

2003 DRAFTING REQUEST

Bill

Received: 05/13/2003

Received By: rnelson2

Wanted: As time permits

Identical to LRB:

For: John Gard (608) 266-3387

By/Representing: Ellen N

This file may be shown to any legislator: NO

Drafter: mlief

May Contact:

Addl. Drafters:

Subject: Courts - courts/judges/commsrs

Extra Copies:

Submit via email: YES

Requester's email: Rep.Gard@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Contracts with court reporters

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rnelson2 05/14/2003 mlief 05/14/2003	kgilfoy 05/21/2003		_____			
/1			pgreensl 05/22/2003	_____	sbasford 05/22/2003		

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/2	mlief 06/11/2003	kgilfoy 06/11/2003	pgreensl 06/11/2003	_____	sbasford 06/11/2003		
/3	mlief 06/12/2003	kgilfoy 06/12/2003	rschluet 06/12/2003	_____	mbarman 06/12/2003	lemery 06/30/2003	

FE Sent For:

<END>

↳ Not
Needed

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for Assembly per Ellen

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	mlief 05/14/2003						
/1		13-6/12 King					
			pgreensl 05/22/2003		sbasford 05/22/2003		

6-12-3

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1		Kmg	pgreensl 05/22/2003		sbasford 05/22/2003		

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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1?	rnelson2 05/14/2003 mlief	11-5/21 trmg	J br ps	J br ro/ps			

FE Sent For:

<END>

Nelson, Robert P.

From: Dykman, Peter
Sent: Monday, May 12, 2003 7:11 PM
To: Nelson, Robert P.
Subject: FW: bill drafting requests

If this is not your draft, please forward to the proper drafter. Peter D

-----Original Message-----

From: Nowak, Ellen
Sent: Monday, May 12, 2003 4:10 PM
To: Dykman, Peter
Subject: bill drafting requests

Hi Peter,
Could you please forward the following 2 bill requests to the appropriate drafter? Thanks!

2. Prohibit court reporters from entering into contracts with firms. See attached draft language.



court reporter
info.pdf

Proposed Amendment to Wis. Stat. § 804.03(3)
Prohibition Against Third Party Contracts With Court Reporters

1 **SECTION 1.** 804.03 (3) of the statutes is amended to read:

2 (3) **DISQUALIFICATION FOR INTEREST.**

3 (a) No deposition shall be taken before a person who is a party to the action, or a
4 relative or employee or attorney or counsel of any of the parties, or is a relative or employee of
5 such attorney or counsel, or is financially interested in the action. No deposition shall be taken
6 before a person who has entered into a contract, an agreement or a series of contracts or
7 agreements, for court reporting services unless such contract, agreement or series of contracts or
8 agreements is related to a particular case or particular reporting incident.

9 (b) For purposes of this section, "employee" includes a person or entity who has a
10 contractual relationship with a person or ^{person or entity} entity interested in the outcome of the litigation, anyone
11 who may ultimately be responsible for payment to provide court reporting or other court
12 services, and any person who is employed part-time or full-time under contract or otherwise by a
13 person who has a contractual relationship with a party to provide court reporting or other court
14 services.

15 (c) This section shall not prohibit contracts, agreements or a series of contracts or
16 agreements for court reporting or other court services with the court system, state agencies or
17 other governmental entities.

D-N

3 5
2001 - 2002 LEGISLATURE

2781
LRB-14271
RPN: pg
MJE:Kmg:

3
2001 ASSEMBLY BILL 426

D-NOTE

February 15, 2001 - Introduced by Representatives WALKER, ALBERS, BALOW, COLON, HUBER, HUEBSCH, HUNBERTMARK, J. LEHMAN, OLSEN, PETTIS, POWERS, RYBA, STASKUNAS, STONE, SYKORA, TOWNSEND and WADE, cosponsored by Senators GEORGE, BURKE, DARLING, ROSENZWEIG and SCHULTZ. Referred to Committee on Judiciary.

Gen. Cat.

- 1 AN ACT to renumber and amend 804.03 (3); and to create 804.03 (3) (b) of the
- 2 statutes; relating to: contracts with persons who take depositions.

PERSON

(disqualified) which means a
Analysis by the Legislative Reference Bureau

Under current law, a deposition may be taken before a person authorized to administer oaths, including judges, court commissioners, administrative hearing officers, district attorneys, and court reporters. Generally, a deposition is taken before a court reporter, who records and transcribes the deposition. Currently, a deposition may not be taken before a person who is a relative, employee, attorney, or counsel of any of the parties to the action; ~~before~~ a relative or employee of the attorney or counsel of any of the parties; or ~~before~~ a person who is financially interested in the action.

This bill ~~also~~ prohibits any contract between a person financially interested in the action and the person taking a deposition, except a contract to report and transcribe a deposition. The bill includes the parties to the action, a real party in interest, the insurer of a party to the action or real party in interest, and an attorney, agent, or employee of a party to the action, real party in interest, or the insurer as persons who are financially interested in the action, but excludes persons who take depositions for a public agency.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

also expands the list of disqualified persons to include a person who has a contractual relationship with a person financially interested in the action and a person who may ultimately be responsible for payment to a court reporter or court reporting services

confidential

NO new 91
The bill also prohibits a person from taking a deposition if the person has entered into a contract for court reporting services that is not related to a particular action or incident.

The bill's prohibitions do not apply, however, to persons who take depositions for a public agency.

ASSEMBLY BILL 126

SECTION 1. 804.03 (3) of the statutes is renumbered 804.03 (3) (a) and amended to read:

804.03 (3) (a) No deposition shall may be taken before a person who is a relative of, employee of, attorney, or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action. ~~Noncontract, other than for the attendance to record and transcribe a deposition, may be entered into between a financially interested party and a person taking a deposition related to that action or that person's principal. A financially interested party includes any party to the action, a real party in interest, the insurer of a party to the action or real party in interest or an attorney, agent or employee of a party to the action, real party in interest, or the insurer.~~

SECTION 2. 804.03 (3) (b) of the statutes is created to read:

804.03 (3) (b) This subsection does not apply to a person who records or transcribes depositions for a public agency, as defined in s. 66.0825 (3) (h).

(END)

has a contractual relationship with a person who has a financial interest in the outcome of the action, or may be ultimately responsible for payment to a court reporter or court reporting service

Sec # of; 804.03(3)(b)

804.03(b) No deposition may be taken before a person who has entered into a contract for court reporting services that is not related to a particular action or incident.

PWF

(B)(3)

JD - NOTE

: King:

~~I did not include the definition of "employee" in the draft language that accompanied this request because it did not make sense in the ~~context~~ context of amending s. 804.03(3).~~

I interpreted the intent of the person who drafted the language ^{that accompanied the drafting} to add to the list ^{request} of disqualified persons. Accordingly, I added the first two persons under s. 804.03 (3)(b) of the draft language; I could not, however, ~~dispute~~ interpret figure out who the ^{third} ~~third~~ person is ^{intended to be}. It would seem to be the employee of a court reporting ^{ing} service, but that would mean that ^edispositions ^{ns} could never be taken before court reporters.

Can you shed some light on this?

MJL

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2718/1dn
MJL:kmg:pg

May 22, 2003

I interpreted the intent of the person who drafted the language that accompanied the drafting request to add to the list of disqualified persons. Accordingly, I added the first two persons under s. 804.03 (3) (b) of the draft language; I could not, however, figure out who the third person is intended to be. It would seem to be the employee of a court reporting service, but that would mean that depositions could never be taken before court reporters. Can you shed some light on this?

Madelon J. Lief
Senior Legislative Attorney
Phone: (608) 267-7380



DEWITT
ROSS & STEVENS LLC
LAW FIRM

MEMORANDUM

TO: Ellen Nowak, Representative John Gard's Office
Madelon J. Lief, Senior Legislative Attorney, LRB

FROM: Ron Kuehn

DATE: June 10, 2003

RE: Court Reporters' Contracting Legislative Draft
LRB-2718/1

The intent of this legislation is to limit court reporters in the private sector to employment on a case-by-case basis. Currently, some private sector court reporters are being employed under long-term contracts, which may limit their objectivity in performing their jobs.

Thank you for drafting LRB-2718/1. However, it does not quite accomplish the above-stated goal.

Please revise in accordance with the attached amended version.

Call me at 252-9325 or email me at rwk@dewittross.com if you have any questions.

Madelon,
I think that the
enclosed memo &
draft answers
your questions about
the proposal.
Please call if you have a
question. (1-252)



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2718/1

MJL:kmg:pg

2003 BILL

AN ACT to renumber and amend 804.03 (3); and to create 804.03 (3) (b) and 804.03 (3) (c) of the statutes; relating to: contracts with persons who take depositions.

Analysis by the Legislative Reference Bureau

Under current law, a deposition may be taken before a person authorized to administer oaths, including judges, court commissioners, administrative hearing officers, district attorneys, and court reporters. Generally, a deposition is taken before a court reporter, who records and transcribes the deposition. Currently, a deposition may not be taken before a disqualified person, which means a person who is a relative, employee, attorney, or counsel of any of the parties to the action; a relative or employee of the attorney or counsel of any of the parties; or a person who is financially interested in the action.

The bill expands the list of disqualified persons to include a person who is a party to the action.

The bill also prohibits a person from taking a deposition if the person has entered into a contract for court reporting services that is not related to a particular action or incident. The bill's prohibitions do not apply, however, to persons who take depositions for a public agency.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Proposed Revisions to LRB-2718/1
Prohibition Against Third Party Contracts With Court Reporters

1 **SECTION 1.** 804.03 (3) of the statutes is renumbered 804.03(a) and amended to read.

2 (3) (a) **DISQUALIFICATION FOR INTEREST.** No deposition shall be taken before a person
3 who is a party to the action, or a relative or employee or attorney or counsel of any of the parties,
4 or is a relative or employee of such attorney or counsel, or is financially interested in the action.
5 No deposition shall be taken before a person who has entered into a contract, an agreement or a
6 series of contracts or agreements, for court reporting services unless such contract, agreement or
7 series of contracts or agreements is related to a particular case or particular reporting incident.

8
9 **SECTION 2.** 804.03 (2) of the statutes is created to read:

10 (b) This subsection does not apply to a person who records or transcribes depositions for
11 a public agency, as defined in s. 66.0825 (3) (h), or the courts of such public agency.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2718/1
MJL:kag:pg

2
6

2003 BILL

Print w/ Line #'s

D-N

RMR

Sen. Act.

AN ACT to renumber and amend 804.03 (3); and to create 804.03 (3) (b) and 804.03 (3) (c) of the statutes; relating to: contracts with persons who take depositions.

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The bill expands the list of disqualified persons to include a person who has a contractual relationship with a person financially interested in the action and a person who may ultimately be responsible for payment to a court reporter or court reporting service. The bill also prohibits a person from taking a deposition if the person has entered into a contract for court reporting services that is not related to a particular action or incident. The bill's prohibitions do not apply, however, to persons who take depositions for a public agency.

party to the action

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

BILL

SECTION 1. 804.03 (3) of the statutes is ~~renumbered 804.03 (3) (a) and~~ amended

to read:

(c5) Disqualification for interest.

~~804.03 (3) (a) No deposition shall may be taken before a person who is a relative or employee or attorney, or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action, has a contractual relationship with a person who has a financial interest in the outcome of the action, or may be ultimately responsible for payment to a court reporter or court reporting service.~~

party to the action or a

SECTION 2. ~~804.03 (3) (b)~~ of the statutes is created to read:

804.03 (3) (b) No deposition may be taken before a person who has entered into a contract for court reporting services that is not related to a particular action or incident.

~~SECTION 3. 804.03 (3) (c)~~ of the statutes is created to read:

804.03 (3) (c) This subsection does not apply to a person who records or transcribes depositions for a public agency, as defined in s. 66.0825 (3) (h).

(END)

D-N

:Kag:

This redraft includes the substantive changes embodied by the draft bill from Ron Kuehn that you forwarded to me. The language

However, this ~~draft~~ speaks only in terms of a "contract," rather than "contracts" or a "series of contracts" because statutory rules of interpretation require the singular to be interpreted to include the plural. Also, the term "contract" includes "agreement." Finally, I did not include the

expression "courts of such public agency" because the definition of "public agency" includes those courts. (For example, ~~the statutes speak~~

~~of a public agency, such as a county, one kind of public agency, operates the circuit~~

If Mr. Kuehn has any questions about these changes, or the drafter's notes, I would be happy to answer them.

MTL

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2718/2dn

MJL:kg:pg

June 11, 2003

This redraft includes the substantive changes embodied by the draft bill from Ron Kuehn that you forwarded to me. However, this draft speaks only in terms of a "contract," rather than "contracts" or a "series of contracts" because statutory rules of interpretation require the singular to be interpreted to include the plural. Also the term "contract" includes "agreement." Finally, I did not include the expression "courts of such public agency" because the definition of "public agency" includes those courts. (For example, a court, one kind of public agency, operates the circuit courts.) If Mr. Kuehn has any questions about these changes or the drafter's note, I would be happy to answer them.

Madelon J. Lief
Senior Legislative Attorney
Phone: (608) 267-7380

Lief, Madelon

From: Nowak, Ellen
Sent: Thursday, June 12, 2003 9:36 AM
To: Lief, Madelon
Subject: LRB 2718/2

Hi!

One last change:

on page 2, line 5: delete "that is not related" and replace with "unless such contract is limited"

As a result, the second to the last sentence should read: "No deposition may be taken before a person who has entered into a contract for court reporting services unless such contract is limited to a particular action or incident."

Thanks!



State of Wisconsin
2003 - 2004 LEGISLATURE

3
LRB-2718
MJL:kg:pg

2003 BILL

RMR

- 1 AN ACT to amend 804.03 (3) of the statutes; relating to: contracts with persons
2 who take depositions.

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unless
that is limited

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 SECTION 1. 804.03 (3) of the statutes is amended to read:

