

HOUSE BILL 1087

By Halford

AN ACT to amend Tennessee Code Annotated, Section
24-9-136, relative to depositions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Sections 24-9-136, is amended by deleting subsections (b), (c), (d), and (e) in their entireties and substituting instead the following:

(b)

(1) The person before whom a deposition is to be taken shall disclose to the parties in a timely fashion the existence of any facts known to the person that are relevant to factors set forth in subsection (a).

(2) A written stipulation pursuant to subsection (a) shall be submitted to all parties of record by the party desiring to take the deposition. Submittal shall be in compliance with the notice of deposition requirements of Rule 30.02 of the Tennessee Rules of Civil Procedure. Objection to the stipulation shall be delivered to the other parties of record no later than forty-eight (48) hours prior to the deposition. The signed stipulation shall be attached to the transcript.

(3) The written stipulation shall be as follows:

STIPULATION PURSUANT TO § 24-9-136 AND RULE 29 OF
THE TENNESSEE RULES OF CIVIL PROCEDURE

The attending court reporter was retained by a person listed in § 24-9-136(a), including a party to the action, a relative of one (1) of the parties or of an attorney for one (1) of the parties; an employee of one (1) of the parties; or someone with a financial interest in the action or its outcome.

Any discount(s) offered to one party shall be disclosed and equivalent discounting shall be offered to all parties.

All transcripts, exhibit copies, electronic data, and invoices will be produced and provided to the parties by _____.

The parties or their attorneys waive the provisions of § 24-9-136(a),

Date: _____

Attending Court Reporter

Attorney

Attorney

(c) No court reporter or entity that provides court reporting services shall:

(1) Give any economic or other advantage to any party, a party's attorney, representative, agent, insurer, or employee without offering it to all parties. This includes failing to offer comparable services, including price or credit terms, to all parties or otherwise requiring the court reporter or entity providing court reporting services to provide financial terms or other services that are not offered at the same time and on the same terms to all other parties in the legal proceeding; provided, however, that different credit terms can be offered based on payment experience and creditworthiness;

(2) Base the compensation of the court reporter or entity that provides court reporting services on the outcome of the proceeding or otherwise giving the court reporter or court reporting entity a financial interest in the action;

(3) Offer or provide court reporting services where payment for those services will be made contingent on the outcome of the action;

(4) Allow the format, content, or body of the original transcript to be manipulated in a manner that increases the cost of the transcript; or

(5) Provide additional advocacy or litigation support services including, but not limited to, trial preparation assistance, deposition summaries, and non-published transcript databases; provided, however, databases furnished to attorneys are not prohibited.

(d) Transcripts shall be in the following format unless otherwise specified by rules of court:

(1) Excluding headers and footers, no fewer than twenty-five (25) typed lines of transcript shall be on standard 8 ½ inch by 11 inch paper;

(2) Each line shall contain no fewer than nine (9) or ten (10) characters to the typed inch;

(3) Left-hand margin shall be set at no more than 1¾ inches;

(4) Right-hand margin shall be set at no more than 3/8 inch;

(5) Each question and answer shall begin on a separate line;

(6) Each question and answer shall begin no more than five (5) spaces from the left-hand margin with no more than five (5) spaces from the “Q” and “A” to the text;

(7) Carryover “Q” and “A” text shall begin at the left-hand margin;

(8) Colloquy material shall begin no more than fifteen (15) spaces from the left-hand margin with carryover colloquy to begin at the left-hand margin;

(9) Quoted material shall begin no more than fifteen (15) spaces from the left-hand margin, and carryover lines shall begin no more than ten (10) spaces from the left-hand margin; and

(10) Parentheticals and exhibit markings shall begin no more than fifteen (15) spaces from the left-hand margin, with carryover lines beginning no more than ten (10) spaces from the left-hand margin.

(e)

(1) At any time during or at the conclusion of a legal proceeding, an attorney or a party to that proceeding has the right to an itemized statement of all rates and charges for all services that have been or will be provided by the court reporter or entity providing court reporting services to any party to the litigation.

(2) Upon request, information on prices, terms, and conditions shall be made available in sufficient time prior to the commencement of the proceeding which will allow all parties to have the opportunity to effectively negotiate for any changes necessary to ensure that comparable terms and conditions will be made available to all parties.

(f) Violation of this section shall include any or all of the following penalties:

(1) The transcript of the legal proceeding shall be deemed void and ineligible for admission into a court of law or for use or submission in any legal or administrative proceeding; provided, however, the transcript may be admitted at the discretion of the court or administrative officer upon motion by any party; or

(2) Enforcement and disciplinary proceedings before the board of court reporting.

(g) Subsections (b), (c), (d), and (e) shall not be waived by disclosure, agreement, stipulation, or by any other means for any reason.

(h) Notwithstanding this section, if an audio-visual deposition has been agreed to or ordered by the court pursuant to Rule 30 of the Tennessee Rules of Civil Procedure, any lawyer or lawyer's agent may operate the video equipment pursuant to Rules 28.01 and 30.02(4)(B).

(i) This section shall not apply to contracts for court reporting services for the courts, agencies, or instrumentalities of the United States or this state.

(j) This section shall apply to any court reporter or entity providing court reporting services conducted in the state, and to any deposition conducted in this state, whether the parties appear in person or by remote means; any engagement or contract for court reporting services actually performed in this state shall be deemed a contract made in this state and subject to this state's laws and regulations.

SECTION 2. Tennessee Code Annotated, Section 24-9-136(a), is amended by deleting subdivision (4) and renumbering the remaining subdivisions accordingly.

SECTION 3. If any provisions of this act or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2015, the public welfare requiring it.