means a proceeding or series of proceedings by which a legal judgment is invoked and includes but is not limited to:

A. A court proceeding;

- B. A deposition;
- C. An administrative hearing;
- D. An arbitration hearing;
- E. An examination under oath; and
- F. A sworn statement.

6. **Party.** "Party" means a party to an action that is the subject of the legal proceeding for which court reporting services are provided or sought to be provided.

§772. Relationship to party or proceeding; prohibition

1. **Prohibition.** A court reporter or a court reporting services provider may not provide court reporting services for a legal proceeding if that court reporter or the court reporting services provider:

- A. Has a contractual relationship with a party or an attorney, representative, agent or insurer of a party, other than a contract to provide court reporting, litigation and trial support services;
- B. Engages in any prohibited actions set forth in section 773; or
- C. Is a party.

A court reporter may not provide court reporting services for a legal proceeding if the court reporter is a relative, employee or attorney of one of the parties or is a relative, employee or attorney of a person with a financial interest in the action or its outcome.

2. **Reasonable effort to determine; requirement.** Prior to the provision of court reporting services, a court reporter or court reporting services provider shall make reasonable efforts to determine whether the provision of court reporting services is prohibited under this subchapter.

§773. Prohibited actions

A court reporter or court reporting services provider may not:

1. **Contract.** Enter into an oral or written contractual agreement with an attorney, party to an action, insurance company or 3rd-party administrator or any other person or entity that has a financial interest in the case, action or legal proceeding, other than a contract to provide court reporting, litigation and trial support services;

2. **Advantage.** Give an economic or other advantage to a party or a party's attorney, representative, agent, insurer or employee without offering the advantage to all parties or fail to offer comparable services, prices or financial terms to all parties, except that different credit terms may be offered based on payment experience and creditworthiness;

3. **Outcome-based payment.** Offer or provide court reporting services if payment for those services is made contingent on the outcome of the legal proceeding, base the compensation for the court reporting services on the outcome of the legal proceeding or

otherwise give the court reporter or court reporting services provider a financial interest in the action;

4. Restrict choice of court reporter. Enter into an agreement for court reporting services that restricts an attorney from using the court reporter or court reporting services provider of the attorney's choosing;

5. Allow manipulation. Allow the format, content or body of a certified transcript as submitted by the court reporter to be manipulated in a manner that increases the cost of the transcript; or

6. Interference with services. Enter into a contract for court reporting services that allows an attorney, party to an action, insurance company or 3rd-party administrator or any other person or entity to interfere with a court reporter's right to deal directly with all parties to a proceeding, including any provision in a contract that restricts the right of the court reporter to contract with the other parties in a legal proceeding to provide transcripts to those parties.

§774. Comparable treatment of parties

1. Itemized statement. At any time during or following a legal proceeding, an attorney or a party is entitled to an itemized statement of the rates and charges for all services that have been or will be provided by a court reporter or court reporting services provider that is providing court reporting services to any party to the legal proceeding.

2. Information to parties. A court reporter or court reporting services provider shall provide to the parties information on prices, terms and conditions of court reporting services in sufficient time prior to the commencement of the legal proceeding to allow the parties the opportunity to effectively negotiate for any changes necessary to ensure that comparable terms and conditions are made available to all parties.

3. Information to court. Upon request, a court reporter or court reporting services provider shall provide an itemized invoice of all rates and charges for court reporting services provided to the administrative body, court or administrative tribunal in which the action upon which the legal proceeding is based is pending or scheduled to be heard.

§775. Waiver prohibited

The provisions of this subchapter may not be waived or otherwise modified. Any waiver or modification is contrary to public policy and is void and unenforceable.

§776. Exception; governmental entities

Notwithstanding section 773, if authorized or required by law, ordinance or rule, a governmental entity may obtain court reporting services on a long-term basis through competitive bidding.

§777. Construction; pro bono services

Nothing in this chapter may be construed to limit the ability of a court reporting services provider to provide pro bono services to persons or parties with limited means.

§778. Remedies

1. Motion. A party may file a motion alleging a violation of this subchapter with the administrative body, court or administrative tribunal in which the action upon which the motion is based is pending or scheduled to be heard. A person need not commence a separate action to allege a violation of this subchapter.

2. Sanction. In addition to remedies that are otherwise available by law, an administrative body, court or administrative tribunal that receives a motion filed pursuant to this section and determines that a person violated this subchapter may refuse to admit the contested transcript and may bar the person from providing services in matters before that administrative body, court or administrative tribunal.

§779. Application

1. Application to services. This subchapter applies to court reporting services performed in this State, whether a party appears in person or by remote means, provided by:

A. A court reporter or court reporting services provider, whether or not based in the State, in connection with a legal proceeding that is commenced or maintained in this State; or

B. A court reporter or court reporting services provider based in this State in connection with a legal proceeding that is commenced or maintained in a foreign jurisdiction.

2. Application to Judicial Branch. This subchapter does not apply to court reporting services performed by employees of the Judicial Branch or persons transcribing legal proceedings for the Judicial Branch.